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HOUSE OF REPRESENTATIVES—*Thursday, February 24, 1994*

The House met at 10 a.m.

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

Give us, O God, the ability to open our ears to the world about us and to the people that are the center of Your creation. We know that we are engaged in sometimes cluttered lives and the words we hear from others go unheard or misunderstood. Teach us, gracious God, to focus on our conversations with each other, to try to comprehend and to understand, and to perceive the motivations and the intentions of every person, for by so doing, we will represent more clearly Your gifts of harmony, peace, and unity. Bless us this day and every day, we pray. Amen.

THE JOURNAL

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

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

PLEDGE OF ALLEGIANCE

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

Mr. SMITH of Texas led the House in 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.

PARENTS KNOW BEST HOW TO EDUCATE THEIR CHILDREN

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

Mr. SWETT. Mr. Speaker, I rise today in support of parents across this Nation who every day show their unselfish love by spending the necessary time to help with the education of their children. Parents who turn off the TV and help with their childrens' homework as suggested by our President in his State of the Union Address.

Today one such group of these parents, home schoolers, are unfortunately alarmed that we would wrongly limit their right to teach their children at home. While that was not the intent of any Member or of H.R. 6, we must make sure that this dedicated and decent group of parents are reassured that Congress supports and applauds their efforts. I know first-hand, through my sister-in-law who has successfully home taught her nine children, that home schooling can be a wonderful alternative for many families.

Mr. Speaker, parents know best how to educate their children. I commend my colleagues for their amendment to clarify the language in H.R. 6 so that private schools and home schoolers can be reassured that their rights are protected and that their efforts are appreciated by all of us who have the honor of representing them.

ONE SIMPLE QUESTION ABOUT HEALTH CARE

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

Mr. LINDER. Mr. Speaker, it is no wonder the Clinton administration is trying to sell their health care reform plan as the only game in town.

The President's plan is an unworkable, unaffordable, and incomprehensible bureaucratic nightmare.

The more you know it, the more you loathe it.

So its pretty obvious why the administration does not want you to know anything else and why they will not give you an option to leave it once you are in it.

The debate is complex but the question America needs to ask itself is simple. How will the President's plan affect my family?

When you hear that the Clinton plan will reduce the quality of care your family receives;

When you hear that the Clinton plan will lengthen the time it takes your family to receive that care;

When you hear that the Clinton plan will complicate receiving that care;

And when you hear that the Clinton plan will raise the cost of that care, you will understand why the President wants to be the only dog in the show instead of just being the one with the most fleas.

NOTIFICATION OF FILING DISCHARGE PETITION ON THE RULE FOR THE BALANCED BUDGET AMENDMENT

(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, I take this opportunity to notify the House that we have filed the discharge petition on the rule for the balanced budget constitutional amendment in the House. As was the case in 1992, this rule we have filed will allow for fair and complete consideration of a balanced budget amendment in its various forms.

The rule that would be discharged provides for 9 hours of general debate and consideration of the following: The Kyl substitute, the Barton substitute, the substitute offered by the gentleman from Texas [Mr. BROOKS], the chairman of the Committee on the Judiciary, the Senate-passed substitute, and finally, the so-called Stenholm-Smith amendment. These would be considered under a king-of-the-hill format.

Mr. Speaker, we would appreciate all Members signing the discharge petition before the close of business today on Discharge 14.

SENIORS OPPOSE CLINTON HEALTH PLAN

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

☐ This symbol represents the time of day during the House proceedings, e.g., ☐ 1407 is 2:07 p.m.

Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

AUTHENTICATED U.S. GOVERNMENT INFORMATION GPO

Mr. GOSS. Mr. Speaker, my senior constituents are writing to say "no" to President Clinton's vision of Government-run health care. One elderly gentleman wrote: "I am afraid the new package will create a crisis * * * at least it will absolutely increase my costs. I believe the Clinton administration has attacked the retired person enough already."

A senior couple writes, saying they fear lost benefits under the Clinton plan. Another senior insisted that today's costs of his "prescriptions would be cheaper than your new health insurance."

AARP, representing 33 million dues-paying seniors, found that more than 50 percent do not trust the Clinton plan and fear lost benefit, higher costs, and lower quality of care. Although the national AARP lobbyists want to spend $30 million to explain to seniors why their fears are unfounded, the average elderly person already understands what is wrong with Clinton health: It will hurt seniors, and they know it.

THE RUSSIAN BEAR RETURNS

(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, there are unconfirmed intelligence reports that Boris Yeltsin is seriously ill, he is drinking heavily, and he is really not in control of anything over there in Russia. These reports suggest that if we are predicating reform in Russia on the back of Boris Yeltsin, we may be in for some deep trouble.

They say that this most recent spy revelation is not just a rogue element, and Congress should not dispel this recent event very casually. The truth of the matter, they say, is that the bear is still there, and before we in Congress fall on our swords and continue to provide more taxpayer money to Russia and Boris Yeltsin, we may not be necessarily helping to secure the sovereignty and the national security of the United States of America.

I would suggest to the Congress that not one more nickel go to Russia until we find out, No. 1, who is really running Russia, and how many of these cold warriors in the KGB are still running around bribing our people.

CURRENT HEALTH CARE SYSTEM NEEDS FIXING, NOT TRASHING

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

Ms. PRYCE of Ohio. Mr. Speaker, the health care debate continues across America and here in Congress.

The question is not whose health care plan will promote a political party, but which plan will help those in need.

Fixing what is broken with our health care and not starting over from scratch is truly the most practical solution to this problem.

The call by President Clinton for an experiment that could, and very likely will harm the best health care system in the world is a very frightening proposition.

In the case of the health care system in the United States the old adage "you don't miss what you've got until it's gone," is certainly true.

For example: Imagine not being able to receive the drugs even if you can afford them that could help a serious condition because the Secretary of Health and Human Services does not deem them cost efficient.

Mr. Speaker, let us fix America's health care system, not trash it.

URGING MEMBERS TO COSPONSOR H.R. 3873, THE URBAN WATERSHED RESTORATION ACT

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

Ms. NORTON. Mr. Speaker, this week I introduced the Urban Watershed Restoration Act that already has the support of 26 original cosponsors and 25 environmental organizations. This strong support reflects the dismay and disgust of urban and suburban communities that the rivers that were central to building America have often been allowed to become stink holes. From raw sewage and unspeakable garbage to ruinous runoff and outrageous dumping, these rivers, lakes, and streams are the great neglected waters of America.

Yet these waterways continue to be workhorses. The water Members drink comes from the Potomac, host of the famous December drinking water crisis. The multiuse Anacostia River has been officially named the most endangered urban river in America.

Chances are your district is near such a waterway. H.R. 3873, drawing from existing funds, should become part of the Clean Water Act reauthorization this year. Please cosponsor H.R. 3873 today.

CONGRESS SHOULD NOT CONDEMN FREE SPEECH

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

Mr. STRICKLAND. Mr. Speaker, that which separates this Nation from all others on the face of this earth is our Constitution and our Bill of Rights. The Bill of Rights was written specifically to protect minority opinion. That is why I am so concerned about a vote that was cast by this body yesterday, a vote that could have the effect of chilling free speech—the first amendment—the cornerstone of our Bill of Rights.

While I abhor racism, bigotry, and prejudice from any quarter, it is highly inappropriate for this body as an official instrument of Government to take an official position against speech uttered by an American citizen.

Mr. Speaker, popular speech does not need the protection of the Bill of Rights. Only unpopular speech, because our forefathers were wise enough to know that there are some rights that are so precious, so fundamental that even the majority should not have the power to strip them away.

Mr. Speaker, I have heard what I consider racist, bigoted and grossly intolerant speech spoken in the well of this House. Should we condemn ourselves? What about radio personalities who are offensive? Ought we to condemn Rush Limbaugh or Howard Stern?—I think not.

Perhaps as a body we should heed the words of a great moral teacher who said, "Let him who is without sin cast the first stone."

HELP HEIGHTEN AWARENESS OF THE DANGERS OF ARSON

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

Mr. WELDON. Mr. Speaker, I rise today to introduce legislation designating the first week of May as Arson Awareness Week.

Arson is a serious crime causing damage to property and taking lives. Arson is responsible for approximately 25 percent of all fires in the United States, and is a leading cause of fire deaths in the United States, accounting for over 700 deaths annually in this country.

Members from California are uniquely aware of the devastation that arson can cause. In October and November of 1993, there were 22 fire storms in southern California, 13 of which were a result of arson. 97 people were injured and $320 million in damage was caused as result of these 13 fires.

In addition, there is a strong need to improve the reporting of arson crimes and to punish arsonists. The National Fire Protection Association [NFPA] estimates that of all the suspicious and incendiary fires that occur, only one-third are confirmed as arson offenses. Beyond reporting difficulties, arson is difficult to prove in a courtroom. The NFPA estimates only 2 percent of arson fires lead to convictions.

Designating the week of May 1, 1994, as Arson Awareness Week will help to bring arson to the top of the national agenda. I ask my colleagues to join me in this effort by cosponsoring this legislation.

□ 1010

SUPPORT FOR BOSNIA

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

Mr. MORAN. Mr. Speaker, Prime Minister Haris Silajdzic is in Washington today, and I would hope that Americans would listen to what he says so that they would understand why the future of Bosnia is so important to the future of our world in terms of tolerance, democratic representation, ethnic and global peace and brotherhood. Mr. Silajdzic is a Moslem. The Speaker of the Bosnia Assembly is a Serb. The representative of the Bosnian Presidency is a Croat. The Ambassador to the United States from Bosnia is a Jew.

Bosnia represents one of the finest multiethnic expressions of a democratic nation on this globe, certainly as an example of what we hoped would result from the dissolution of the Soviet Union. That is why they are under siege, because the people that wish to take over Bosnia, to destroy Bosnia are threatened by the idea of multiethnic democracies. People like Milosevic and Karadzic prey upon the worst instincts of mankind. Bosnia represents the best instincts of mankind.

I would ask that this Congress and the American people show support for Bosnia in a way that is true to our own heritage and consistent with our own national character, the character of a nation founded on the same principles and dedicated to the same sense of fairness and justice as are the principal people of Bosnia.

HEALTH CARE CHOICES

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

Mr. STEARNS. Mr. Speaker, I want to welcome North Marion Middle School and Osceola Middle School to Washington. I want these young adults and their parents to have the same opportunity for health care that I have and other Government employees have. I would point out to my colleagues that I am talking about the Federal Employee Health Benefit Program. This is the package that is available to the President, the Vice President, Federal employees, and of course, Members of Congress. This program's annual cost increase have averaged one-third less than other private health insurance programs.

Legislation I have introduced, the Consumer Choice Health Security Act, would offer to the American people the same option of health care choices now enjoyed by all of us. We would also allow and encourage purchasing co-op's to exist, whether they be formed by unions, civic associations, churches, or employers. Individuals can choose among plans offered by all of these groups when selecting coverage.

Mr. Speaker, what is good for the goose should be good for the gander. That is why we should support the Consumer Choice Health Security Act, instead of the Clinton health care plan which would increase taxes, inflict job-destroying employer mandates on small business, and restrict the full choice of health care options that all Americans deserve. I urge my colleagues to cosponsor H.R. 3698.

IMPROVING AMERICA'S SCHOOLS ACT OF 1994

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

Mr. WISE. Mr. Speaker, like many other Members of Congress, my phones have been ringing off the hook the last few days with those concerned about H.R. 6, the Elementary and Secondary Education Act, and particularly those concerned about the provisions dealing with home schooling and the ability to teach at home, as well as those who send their children to be educated in private schools.

I am happy to report that the committee has worked and will be offering language that will eliminate those concerns so that those who teach at home and those who send their children to private schools need to be assured that nothing is going to happen that affects their ability to do this.

Additionally, the committee will remove the language that deals with certification. That caused an additional problem in many States because, as in my State where we have almost 500 teachers teaching on special permits, but they are not certified, this could cause problems in our school system. But I do think it ought to be pointed out that while the committees and the Congress is going to make sure that home schooling remains intact, that private education remains intact, if all of this controversy has caused us to focus further on the needs of education, then all of us, whether involved in the public's education system, the private education system, or the home education system has gained from this, and we can focus further on the needs of our children.

CONSIDERING A BALANCED-BUDGET AMENDMENT

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

Mr. BARTON of Texas. Mr. Speaker, the last time the U.S. Government had a balanced budget was in 1969. That is 25 years ago.

Today, Congressman CHARLES STENHOLM, Congressman BOB SMITH, myself, and several other Congressmen are filing Discharge Petition 14 which would instruct the Rules Committee to report to the floor several balanced-budget amendments to the Constitution of the United States. I would ask every Member of this body before they leave for the weekend to be sure to come up here to the desk and sign Discharge Petition 14.

Members may differ on what type of a balanced-budget amendment they would prefer. The gentleman from Louisiana [Mr. TAUZIN] and myself have a tax limitation balanced-budget amendment, but whatever Members' preference in specific amendments, we should all agree that it is time to begin the process to balance the Federal budget.

Please sign Discharge Petition 14.

GOVERNMENT OPERATIONS INVESTIGATES FOSTER DEATH

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

Mr. CLINGER. Mr. Speaker, last summer the Nation was shocked to hear that a dedicated public servant and trusted friend of the President had taken his own life.

The passing months have brought conflicting stories regarding the investigation of this tragic event. The way in which law enforcement authorities conducted their investigations has been most disturbing. The Park Police was chosen over the FBI to investigate the death and Bill Sessions suggested that any FBI investigation was compromised by White House and Department of Justice politics.

Next we find that White House staff randomly searched through the victim's office removing some documents; that senior White House attorneys ordered investigators to sit in a hallway as they selected which evidence could be reviewed. The Park Police even criticized the White House for impeding its investigation. If these practices occurred in the private sector, it would be called obstruction of justice.

Yet, the administration is continuing its systematic practice of choosing secrecy over openness when it comes to releasing the documents necessary to clear up these confusing issues. Neither the Park Police report, the autopsy, nor the ballistics report have been released.

As a result, I am instructing the staff of the Committee on Government Operations to investigate this entire affair. The question of whether this was a suicide is not the focus of this investigation, but the extent of White House influence over criminal investigations.

Although it appears that Special Counsel Fiske will eventually look into this matter, if the White House is politicizing criminal investigations, the Congress needs to know about it and correct it today, not after a secret review by the Justice Department.

STATE ABORTION FUNDING

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

Mr. DICKEY. Mr. Speaker, yesterday, I introduced legislation to reverse the HHS interpretation of the modified Hyde amendment by allowing, not requiring, States to use Medicaid funds to pay for abortions for poor women in cases of rape and incest, as well as to protect the life of the mother.

The administration recently interpreted the Hyde amendment modification to require, rather than allow, States to use public funds to pay for abortions in cases of rape, incest, or danger to the mother's life.

The order also allowed abortion providers to circumvent laws in many States which require that acts of rape or incest be reported to law enforcement officers.

This policy change comes in conflict with the laws and constitutions of at least 36 States, including Arkansas.

This policy change is an unfunded mandate and violates the administration's pledge to reduce unfunded mandates.

This policy change violates State's rights by interpreting law where States generally have jurisdiction.

This policy change circumvents procedural guidelines which require a period for comments.

I urge my colleagues to support this legislation.

STOP AIDING NATIONS WHO SPY ON THE UNITED STATES

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

Mr. DUNCAN. Mr. Speaker, we now find out that a top CIA agent has been paid $1.5 million over the last 2 years for spying on the United States on behalf of Russia.

Leslie Gelb, chief foreign affairs columnist for the New York Times who now works at the State Department, wrote a column a couple of years ago that the combined Western aid to the States of the former Soviet Union had totaled $50 to $60 billion over the last couple of years. Last year this body voted, I voted against it and many others did, but we voted to increase the appropriation for the World Bank by $12 billion for aid to Russia. Some estimates are that we have spent over $100 billion in aid in recent years to the States of the former Soviet Union.

Now what are they doing? They are spitting in our face. They are spying on us.

We need to cut this aid off. We have too many problems here at home that need to be taken care of first. We are broke. We are $4.3 trillion in debt, and losing billions each week. We need to take care of our problems here at home first and stop sending so many billions and billions of dollars overseas, and particularly to countries that are spying on us and slapping us in the face every day.

IMPROVING AMERICA'S SCHOOLS ACT OF 1994

Mr. BEILENSON. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 366 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 366

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. 6) to extend for six years the authorizations of appropriations for the programs under the Elementary and Secondary Education Act of 1965, and for certain other purposes. The first reading of the bill shall be dispensed with. Points of order against consideration of the bill for failure to comply with section 302(f) of the Congressional Budget Act of 1974 are waived. General debate shall be confined to the bill and shall not exceed two hours equally divided and controlled by the chairman and ranking minority member of the Committee on Education and Labor. 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 Education and Labor now printed in the bill, modified by the amendment printed in section 2 of this resolution. The committee amendment in the nature of a substitute, as modified, shall be considered by title rather than by section. Each title of the committee amendment in the nature of a substitute, as modified, shall be considered as read. Title I of the committee amendment in the nature of a substitute, as modified, shall be considered by title of the Elementary and Secondary Education Act of 1965, as proposed to be amended by title I. Point of order against the committee amendment in the nature of a substitute, as modified, for failure to comply with clause 7 of rule XVI or clause 5(a) of rule XXI are waived. No amendment to the committee amendment in the nature of a substitute, as modified, shall be in order unless printed in the report of the Committee on Rules accompanying this resolution or in the portion of the Congressional Record designated for that purpose in clause 6 of rule XXIII prior to Friday, February 25, 1994. Before consideration of any other amendment it shall be in order to consider the amendments printed in the report of the Committee on Rules accompanying this resolution. Each amendment printed in the report may be offered only in the order printed, may be offered only by a Member designated in the report, may amend portions of the bill not yet read for amendment, shall be considered as read, shall be debatable for one hour equally divided and controlled by the proponent and an opponent, shall not be subject to amendment, and shall not be subject to a demand for division of the question in the House or in the Committee of the Whole. Amendments caused to be printed by Representative Kildee of Michigan may be considered en bloc, may amend portions of the bill not yet read for amendment, shall be considered as read, and shall not be subject to a demand for division of the question in the House or in the Committee of the Whole. At the conclusion of consideration of the bill for amendment the Committee shall rise and report the bill to the House with such amendments as may have been adopted. Any Member may demand a separate vote in the House on any amendment adopted in the Committee of the Whole to the bill or to the committee amendment in the nature of a substitute, as modified. The previous question shall be considered as ordered on the bill and amendments thereto to final passage without intervening motion except one motion to recommit with or without instructions.

SEC. 2. The amendment in the nature of a substitute recommended by the Committee on Education and Labor now printed in the bill is modified by striking section 8014 of the Elementary and Secondary Education Act of 1965, as proposed to be amended by title I (page 729, line 15, through page 730, line 21).

□ 1025

The SPEAKER pro tempore (Mr. SHARP). The gentleman from California [Mr. BEILENSON] is recognized for 1 hour.

Mr. BEILENSON. Mr. Speaker, for the purpose of debate only, I yield the customary half hour of debate time 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 366 is the rule providing for the consideration of H.R. 6, Improving America's Schools Act of 1994. This is an open rule, providing 2 hours of general debate equally divided and controlled by the chairman and ranking minority member of the Committee on Education and Labor.

The rule waives section 302(f) of the Congressional Budget Act against consideration of the bill. The rule makes in order the Education and Labor Committee amendment in the nature of a substitute now printed in the bill, as modified by the amendment printed in section 2 of the rule, as an original bill for the purpose of amendment. The committee substitute, as modified, shall be considered by title instead of by section with each title considered as read. Section 2 deletes a provision of the bill that was within the jurisdiction of the Committee on Armed Services and deals with funding of impact aid.

The rule provides that title I of the committee substitute, as modified,

shall be considered by title of the Elementary and Secondary Education Act of 1965, as proposed to be amended by title I of the bill. The exception was approved because title I of the bill consists of more than 700 pages; this procedure will permit us to proceed through title I in an orderly fashion and to consider individually the 12 separate and discrete titles it proposes.

Mr. Speaker, clause 7 of rule XVI and clause 5(a) of rule XXI are waived against the committee substitute, as modified. These waivers, along with the waiver of the Budget Act, are technical in nature.

Except as otherwise specified by the rule, only those amendments printed in the CONGRESSIONAL RECORD prior to Friday, February 25, 1994, shall be in order. The chairman of the Education and Labor Committee made this preprinting request because of the length and complexity of the bill and so that Members will have adequate notice of the matters upon which they will be required to vote during consideration of the bill. I would remind Members that the chairman advised Members on February 11 of his intention to ask for the preprinting requirement. In addition, the chairman of the Rules Committee on several occasions—February 17, February 22, and February 23—notified Members of the need to have amendments printed in the CONGRESSIONAL RECORD prior to the Rules Committee consideration of H.R. 6.

Mr. Speaker, the rule provides that the amendments printed in the report to accompany the rule shall be considered before the consideration of the amendments printed in the RECORD. The amendments are to be considered in the order and manner specified in the report and are debatable for 1 hour each. The amendments may amend portions of the bill not yet read for amendment, are considered as read, and are not subject to amendment nor a demand for a division of the question.

Mr. Speaker, these two amendments, one to be offered by the gentleman from Michigan [Mr. FORD], and the other by the gentleman from Texas [Mr. ARMEY], address the home and private school issue which has, as most Members are well aware, been the most volatile matter associated with the bill. The amendments will fully address the concerns of those who perceived that H.R. 6 could be detrimental to the rights of those who teach their children in their homes; the amendments, which clarify that nothing in the bill affects home or private schooling, should put those concerns to rest and assure those concerned that their rights are, and shall continue to be, fully protected. I am confident that the 2 hours of debate time for these amendments will give the committee and Members ample time to explain this situation and the clarifying amendments.

Mr. Speaker, the rule provides that the Kildee amendments printed in the CONGRESSIONAL RECORD may be offered en bloc, may amend portions of the bill not yet read for amendment, shall be considered as read, and are not subject to a demand for a division of the question. The Kildee amendments, Mr. Speaker, are technical in nature and have been agreed to by the minority.

Mr. Speaker, finally, the rule provides one motion to recommit with or without instructions.

Mr. Speaker, H.R. 6 reauthorizes, for 6 years, most of the Federal elementary and secondary education programs, including those under the 1965 Elementary and Secondary Education Act, which provides aid to schools in the form of block grants to State school districts. The 1965 act accounts for about one-third of all Federal money that goes to education programs, so this is an enormous undertaking. Members will, under the rule, have ample time to debate the new and, in some case, controversial changes being recommended in H.R. 6.

Mr. Speaker, to repeat, this is an open rule. I urge the adoption of the resolution so that we may begin consideration of this important bill today.

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

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

Mr. Speaker, it is always a rare pleasure—and I do mean rare—to come to this floor in support of a rule out of the Rules Committee. As my colleagues are aware, nearly 80 percent of the rules in this Congress have restricted the amendment process.

So bringing a nearly open rule to this floor is indeed a pleasurable experience. As a poet once put it, "Sweet is pleasure after pain." And believe me, some of the gag rules we have had to swallow have been very painful.

So today we feel a little like the guy who has been hit over the head repeatedly with a club. It feels so good when it stops. And hopefully, it will continue to stop.

Mr. Speaker, the Rules Committee has reported a modified open rule on H.R. 6, the Improving America's Schools Act. The only restriction on amendments is that they be printed in the CONGRESSIONAL RECORD prior to this Friday, February 25.

Otherwise, they are subject to debate and amendment under the 5-minute rule provided they are germane and in compliance with other House rules.

In other words, if Members wish to offer amendments to this bill, they should have them put in the RECORD no later than today. Those Members who have already placed their amendments in the RECORD prior to today need not reinsert them.

Mr. Speaker, in addition to the open nature of this rule, the Rules Committee went out of its way to ensure that a very controversial issue relating to private education and teacher certification will be dealt with first under this rule—not once, but twice.

The rule first provides for 2 hours of general debate, after which the chairman of the Education and Labor Committee, Mr. FORD, and the gentleman from Texas [Mr. ARMEY] will each be permitted to offer an amendment to fix the problem of teacher certification and its impact on private education. Each of those amendments is subject to 1 hour of debate.

The Ford fix strikes the controversial Miller language in the bill dealing with teacher certification and adds a new section in title 9 which states, "Nothing in this act shall be construed to affect home schools."

Mr. ARMEY's amendment is what I would call a super-fix in that it contains a new section in title 9 which reads, and I quote:

> Nothing in this Act shall be construed to permit, allow, encourage or authorize any federal control over any aspect of any private, religious, or home school that does not receive funds or does not participate in programs or services under this Act.

I want to emphasize that these amendments are mutually exclusive. That is, this is not a so-called king-of-the-hill rule that advantages one amendment over the other. Members can vote for both and both can be adopted as part of the final bill.

I want to commend Chairman FORD, Subcommittee Chairman KILDEE and Mr. ARMEY on agreeing to this procedure. I also want to praise Chairman MOAKLEY and the rest of the Rules Committee members on establishing this process that will allow us to deal with this controversy upfront, today so that those concerned about this matter will not have to wait until next week for a final resolution of the problem.

And, as a side benefit, I might add, the House telephone system should also be back to normal after today.

I do not know of any issue in recent time that has generated so much constituent awareness, concern and phone traffic as this one.

The American people, by the tens of thousands, have flooded both our district and Washington offices with phone calls and faxes.

I am pleased to report that the people have spoken, and the House has gotten the message. And I am confident that we will deal with the problem today to the satisfaction of those who are vitally concerned about home schooling and private and parochial schools.

There are those who have characterized this as an unnecessary solution to a nonexistent problem. But I don't agree with that assessment.

Anyone who has ever had any experience with the Federal bureaucrats who write the regulations to implement our laws knows just how legitimate some

of the fears expressed over this legislation are.

Any time we leave any loopholes or ambiguous language in the laws we enact, the regulation-writers downtown often manage to stretch and bend those laws so out of shape that we do not even recognize them. How many times have we seen this happen and had to come back and pass a new law to clarify the original law in order to eliminate pernicious regulations?

So this was not a matter of public misperception, even if it was a problem of inadvertent and ambiguous legislative draftsmanship. The concerns of the people are very legitimate given the potential harm that can be done in implementing these provisions by way of regulations written by unelected bureaucrats with different agendas than ours.

And those concerns run as deep in my congressional district in New York as the district is long—running as it does from New York City up to Montreal along the Hudson Valley.

My district has both a large private and parochial school population as well as a large number of families who teach their children at home.

The families who teach their children at home were especially concerned that this bill would place an impossible burden on them by requiring certification in specific subject areas, and thereby force them to send their children to public schools.

My district offices alone have received well over a thousand phone calls from these concerned parents who are members of such organizations as North Country Homeschoolers, and New York State Loving Education at Home.

Believe me, if those parents teach their children as well as they are organized, which I am sure they do, then their kids are getting a great education.

Home-schooling is not an area for the Federal Government to be intruding into, and I am glad we will be able to put a stop to any possibility of that by adopting the Ford and Armey amendments.

I urge my colleagues to support this rule and to support the Ford and Armey amendments.

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)	57	12	21	45	79

[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 Feb. 23, 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. 218, July 20, 1993	O	H.R. 2530: BLM authorization, fiscal year 1994–95	NA	NA	
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	

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

□ 1040

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

Mr. BEILENSON. Mr. Speaker, I advise the gentleman from New York that we have no requests for time on our side.

Mr. SOLOMON. Mr. Speaker, I yield such time as he may consume to a very, very valuable member of the Committee on Rules, the gentleman from Sanibel, FL, Mr. GOSS.

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

Mr. Speaker, believe it or not, the sound of my phones ringing off the hook this week was music to my ears—because Americans from all over were calling to urge an open rule. Phones were ringing in offices of majority Members as well and it worked? We have an open rule. For months, Republicans on the Rules Committee have been raising the issue about the importance of the rules that govern debate in this House. We have made the point that process is substance in the House of Representatives—and that open rules are the basis for true deliberative democracy. We've complained bitterly about restrictive rules that shut down debate and stifle Members' efforts to improve legislation. Well this week we had a real breakthrough—we had thousands of Americans calling their Congressmen and demanding support for an open rule. People understood the importance of allowing all good ideas that relate to the education of our children—which concerns every family in this country—to be considered by this House. I commend Chairman MOAKLEY and Chairman FORD for their willingness to support an open rule on H.R. 6. I encourage them—and all the chairmen of the committees in this House—to recognize that open rules need not be scary things to be avoided at all costs. Perhaps we may see more open rules in the days and weeks ahead. I sure hope so. Hopefully, without telephone calls as we have seen on this issue.

H.R. 6 is a complicated bill that seeks to spend $10.5 billion of taxpayer's money. We all want to improve the education we give our children—but we have legitimate differences of opinion about how best to reach that goal. I oppose H.R. 6 in its present form because I think it is too much Government and too much interference into the decisionmaking of local school boards and communities. The bill contains a very expensive unfunded mandate, benignly labeled "opportunity-to-learn standards," that will straightjacket our school systems and divert their limited resources. The bill also contains highly controversial language that could put an end to home schooling in some States—langauge I understand we will have the chance to correct through the Armey amendment, which this rule allows.

Finally, H.R. 6 contains funding distribution formulas that depend on a highly subjective definition of "poverty districts." This could end up wreaking real havoc in areas like southwest Florida, where those people truly in need will fall between the cracks. Mr. Speaker, I support this open rule—because it gives us a chance to improve this bill.

Mr. SOLOMON. Mr. Speaker, I take it the gentleman from California [Mr. BEILENSON] still does not have additional speakers. So, Mr. Speaker, let me just say that here in Washington we have several new residents from the great State of Arkansas; one occupies the White House, and I very rarely agree with him. But another is a very dynamic new Member of Congress from Pine Bluff, AR, Mr. JAY DICKEY.

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

Mr. DICKEY. I thank the gentleman for yielding this time to me.

Mr. Speaker, what I am concerned about is H.R. 6. As it stands right now, it ought to be voted against and turned down in this body. What I am thankful for is two things: One is that someone thought ill enough of this bill to put into it that schoolteacher certification was necessary. What this did—and the second reason I am thankful—that is, the people of America raised up, particularly in Arkansas, and overwhelmingly complained about teacher certification, taking education away from the families, away from neighborhood schools and from private schools and even the public schools. I am thankful for that.

What we have here is an intrusion of Government trying to come in and take the very essence of our educational system and dash it against the walls, taking control of everything, even the facilities. That is, whether or not we have enough chalk, whether or not we have enough paper, whether or not we have enough buildings, that sort of thing. It is something that we are going away from at home and toward in Washington.

I am thankful for the many, many people who have called and said "no" to this intrusion of Government and "yes" to our control by families.

I am thankful for that, and I am proud to be a representative of that cause.

Mr. SOLOMON. Mr. Speaker, we are missing a couple of speakers, and if they do not get here on time, then, if the gentleman from California [Mr. BEILENSON] has no further requests for time, I yield back the balance of our time on our side of the aisle and urge passage of the rule.

Mr. BEILENSON. Mr. Speaker, we have no requests for time either, and I yield back the balance of my time. I urge my colleagues to adopt the rule, and I move the previous question on the resolution.

The previous question was ordered.

The resolution was agreed to.

A motion to reconsider was laid on the table.

The SPEAKER pro tempore (Mr. SHARP). Pursuant to House Resolution 366 and rule XXIII, the Chair declares the House in the Committee of the While House on the State of the Union for the consideration of the bill H.R. 6.

The Chair designates the gentleman from North Carolina [Mr. PRICE], as chairman of the Committee on the Whole and requests the gentleman from California [Mr. BEILENSON], to assume the chair temporarily.

□ 1047

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. 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 with Mr. BEILENSON (chairman pro tempore) in the chair.

The Clerk read the title of the bill.

The CHAIRMAN pro tempore (Mr. BEILENSON). Pursuant to the rule, the bill is considered as having been read the first time.

Under the rule, the gentleman from Michigan [Mr. FORD] will be recognized for 1 hour, and the gentleman from Pennsylvania [Mr. GOODLING] will be recognized for 1 hour.

The Chair recognizes the gentleman from Michigan [Mr. FORD].

Mr. FORD of Michigan. Mr. Chairman, I yield myself such time as I may consume. I rise in support of H.R. 6, Improving America's Schools Act of 1994.

Mr. Chairman, I ask unanimous consent to yield the majority's debate time to the gentleman from Michigan [Mr. KILDEE], chairman of the subcommittee, who has labored so long and well to put together this bill and bring it to the floor; and further, that he have authority, when the gentleman from New York [Mr. OWENS] arrives, to yield 10 minutes of the majority's debate time to the gentleman from New York [Mr. OWENS].

The minority may want to divide their time in the same way.

The CHAIRMAN pro tempore. Is there objection to the request of the gentleman from Michigan?

There was no objection.

Mr. FORD of Michigan. Mr. Chairman, in the 89th Congress, 1965, my first year here, we created the Elementary and Secondary Education Act, which we are reauthorizing for the ninth time today. I am extremely pleased that in the 103d Congress, my last Congress, we are making the most important changes in the act since we first passed it. We are bringing it into position where it will serve well, and adjust well to the 21st century.

H.R. 6 reauthorizes the Elementary and Secondary Education Act of 1965 and related programs that have been added over the years to make them more complementary to local and State reform efforts.

I want to compliment the ranking Republicans on my committee for their cooperation, as in each of the previous eight reauthorization bills, so that we are able to bring a bill to the floor that is a product of a bipartisan give-and-take.

□ 1050

I just heard a member of the Committee on Rules talking about a poison pill in the bill which is not there anymore, or will not be there, because the Republicans, Democrats, and the administration got together late last evening and came to an agreement amongst themselves on opportunity-to-learn standards. I have cleared that agreement this morning with the ranking Republican on the committee. There is no longer an issue between us, and will not be, as people will discover during the day.

Finally, Mr. Chairman, I would like to observe what this bill is not. I heard on the radio a little while ago an announcement that the Congress was debating a bill to license home schooling. Congress has nothing to do with the question of home schooling. Compulsory school attendance laws are State laws, and they vary only by virtue of the maximum age to which parents are in a public or private accredited school.

Mr. Chairman, it has nothing to do with the Federal Government. The Federal Government has no business now, and it has never had any business, trying to tell the States how to run their compulsory school attendance laws, and we would not make that attempt here. There was unfortunate language adopted in the committee that was ambiguous enough so that it could be, as it has been, misconstrued to apply to, quote, "home schools", whatever those are. In my State that is somebody who disobeys the compulsory school attendance law and keeps their child at home instead of sending them to school. But, be that as it may, they feel they have the privilege to do that, and they can argue with their own State about whether that is permitted. We do not try to settle that one way or another here, and I hope we will not try to create the impression today that we are settling that argument one way or another because it is none of the Federal Government's business, frankly, how the States regulate compulsory school attendance.

Mr. Chairman, I rise in support of H.R. 6, the Improving America's Schools Act.

The 89th Congress—my first—created the Elementary and Secondary Education Act. I am extremely pleased that in the 104th Congress—my last—we are to make the most important changes in the act since we first passed it.

H.R. 6 reauthorizes the Elementary and Secondary Education Act of 1965 and related programs to make them more complementary to local and State reform efforts. Much has changed in the 29 years of these programs. These reforms will carry us into the 21st century.

The bill adopts the Clinton administration's proposal for reauthorizing these important programs with minor modifications. The President and Secretary Riley have done an outstanding job of thinking through how best the Federal Government can help improve our Nation's public schools.

This legislation uses systemic reform developed in the Goals 2000: Educate America Act as the basis of all ESEA programs. That is, all programs in H.R. 6 shall help students achieve high academic standards.

The largest Federal aid program to elementary and secondary education is chapter 1, which we are restoring to its original name of title I. It remains our primary vehicle to assist low-achieving students. But under the bill, title I is dramatically changed. Its success will be judged on the basis of benefiting students' achieving high academic standards, not their scores on multiple-choice tests.

Moreover, school districts and schools are given greater flexibility to implement title I through the schoolwide programs option and the granting of various waivers. Over the 5 years of the authorization, the proportion of children in poverty required to qualify for title I schoolwide projects will drop from 75 to 60 percent. H.R. 6 also grants the Secretary of Education broad authority to waive statutory and regulatory requirements that impede the ability of States and school districts to achieve the goals of the act. And prescriptive Federal requirements governing assessments have been eliminated.

In exchange for increased flexibility, schools, and school districts will be held accountable for student achievement. Their progress will be measured by high-quality State assessments.

Schools that make inadequate progress for 3 consecutive years will be subject to corrective action by the school district. Corrective action may include reduced decisionmaking authority at the school, alternate governance, reordering of school staff, and granting of students transfers to other schools in the district.

For the first time, school districts will be held accountable for the gains of title I children. School districts whose students fail to make adequate progress toward the State standards for 4 consecutive years shall be subject to corrective action by the State. Corrective action in this instance may include dismissing or reassigning school district employees, the appointment of a receiver or trustee to administer the district, and removal of a school from the district's jurisdiction. All these actions would have to be consistent with applicable State laws.

Finally, the formula for distributing title I funds has been modified so that all new appropriations will be better targeted to areas with high concentrations of poverty. In other words, it maintains the current formula at 1994 appropriations levels and applies a greater proportion of any new funding to high-poverty areas. I am proud of our agreement on the formula. The Committee on Education and Labor approved it 40 to 2, drawing support from Members representing diverse geographic and demographic areas.

H.R. 6 includes other important initiatives. The Eisenhower Mathematics and Science Education Act has been expanded to encompass professional development in all core academic subjects. A new technology program will help schools bring their classrooms into the modern era. New authority is provided for loans to build and renovate schools, a crying need in many districts. Finally, the bill reauthorizes the Bilingual Education Act, Magnet Schools, Drug Free Schools and Communities Act, and Impact Aid.

Mr. Chairman, these programs are the sum of Federal support for elementary and secondary education. H.R. 6 builds on our three decades of experience and represents a step forward by setting a coherent framework for Federal aid and by granting States, school districts, and schools increased flexibility in exchange for greater accountability.

I urge my colleagues to vote for the bill.

Mr. Chairman, I am inserting in the RECORD at this point an exchange of correspondence between me and the Honorable RONALD V. DELLUMS, chairman of the Committee on Armed Services, concerning a jurisdictional matter; and, I express my appreciation to Chairman DELLUMS for his cooperation in bringing H.R. 6 to the floor:

COMMITTEE ON EDUCATION AND LABOR, HOUSE OF REPRESENTATIVES,

Washington, DC, February 3, 1994.

Hon. RONALD V. DELLUMS,

Chairman, Committee on Armed Services, House of Representatives, Washington, DC.

DEAR MR. CHAIRMAN: As we discussed last evening, the Subcommittee on Elementary, Secondary, and Vocational Education adopted an amendment requiring that the payments for military-related children under the Impact Aid Program be provided by the Secretary of Defense. Mrs. Mink, from Hawaii, offered this amendment as the Subcommittee considered H.R. 6, a bill to extend the Elementary and Secondary Education Act (ESEA), the Impact Aid Program, and related Acts, during mark up Tuesday.

This letter is to respectfully request that your Committee waive a jurisdictional claim to consider that amendment in H.R. 6. We would very much appreciate your favorable consideration of this request since it will expedite passage of our legislation.

Mrs. Mink offered this amendment and the Subcommittee adopted it because of a feeling on our part that the responsibility for children of military and civilian personnel of the Department of Defense ought to be borne by that Department. We especially believe this is true now that the military is reassigning so many personnel as it closes bases and shifts responsibilities. The effect of these actions is to place very large burdens on school districts, and unfortunately the U.S. Department of Education has not been able to secure adequate appropriations to alleviate the old or the new burdens.

Further, the Committee on Education and Labor believes that the shift of this responsibility to the Defense Department will allow us to add money to the ESEA Title I formula. The formula adopted by the Subcommittee on Tuesday concentrates "new" dollars on schools with high levels of poverty.

Thank you again for your cooperation in this matter. We look forward to working with you in the future.

With kind regards,

Sincerely,

WILLIAM D. FORD,
Chairman.

HOUSE OF REPRESENTATIVES,
COMMITTEE ON ARMED SERVICES,
Washington, DC, February 8, 1994.

Hon. WILLIAM D. FORD,
Chairman, Committee on Education and Labor, House of Representatives, Washington, DC.

DEAR MR. CHAIRMAN: I am in receipt of your letter asking that the Committee on Armed Services waive any claim to referral of the bill, H.R. 6, that might result from provisions added to the bill during mark-up in your committee. In particular, I understand that the bill has been amended in subcommittee to include a provision directing the Secretary of Defense to transfer the total amount of funds needed to administer the Impact Aid program.

Please understand that several Members of the Armed Services Committee represent congressional districts that include school districts affected by the Impact Aid program, and they have a keen interest in this program. In addition, the Readiness Subcommittee is presently engaged in a thorough review of all DoD spending and perspectives on educational matters which they plan to address during consideration of the fiscal year 1994 budget.

A cursory polling of the Members show that they would not be agreeable to waiving jurisdiction over this issue given this long standing interest in this matter and the significant change to the funding structure of a major program this amendment provides without first careful analysis and consideration of the issue. For these reasons I find myself precluded from unilateral action on my part to granting your request and feel that this dictates that I bring this matter up formally before the Members of the committee.

I appreciate your effort to work cooperatively on this matter, and I am ready to work with you toward a resolution of this issue in a way that satisfies the concerns of both of our committees. I regret that the present circumstances preclude a more favorable reply. I look forward to talking to you personally on this matter.

Sincerely,

RONALD V. DELLUMS,
Chairman.

COMMITTEE ON EDUCATION AND LABOR, HOUSE OF REPRESENTATIVES,
Washington, DC, February 11, 1994.

Hon. RONALD V. DELLUMS,
Chairman, Committee on Armed Services, House of Representatives, Washington, DC.

DEAR MR. CHAIRMAN: Thank you for your letter of February 8, 1994, concerning the provision in H.R. 6, the Improving America's Schools Act of 1994, as ordered reported, which seeks to make the Department of Defense responsible for funding Impact Aid.

I acknowledge the jurisdictional interest of the Committee on Armed Services in this provision as evidenced by my letter to you of February 3. I do, however, continue to urge you to forego requesting sequential referral of the bill as that would necessarily delay its consideration in the House. I will be pleased to support a request that the Committee on Rules, in fashioning a rule for H.R. 6, provide that the provision in question be stricken prior to House consideration of the bill. In other words, the text before the House would not contain that language. In addition, it is my intention to seek a rule for consideration of the bill which permits all amendments otherwise in order under the Rules of the House, and affords no special status to any particular amendment. The only limitation on amendments I might request would be a preprinting requirement. Finally, our correspondence would be included in this Committee's report to acknowledge the Committee on Armed Services' jurisdictional claim.

Thank you for your consideration and cooperation.

With kind regards,

Sincerely,

WILLIAM D. FORD,
Chairman.

HOUSE OF REPRESENTATIVES,
COMMITTEE ON ARMED SERVICES,
Washington, DC, February 15, 1994.

Hon. WILLIAM D. FORD,
Chairman, Committee on Education and Labor, House of Representatives, Washington, DC.

DEAR MR. CHAIRMAN. Thank you for your letter of February 11 asking that the Committee on Armed Services forego its request for sequential referral of H.R. 6, a bill which, as reported, includes a provision designed to make the Department of Defense responsible for funding the Impact Aid Program.

In recognition of your committee's desire to bring this legislation expeditiously before the House of Representatives, the Committee on Armed Services will not insist upon its claim to have H.R. 6 sequentially referred. However, this action is not to be interpreted as waiving this committee's jurisdiction over the provisions in question. This agreement is conditioned upon your promises to support a request to the Committee on Rules that the so called "Mink amendment" be removed from the bill that is to be considered by the House or the Committee of the Whole and to seek a rule that affords no special status or protection to this or any other amendment filed for preprinting. Moreover, in the event that the Mink amendment should be so filed and ultimately pass the House, this committee will seek to be appointed conferees for this and other provisions within its legislative jurisdiction during any House-Senate conference.

I appreciate your including our correspondence on this matter in your report on H.R. 6, and would further ask that it be included as a part of the record during consideration of this bill by the House.

Thank you for your cooperation and attention to this matter. I look forward to working with you during consideration of this legislation.

Sincerely,

RONALD V. DELLUMS,
Chairman.

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

Mr. Chairman, H.R. 6, the Improving America's Schools Act of 1994, reauthorizes and amends most of the Federal Government programs that provide assistance to elementary and secondary education in our country. The majority of these programs are included in the Elementary and Secondary Education Act of 1965, and it would provide approximately $10 billion of assistance to States and local school districts in fiscal year 1994, and hopefully more in 1995.

The largest of these programs, title I, provides funding to over 90 percent of the school districts in the country. Other programs authorized by H.R. 6 include Even Start and migrant education, the Magnet Schools Assistance Act, Indian education, an expanded Dwight D. Eisenhower Professional Development Program, chapter 2, the Jacob K. Javits Gifted and Talented Program, Impact Aid and the National Education Statistics Act. The bill is the basic Federal education bill.

Much attention has been focused recently on one aspect of it, but the bill is 901 pages long. The gentleman from Pennsylvania [Mr. GOODLING] and I have worked many, many months over this bill.

The authorization for 12 existing programs, Mr. Chairman, are not extended in H.R. 6. Those programs are eliminated.

The purpose of H.R. 6 is not only to extend the life of programs, but to reshape them. Most of these programs were developed in the 1960's, before the current wave of school reform began. It is time for them to be updated so that they can better assist States and local school districts in their efforts to reform public schools.

And I say "assist" because I always believed that education is a local function, a State responsibility, and a very, very important Federal concern, and we want to exercise that concern very sensitively.

The bill which established the Department of Education forbade us to get involved in the matter of curriculum.

Last year the House passed the Goals 2000, Educate America Act, which establishes a new framework for the Federal Government to provide school reform assistance. H.R. 6 helps to fill in the framework by refashioning Federal programs so that they are an integral part of State and local school reform efforts.

One of the primary reflections of this is the proposed revision of the title I formula. H.R. 6 proposes to distribute title I funds in two parts: First, an amount equal to the fiscal year 1994 appropriation will be distributed according to the formula in current law, including the current law requirement that 10 percent of the funds be allocated using the concentration grant formula. Now, Mr. Chairman, funds in excess of that fiscal year 1994 appropriation will be distributed through a new weighted student formula where everyone would get a portion of the increased appropriations, where students in areas of greater concentrations of poverty would receive more.

Other major changes included for the first time: Tying the achievement of title I students to high State standards, and allowing schoolwide programs to combine other Federal education funds with the title I funds for

more coordinating programs serving all children. We also replace existing burdensome testing requirements with a more sensible system based on State assessments, and we also make it easier to serve limited English proficient and disabled children in title I programs.

The heart of this program is to demand greater education achievement in exchange for much more freedom in the use of Federal funds, and the gentleman from Pennsylvania [Mr. GOODLING] has been fighting for that freedom for many, many years. He has been talking flexibility for many, many years, and with his help and input we have put a great deal more flexibility into this bill. As a matter of fact, the whole bill can be summed up in two words: "flexibility" and "accountability." The legislation is replete with provisions giving educators the flexibility to combine Federal programs, to use Federal aid in whatever fashion is needed to improve education and to seek waivers from rules and regulations whenever it is necessary to improve achievement. But the accountability with that flexibility is equally clear. If educational gains are not achieved, then school districts are expected to help schools improve, and, if there is still no success, then States are expected to intervene to secure the results.

H.R. 6 calls for the most important changes in Federal aid to elementary and secondary education since that assistance was first substantially established in the 1960's, the first year of Chairman FORD's membership in the Congress and on the committee. The whole purpose is to make Federal programs part and parcel of school reform for all children instead of being separate programs for special children, and that flexibility will help in that fashion.

Mr. Chairman, by passing this legislation the Congress will give a substantial boost to improving education for all children, including those who have too often been forgotten.

Mr. Chairman, I truly believe that we are involved in the most important reauthorization since this program was first enacted in 1965, and I want to thank all the members of the Committee on Education and Labor, and their staffs, for the many hours of work that have gone into developing this bill.

I want to thank the gentleman from Pennsylvania [Mr. GOODLING] who is the ranking Republican member of the full committee and the ranking Republican member of the subcommittee. He is tough, he is hard, but he loves education, and we have fought some battles, and he has a great deal of Mr. GOODLING in this bill.

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

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

Mr. Chairman, I really looked forward to this session of Congress primarily because I knew we were going to be reauthorizing ESEA, and Head Start. I looked forward to doing that because others seem to be joining in my crusade to bring about quality in these two areas. In the past, Mr. Chairman, so many times the auditors went out only to look to see whether the pennies went to where someone thought the pennies should go. No one looked to see whether or not there was, in fact, quality in the programs.

Mr. Chairman, I am not condemning the programs. I am saying the programs have not been good enough in order to help the disadvantaged become less disadvantaged, or not disadvantaged at all. Therefore, I looked forward to the fact that we were really going to emphasize quality.

We have spent a total of $38 billion on chapter 1. We have spent a total $27 billion on Head Start. We never recompleted any Head Start Program, and, as I said, the auditors were not looking for quality.

Also, Mr. Chairman, I was pleased that many were joining in with the flexibility chorus to get away from the idea of setasides and the constant idea that categoricals are the only way to go.

□ 1100

Many others were questioning our micromanaging public education from Washington, DC, and I was happy to hear that.

I would like at this time to praise public education. We spend so much time bad-mouthing public education. It would be well if all Members of Congress would spend perhaps a month in several different schools all day long and just see what it is that a teacher has to go through in a day's time. We act as if something is quite different about the quality that comes out of a public school than what used to come out. I went to a 2-room eighth grade, and many of those people never went beyond the eighth grade.

They did not have to go beyond the eighth grade; they went out and got a job. Now they all go beyond the eighth grade, and it makes things very, very difficult.

We have also said to public educators, "You have to do everything parents used to have to do," and that makes it very, very difficult for public educators.

I have to say that every time I interview for the Academies, each year the students are better than the students before. They are high-quality students. So I want to make sure we do not spend all of our time bad-mouthing public education, because they do many things well. We can do things to help them do things better. We can also do things to hinder their opportunity if we try to micromanage from Washington, DC.

I want to compliment the staffs from both sides, as Chairman FORD and Chairman KILDEE did.

When the bill left the staffs, it was an outstanding bill, and we should have quit at that time. We should have let the staffs bring the bill to the floor. Unfortunately, we had a subcommittee markup and a full committee markup, and then the members got all involved in the situation and messed up the good work the staffs had done in so many instances. We are going to correct that, hopefully, but unfortunately, that did happen.

There have been some disappointments. My first disappointment came, I guess, when the administration combined Eisenhower math and science and chapter 2 into a professional development program. There are many pitfalls in doing that. The first one, of course, is that there are very few good models of professional development out there. My fear was, as I said to Professor Smith, that the same people who sent the teachers out initially will also do this great professional development program. I would hate to see that happen. As I said, there are not many good models out there.

Second, we are really not ready to get into the business of reeducating teachers and helping teachers based on the new standards that are voluntary and that will be much more difficult and tougher than those to which they were originally teaching. So there are many reasons why we should not have gone as rapidly into that area as we did.

Furthermore, many districts have gone beyond professional development already in their reform movement. They are ready for step 3, step 4, and step 5, and we should not hinder that. But, second, there were witnesses at every hearing we had who said how important chapter 2 money was to the whole reform effort. It was the only money that the local districts could get their hands on to try to reform the districts to make them a better school system. Had we not had the support of the gentleman from Michigan [Mr. FORD] the gentleman from Michigan [Mr. KILDEE] and the gentleman from Ohio [Mr. SAWYER] we would have been kissing goodbye to what every person who testified said about needing chapter 2 money.

I realize that people keep thinking about the chapter 2 program of 10 years ago or 20 years ago, and that it may have been abused or misused, et cetera. It was not the fault of the local districts or the fault of the States; it was our fault on the Federal level. We never told them what it was we wanted them to accomplish when they get to the end of the line. All we sent was money. We never sent the money in a timely fashion. They never had time to plan how it would be spent. So in NDA and all the other programs we wasted

millions of dollars. That has all been changed. In the last 5 years their whole effort with chapter 2 has been, how do you get the school districts to be better school districts so that all students will grow and grow academically. We wanted to ensure they would get a quality education. So that was the first disappointment I had. As I said, hopefully we are on the right track, and thanks again to the Members that I mentioned, we will correct that.

The next disappointment, of course, deals with the end result when the bill came out of full committee in relationship to reinventing Government. Boy, we really reinvented Government in this respect. We have eight new reporting requirements in title I, four in title II, part A, four in title II, part B, one in title II, part C, two in title II, part D, one in title II, part E, one in title III, one in section 4, GEPA, title II, and one in title III, part B. There are 22 new reporting requirements. I do not believe that was what the Vice President had in mind when he was reinventing Government.

The next disappointment came as we were marking-up where we did get into the business of micro-managing—of having mandates without money. We have to stop that. School districts could have done so much better with all of their students if we had not sent them 95 percent of the mandates with relationship to special education, promising them 40 percent of what it cost to educate special education children and only sending them 8 percent. They now have to make up from their local funds most of the money to deal with special education which was mandated by us on the Federal level. Chairman KILDEE and I tried for years to get this figure moved up and up so they could take the money they are now spending in that area and deal with the entire reform movement with all of their students. Hopefully we can do something about that.

We also got into the business of certification, and I apologize to my colleagues for all the problems they have had and the telephone calls they have received, because I should have caught that. It came at the eighth hour, I believe, of that particular day in the markup. No one on either side of the aisle or the staffs had seen the amendment, and there was very little discussion. My concern is that we on the Federal level certainly have no business whatsoever in micro-managing a school district and a State in relationship to certification.

Every State has certification standards. In my State, if the school district does not meet them, they lose their State funds. But keep in mind what happens when we micro-manage.

Suppose you have a rural area and you have one section of chemistry. Is this all that chemistry teacher teaches when you pay the teacher $30,000 or $40,000? No, they have to teach general science courses.

They may also have to teach some math courses, as a matter of fact. Let us say you have three sections of chemistry, or four, and the chemistry teacher can only handle three. So you give the fourth section, which would be a general chemistry section, to a general science teacher or to an advanced math teacher. You cannot go out and hire a new certified chemistry teacher in order to teach one section. These are the things we do not think about down here.

You also get most of your retirements from people who decide not to come back to your districts 2 weeks before school opens. Let us say that all of a sudden I lose a Spanish teacher. I have to go out and get the best academically qualified Spanish-speaking person in the district to fill that slot because I cannot steal anybody from someplace else, and you have at least 60 or 90 days, depending on the State. So we have to think about these things when we try to micro-manage from Washington, DC.

Someone even got into the discipline business. We are now going to micro-manage how one disciplines in their districts or in their States. Again we send 5 percent of the money and we want to send 95 percent of the mandates.

I want a coordination of services program because I want to break up those fiefdoms out there. They all have their little fiefdom, and, boy, they do not want to participate or join with anybody else. Well, it is the child we are thinking about, so we need them all working together for the benefit of that child and that family.

□ 1110

But, I do not want to stir up a hornet's nest in relationship to abortion and planned parenthood. I think we could handle that and not stir that up.

Going then to my hope. My hope is that the corrections that we have agreed to will truly make this a bipartisan bill that every Member will be happy to support. This bill, coupled with what the Senate does and what we will do in conference, will help lead us to a program that is bipartisan, that all can support, that will dwell on accountability, as the gentleman from Michigan [Mr. KILDEE] has said, and that will deal with flexibility. I am sure the gentleman from Michigan [Mr. FORD] and the gentleman from Michigan [Mr. KILDEE] will work with me in this effort.

We have to understand, there is a new breed of educator out there, very talented, very creative.

We have to give them an opportunity to use that talent and that creativity. I look forward to the markup today and next week and then the conference with the Senate. Hopefully, we will be able to present Members a bipartisan bill that will truly bring about reforms that will deal with quality education for all students, not just some, but all students.

As the Education and Labor Committee began the process of drafting H.R. 6, we were hopeful that we could craft a bipartisan bill that is reflective of a national consensus on education reform. While we were unable to report a bipartisan bill from committee, I am hopeful that H.R. 6 merits the support of all Members by the time we vote on final passage.

Let me begin by outlining some of the positive aspects of H.R. 6. I was very pleased that the committee accepted a Republican amendment to retain a refocused but flexible chapter 2 program refocused on education reform and achievement of the national education goals. Funds under this section may be used for technology, library services materials, assessments, and the development of instructional and educational materials, as long as they are tied to overall school reform efforts.

This section supports, and does not replace, the professional development activities provided under the newly revised Eisenhower Program. We believe our proposal provides schools with exactly the kind of flexibility that is needed to support professional development of teachers in all schools.

Let me be clear on this point: I will fight any effort to strike this section from the bill, and I will fight just as strongly an effort to tie the appropriations of this program to the appropriations of any other program, such as the new Eisenhower Program. If this House wants to report a bipartisan bill, the best way to do it would be to retain our flexible chapter 2 proposal in H.R. 6 as it is currently written. Then, once H.R. 6 becomes law, I look forward to working with my colleagues to ensure that this proposal receives the funding it deserves.

I am also pleased by the inclusion of the broad waiver provisions in title IX, which will allow schools, local educational agencies, and States to receive waivers from Federal requirements and regulations under this act which impede their ability to improve student learning and achievement.

I also strongly support the title I funding formula offered by Mr. PETRI and Mr. KILDEE. Their proposal is fair and equitable to all regions of the country. It ensures that disadvantaged children, both in urban and rural areas, will continue to receive the Federal assistance they need. The Kildee-Petri formula recognizes that title I funds should follow the children they are intended to serve, and that funding shifts due to updated census will be allowed to occur. The Petri-Kildee formula is equitable for all regions of the country, and avoids radical shifts in funding which could devastate many local programs currently serving children.

It would also calculate grants on an LEA basis rather than county basis; current law distributes grants on a county basis. Many school districts in this country, such as York City school district in Pennsylvania, which are located in relatively wealthy counties are ineligible to receive concentration grant money even though the school district would be eligible if funds were allocated directly to school districts based on district level poverty data.

This formula would solve this problem and would more precisely target money to poor school districts.

Because it is a program of great importance to me, I would also like to highlight some of the significant changes in the Even Start Program. First, we have expanded the program to include a high-risk group, teenage parents. Instead of waiting until young parents drop out of school, placing them at risk of unemployment and dependency on welfare, they are now eligible participants in Even Start. This will provide them with the support they need to stay in school and to become a true partner in their child's education, as well as to obtain the early childhood services which will enable their child to start school ready to learn.

We also acknowledge, for the first time, other organizations which have a record of providing effective literacy programs, such as Parents as Teachers, the Home Instruction Program for Preschool Youngsters, and the National Center for Family Literacy and have modified the law to clarify the eligibility of these organizations to participate in Even Start activities. We do not, however, allow these programs to be a substitute for Even Start.

In my view, these programs can be used as components of Even Start, rather than operating on their own. For example, a growing number of Even Start projects use the Parents as Teachers model for their parent training component. Parents as Teachers is a well-recognized, effective program. It is not, however, the same comprehensive model as Even Start. Although I endorse the usage of this model by Even Start programs to fill their parent training requirement, I want to stress that an Even Start project must have all three components: parent training, parent education, and early childhood development to qualify for funding under this act.

There are other positive aspects of this bill, including charter schools; strengthened parental involvement provisions that provide literacy services to chapter 1 parents; a provision allowing schools to use up to 5 percent of the funds received under this act for the coordination of health and social services to meet the needs of their students and their families, and an improved chapter 1 Neglected and Delinquent Program that more effectively focuses on the needs of troubled youth.

In addition, we have provided additional flexibility in the bilingual education program concerning the use of funds for special alternative programs in instances where a school has been unable to hire bilingual teachers or where there are too many students with a high diversity of languages and they are unable to operate a transitional bilingual education program.

Yet, despite the positive aspects of H.R. 6, I continue to have concerns with other provisions of the bill. My foremost concern deals with the bill's "opportunity to learn standards" provisions. In my view, the "opportunity to learn standards" provisions of the bill reported by our committee were completely unacceptable.

In my view, opportunity to learn standards represent a failed policy that is based upon inputs into the education system instead of focusing on improving student learning. I guess the thing that bothers me the most is this: We know from years of research that providing a child with an opportunity to learn is far more complicated than equalizing school resources.

The opportunity to learn standards in H.R. 6 would have forced the entire education community into an endless bureaucratic debate about the credentials of school personnel and counting pieces of chalk and school supplies. Likely to be lost in this never-ending debate about inputs is how to help kids learn what they need to know to be productive citizens. That is hardly a way to help poor schools provide a better education for their children.

I am pleased to be offering a compromise amendment with Chairman KILDEE today that will address many of the concerns I have raised with regard to this provision. This amendment does the following: It makes it clear that the implementation of "model opportunity to learn standards" are voluntary and not mandated; it narrows down the original list of eight standards that a State must develop to just two; it greatly limits the paperwork burden on schools and local education agencies; it retains the provision in the bill saying that the Secretary may not deny title I funds to a State based upon the specific content of its "opportunity to learn standards;" and, it clarifies that "model opportunity to learn standards" cannot be enforced through litigation and cannot be used to mandate equalized spending in States.

I continue to believe that "opportunity to learn standards" should be completely voluntary and that, in the best of all worlds, they would not be in this bill at all. However, in the spirit of compromise, I believe that this provision is acceptable for the purposes of House consideration of H.R. 6.

As Members of the House know all too well, another major problem with H.R. 6 concerns its impact on home schools. I strongly support the right of home schoolers to be free from Federal regulatory and statutory intrusion, and I am pleased that amendments will be offered to make it clear that this bill will have no effect on the ability of parents to provide a home-based education for their children.

I am also concerned that H.R. 6 creates too many unnecessary categorical programs that add up to more than $1 billion of additional authorizations that, if funded, will attract needed scarce dollars away from more worthy programs like Even Start, title I, chapter 2, Drug-Free Schools, and other important programs that have traditionally been priorities for Republicans and Democrats alike. That, of course, is the last thing any one wants.

Another objection to H.R. 6 is the failure of the committee to accept language which would prohibit the use of funds appropriated under this act to provide family planning and health reproductive services as part of coordination of services projects funded under this act. An amendment will be offered to rectify this situation later in this debate.

In conclusion, this bill affects almost every American public school, and is the last reauthorization that will have any effect on our education system before the beginning of the 21st century. The only way real change in education occurs is with bipartisan political support and ownership from the education community. I remain hopeful that we can work out our disagreements so that this bill is able to gain broad, bipartisan support.

Mr. Chairman, I yield 5 minutes to the gentleman from Wisconsin [Mr. GUNDERSON], a very active member of the Committee on Education and Labor, who usually comes and stays during the entire time.

Mr. GUNDERSON. Mr. Chairman, the kind remarks by the gentleman from Pennsylvania are only reflective of the esteem, friendship, and respect that I have for him and also for the gentleman from Michigan [Mr. KILDEE] and the gentleman from Michigan [Mr. FORD].

I have to tell Members that they may not always agree with the outcome but they will never find three men more committed to the education of our country than these three individuals. It has been a privilege to work with them.

I thought I would, this morning, share with my colleagues, as we discuss and begin to discuss the reauthorization of elementary, secondary education, the Business Week front page cover article this week: "The Learning Revolution." Because we are at the point of history today.

This is the last reauthorization to have any impact on the structure of America's education delivery system, as we enter the 21st century. That is why it becomes so essential that education policy be done in a bipartisan manner.

Yesterday we were in a meeting trying to resolve one of the contentious issues, and someone asked Secretary Riley what his position was. And he said, to his credit, "My position is to work this out so that we can have bipartisan support for education." That is why I think Members on both sides of the aisle have such high regard for this man and his leadership at the Department, and that is why it is incumbent upon each and every one of us to figure out how we can do that.

President Bush, to his credit, and now followed by President Clinton began that attempt at bipartisan revolution in education through the Goals 2000 program that hopefully we will enact in the near future.

There are no less than 110,000 public schools in this country that will be affected by this legislation. In my State of Wisconsin, there are 428 public schools.

I want my colleagues to know that literally half of those public schools have less than 1,000 students in their enrollment, which means that we must be very careful as we answer those basic questions of how do we provide the leadership and structure for 21st century education without suffocating and killing local education in the process so that all our educators do is comply with rules, regulations and paperwork and never have the time to do the all important business of educating and preparing not only our children but, in the 21st century, also our adults for the

lifelong learning components of a 21st century, high technology, global education criteria.

The basic program of Federal aid to education is obviously the chapter 1 or title I program which responds to the educationally disadvantaged children of our society. There is an attempt in the legislation in front of us to try to extend the purpose of this bill as a condition for literally schoolwide reform.

The questions we must ask ourselves in this process, as we attempt to improve the title I program, is, will these reforms be voluntary or mandatory? Will they be done through simply standards and assessments? And if those standards and assessments are developed, and should they be developed at the Federal, State, or local level, and who will comply and enforce those particular programs?

We will hear a lot of debate as we go forth over a chapter 1 formula that is being changed in this bill. Let me simply say, there is no such thing as a fair and good chapter 1 formula, and we will never resolve that issue until the last point of conference and even, perhaps, at that point in time.

More important, I think, is how we allow schools to use money they get, which for most schools will unfortunately be less money than they have had in the past. I have many school districts that receive less than $30,000 a year in their chapter 1 program. We must be very careful that we do not pass 17 pages of new legislative mandates and reporting requirements on a local school district that receives that amount of money.

The second thing we must understand is that as much as we want to encourage reform, we must recognize that reform means flexibility. It means allowing local schools, wherever they might be, to pioneer in unique and different ways.

That is why chapter 2 is so essential to the final outcome of this legislation. I have been a strong advocate of chapter 2, because it allows every school in this country the unique flexibility to do what is necessary to upgrade their school reform programs.

In Wisconsin, literally 275 schools last year used their chapter 2 funds for technology and computer upgrading. This is the only place where we give schools that kind of flexibility to respond to the unique needs of those particular programs.

One of the amendments which is included in the present chapter 2 and which we will offer as a separate title in this legislation is 21st century community learning centers. We must recognize that in the 21st century, school boundaries, school buildings, school subjects and school students, as we know them today, are all going to be outdated by the technology revolution. We must empower and enable our schools to respond and meet those challenges through these kind of changes in public policy.

There will be a number of amendments that I hope will be adopted on a bipartisan basis. I tell Members, as we begin consideration of this bill, unfortunately the legislation coming from the subcommittee and the full committee did not receive the support of many Republicans, myself included, because we saw it as too little flexibility, too little money, too much regulation, paperwork, and bureaucracy.

I am hopeful that the negotiations that have occurred over the last few days and will continue on to next week will allow us to solve the home school problem, will allow us to make sure that the opportunity to learn standard is truly voluntary and will make sure that we take the other steps to guarantee schools the flexibility necessary to become the 21st century learning centers we want them to be.

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

I would like to commend the gentleman from Wisconsin. He played a very major role in the postreporting period of the bill and negotiating two very different areas. He was available. He came up with great ideas, and he is to be commended.

He wanted, I think, from the very beginning to be able to come out here with a bipartisan bill. I think through his negotiations in the postreporting period, along with those of the gentleman from Pennsylvania [Mr. GOODLING], we will have that bill. I commend him for that.

Mr. GOODLING. Mr. Chairman, I yield 3 minutes to the gentleman from Nebraska [Mr. BARRETT].

Mr. BARRETT of Nebraska. Mr. Chairman, I rise in opposition to H.R. 6, a bill that, as currently drafted, is an attempt to federalize the delivery of education in America.

H.R. 6 mandates that local schools meet yet-to-be developed opportunity to learn standards [OTLS].

The Federal Government likes to establish standards, but we cannot seem to find a way to pay for them. Do I need to remind my colleagues of the millions, if not billions, that local school districts have had to fork over to meet Federal asbestos removal standards? A laudable goal, but one that has been unfunded.

Well. H.R. 6 is the asbestos removal approach to education. It provides all the mandates, but no money to pay for them. The Federal Government makes a multitude of new demands, but it is accountable for none.

Like all Members of the House, I have heard from hundreds, if not thousands, of constituents concerned with the home schooling provisions in the bill. Let me simply say this—

I firmly believe that States and local governments are best suited for establishing curriculum, teacher certification, and school academic standards. The Federal Government has no business whatsoever, beyond current civil rights law, to impose its imprint on these so-called sacred areas of education.

I'm hopeful that during this debate, we can come to an accommodation, on this issue, so that we can get on to other issues such as addressing the opportunity to learn standards, eliminating the litany of new Federal education programs, and creating a more flexible approach to Federal education policy.

Let me also touch on an issue that we'll be debating when I offer an amendment to title IV of the bill, which reauthorizes the Drug Free Schools and Communities Act.

It's a bipartisan amendment that would restore the Governor's share to drug free schools at 20 percent, and establish a nonpartisan advisory committee that would map out the funding uses of the Governor's share.

H.R. 6, on the other hand, creates a new bureaucratic requirement that local schools spend a portion of their limited Federal drug free moneys for community outreach. The Governor's share is already doing just that very successfully in may States.

Mr. Chairman, as the gentleman from Wisconsin said, this will be Congress' last attempt, before the year 2000, to greatly influence the education reform movement. I hope that its a good influence and not another heavy handed, mandating, and complicating Federal approach to education.

□ 1120

Mr. KILDEE. Mr. Chairman, I yield 4 minutes to the gentlewoman from California [Ms. WOOLSEY].

Ms. WOOLSEY. Mr. Chairman, I rise in support of H.R. 6, Improving America's Schools Act.

I first want to thank the chairman of the subcommittee, the gentleman from Michigan [Mr. KILDEE], for his unflagging efforts to reach consensus and report out a bill we can all support.

I also want to express my admiration for the chairman of the Committee on Education and Labor, the gentleman from Michigan [Mr. FORD], who presided over one of the longest uninterrupted mark-ups in history. Every member of the Committee on Education and Labor was given the opportunity to help craft the bill before you today.

H.R. 6 will help schools, students, parents and educators in every district in America. I want to tell my colleagues just a few of the many reasons why local schools and communities want them to vote for H.R. 6:

First, I am particularly proud of coordinated services, title X, in this bill. Recently, both George Will and David Broder, two newspaper writers who rarely agree, had separate columns in the Washington Post on how factors

outside the classroom impact on students' ability to learn inside the classroom. Coordinated services, as authorized in this bill allows local public schools to use some of their Federal Education funds to join with other community partners to identify and make available health and social services that students need so that they can enter a classroom ready to learn.

Next, the chapter I programs that are currently helping educationally disadvantaged students in our local schools will be able to keep up their good work. The new formula in H.R. 6 makes poor schools in poor neighborhoods eligible for more money, while preserving the funding for current chapter I programs for all educationally disadvantaged children.

Under H.R. 6, a program that has already proven successful for math and science teachers has been expanded to give all core curriculum teachers new opportunities for professional growth and expanded technical knowledge.

Finally, even the school buildings in your district will benefit from H.R. 6. A 1991 survey found that 74 percent of the public school buildings in America are in such bad condition they should be replaced. With the help of a new Federal loan program in H.R. 6 local communities will create jobs by making needed improvements to deteriorating school facilities.

Mr. Chairman, a vote for H.R. 6 is a vote for local flexibility. I encourage my colleagues to show their confidence in their local schools and vote "yes" on H.R. 6.

Mr. GOODLING. Mr. Chairman, I yield 3 minutes to the distinguished gentleman from North Carolina [Mr. BALLENGER].

Mr. BALLENGER. Mr. Chairman, I rise in opposition to H.R. 6 and urge my colleagues to vote "no" on this bill called the Improving America's Schools Act of 1994. We would be hard pressed to think of a more inappropriate name for a bill that is nothing more than a power grab by the education bureaucracy.

It is amazing that Washington still does not get it. True education reform must be driven locally, by parents, teachers, local administrators, and the community as a whole. It is ludicrous to think that the Federal Government can successfully reform our failing public education system by setting a single uniform model for reform when our schools, school districts, and communities are as varied as the East is from the West.

An article in yesterday's Wall Street Journal bears witness to the fact that the education unions are unwilling to allow true education reform. They would rather maintain the failing status quo. Every time a truly innovative idea is brought up, the teachers' unions intimidate the majority in this body into imposing conditions that limit the success of reforms. Unwilling to relinquish their power to parents, principals, local administrators, and the communities in general, the education establishment maintains a vice-like grip on our schools.

H.R. 6 will do little to improve America's schools. It contains opportunity to learn standards which will do nothing to help children learn and instead, focus the energies of educators on endless bureaucratic debate about the condition of school facilities, professional development, the alignment of instructional practices with content standards, and the extent to which schools do not discriminate based on gender in policies, curricula, and instructional practices. While these are important, they are not essential to the education of America's children.

The compromise amendment that will be offered later in the debate will not change the fact that opportunity to learn standards will do nothing to help children learn. Making the standards voluntary simply delays what will inevitably turn into an unfunded mandate on the States.

H.R. 6 devalues the teaching of educational basics and fails to promote true education reform by omitting support for public and private school choice. It claims to enhance parental involvement, but in reality, it further demotes the role of parents in the education of their children. During the committee markup of the bill, an amendment that would have allowed parents to withdraw their children from activities they view as adverse to their children's personal beliefs was defeated. This is just one example of hostility toward parents embodied in this bill.

This bill was brought to the forefront by a group of educators who are normally silent on the content of Federal education bills. The home-school community has done a commendable job of making us all aware of provisions that would adversely affect them. While I believe strongly that we must protect the rights of parents to educate their children as they wish, I find in unfortunate that only the home-school provisions in this bill will be fixed. The fact remains that this bill is, in its entirety, caters to the education bureaucracy and epitomizes micromanagement by the Federal Government. The opportunity to learn standards continue the dangerous trend of avoiding the difficult task of enacting true education reform. We must stop passing bills that repeat the mistakes of the past. We must stop sanctioning failed policies by renaming them and declaring them the solution.

Mr. Chairman, I urge my colleagues to vote "no" on H.R. 6. Even if we pass all the so-called perfecting amendments being offered today, the fact remains that this bill is bad policy for education, for our children, and for the Nation.

Mr. KILDEE. Mr. Chairman, I yield 12 minutes to the gentleman from New York [Mr. OWENS].

Mr. OWENS. Mr. Chairman, I want to begin by congratulating the chairman of the committee for his patience and his long perseverance on the effort to bring this bill to the floor. The hearings started in the early part of last year, and the deliberations continued up until the present, giving opportunities for all parties to be heard.

I want to congratulate Mr. KILDEE and congratulate his staff, and all of the staff of the various subcommittees that worked on the bill. The kind of monumental labor that went into this bill lets it be known that it is a big lie that the staff does very little, or we need less staff, or staff is irrelevant. Staff is very vital, and without well-qualified, knowledgeable staff, we would not have been able to produce this bill.

□ 1130

All those who want to cut legislative staff should realize that they would be cutting very much into the quality of the production of good legislation for the American people.

I want to also make some general comments about the legislation before I talk specifically about the section which deals with drug-free schools and safe schools. I would like to say first that this is one component, the Elementary and Secondary Education Act is one component of the overwhelming effort that will be needed in America in order for us to revitalize our education system and be able to go into the year 2000 and the new world order with a system which is capable of meeting the needs of the new world order.

Now we have a real problem in that the involvement of the Federal Government is so minimal in education. We can increase that involvement and could increase that involvement greatly and still not at all tread on the feet of the prerogatives of local education boards and policymakers. I am all in favor of much more involvement, and even if we increase the Federal expenditure in education from the current 6 percent to 25 percent of overall educational expenditures in the country, it would still be only a small part of it, and 75 percent is still left for State and local government, which means they have 75 percent of the decisionmaking, 75 percent of the control. There is no threat to control if the Federal Government has greater involvement.

Education is a very important part of our national security. We do not need a bloated CIA anymore. But we do need to understand that a well-educated population is our first line of defense. We need to understand that in the global competition that we talk about all of the time, economic competition, competition for influence, competition for the minds of the people of the

world, we are going to have to have a very educated population. We are up against nations who generally are more involved, their central government is more involved in education and our Government is not involved. The performance of our educational system as a result I think is much less than it could be. We are behind France, we are behind Japan, we are behind Great Britain in terms of the quality of the products that come out of our public school systems. We need this comparability with other nations. It does not hurt to have the Federal Government get more involved. Both the last President and the present President recognized that, and all of the Governors throughout the States recognize the need to get the Government more involved.

The Governors' Conference came out with six goals. I am all in favor of those goals. They came out with a proposal that we have standardized content in our curriculum so that those goals could be met. I am all in favor of that as long as it does not go overboard and cramp creativity at the local level.

They also want standardized testing and assessments to be uniform across the country, basically, or to have a lot in common even though they may not be the same from State to State. They want to impose this testing, this assessment on the children to see how well they have stood up under this standardized approach and met the requirements of this standardized curriculum. I say that is OK too.

There is a third element necessary, however, and that has become very controversial. We heard it mentioned a couple of times already. The third requirement should be that we need a standard that we hold up to the various local education agencies and States in terms of the provision of an opportunity for children to learn. We know they need to have what is necessary to meet those goals that we want met. They need, in order to pass the test that we are going to give: They need to be able to have the best books in the library; they need to have the best equipment possible in the science laboratories; they need to have basically safe schools where lead poisoning and asbestos are not a problem. All of these things have to be a part of our consideration of going forward with revitalizing America's schools.

If we have standards for content which are uniform throughout the country basically, if we have standards for testing which are uniform throughout the country basically, and we give tests based on the children's ability to comprehend that curriculum, I can tell Members right now where most of the failures would be. We know where the failures would be. They will be in the areas where the teachers are not qualified. They will be in the areas where the library books are 30 years old. They will be in the areas where there are no science laboratories. We can tell. So it is necessary to have the third set of standards. They are no more mandatory than the first two. The first two are not mandatory and neither are the opportunity to learn standards. These are really models that are set forth as to how we should go about approaching, providing the delivery system for young people so that we are not inflicting upon young people a set of tests, required tests, and not giving them the means to meet those standards in those tests.

I agree we should have uniform standards a curriculum which prepares our youngsters to meet the competition of the new world order. Geography is one of those subjects. We are going to have a requirement that all youngsters learn geography, and great. But the geography books in most of the libraries in my congressional district are 30 years old. The history books are 30 years old in the libraries. If they are going to learn geography from 30-year-old books, we know the geography that they learn will be dead wrong. It is important to know geography in order for us to compete if we are trading worldwide in the markets of the world. And it requires that we under the psychology of the people that we are dealing with. And our diplomacy requires that we understand the religion and the culture of the people we are dealing with. We made enormous mistakes in foreign policy because we did not understand the Middle Eastern culture or the Far Eastern culture. We only understood Western cultures. There are many reasons why it makes sense to have these new content standards, and it makes sense to have a set of assessments so that we can find out whether schools and school districts and States are really seriously trying to meet those standards.

But the third part is also very much necessary. The children of America will look at the Governors and the President and the Members of Congress and say, as the little kid in Hans Christian Andersen's tale said, that the emperor has no clothes on. If we are really concerned about reform and really going to promote reform, really going to help revitalize our schools, and the children will say if you really want to help us go into the year 2000 and the new world order and be able to compete with a magnificent world-class education, then you cannot do that without having some considerations given to what it takes in order to meet those kinds of standards and what children have to have: laboratories, books, equipment, teachers who are teaching science who majored in science in college, or teachers who are teaching math who majored in math in college.

A survey was done in New York City a few years ago by the Community Service Society which showed that in two-thirds of the city where the students were predominantly African-American and Latino, none of the teachers who were teaching science and math in junior high school had majored in science and math in college. How can those students take tests and meet world-class standards if they do not have teachers who know the subjects they are teaching?

The emperor has no clothes on, 50 Governors have no clothes on, the President has no clothes on, and Members of Congress have no clothes on if they are going to go forward with educational reform and leave out this vital component.

So we will talk more about that in greater detail later. But it is very important to let us get off to a good start in understanding that we cannot swindle; we should not promote a program which swindles the American children. The children of America deserve better. They need a truth in educational reform approach, and what this opportunity to learn standards does is to give us truth in educational reform. There can be no educational reform truly unless we have the opportunity to learn standards.

Finally I would like to talk about the section of the bill which was under the jurisdiction formerly of the Subcommittee on Select Education and Civil Rights, the drug-free schools bill, which is a magnificent effort by our Congress, launched some years ago to meet a pressing need, and has had a mixed success. We know from our hearings that in some places they have done magnificently well in taking very minor amounts of money and turning those minor amounts of money into real programs that have made a difference in terms of changing the drug culture that was developing in our schools.

The problem stretches from one end of America to the other. It is in the rural areas, the suburban areas, and the inner city areas. In all of these areas we have had various programs which are model programs, and we are going to continue those model programs.

□ 1140

The drug-free schools programs will continue, and the impetus, the initiative that started the drug-free schools will now be expanded into safe schools.

The sixth goal that the Governors and the President came up with was that we should have safe schools and safe school environments, drug-free schools and safe schools, and to meet that, the drug-free schools initiatives is being folded in under the Elementary and Secondary Education Act along with a new initiative called safe schools which will merge, and all of it will be designed to deal with the pressing problem in our society of youngsters who are being misled by the ap-

peal that they are bombarded with by mass media, being misled by their peers who are yielding to a more glamorous and seemingly exciting lifestyle and we need to anchor in the schools some of the things related to values that have not been done in the homes.

The Safe Schools Act, for example, is an act which provides an opportunity for schools to become as creative in the area of safe schools in general as they were with drug-free schools, so they can come forward with a plan of their own.

None of the money can be used to buy hardware like metal detector machines, so the onus is on the school systems, the teachers, the parents all to come forward with ideas which deal with changing the mindsets of our youngsters. I founded a group called the Martin Luther King Commission in central Brooklyn, and that commission focuses on a number of initiatives to improve education. One of the actions is moving into the schools with a curriculum of nonviolence, a curriculum of conflict resolution, projects to promote conflict resolution. We have an essay contest every year, and we give away $10,000 in prizes for youngsters who write on the subject of how to resolve conflicts and various aspects of Martin Luther King's nonviolent approach to problem solving.

There are many ideas like that out there, many approaches.

The best of them should be allowed to flower, and then we should replicate them.

This is a great bill we have here today. I urge all of my colleagues to pass the bill basically as it is.

Mr. GOODLING. Mr. Chairman, I yield 2 minutes to the gentleman from California [Mr. CUNNINGHAM], a member of the committee.

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

Mr. Chairman, like all bills, there is not all bad in this bill, and there is not all good.

First of all, this is my sophomore year, and this bill, I think, the chairman, the gentleman from Michigan [Mr. FORD] and the gentleman from Michigan [Mr. KILDEE] have worked harder on this bill to make it a bipartisan bill than they have in the past. I want to thank my colleagues for that. They have worked out a lot of compromises.

The gentleman from Pennsylvania [Mr. GOODLING], the Republican leader on the Education Committee, has worked with the majority party, and I think there are many good things in this bill.

Title I funds for underprivileged children: It was targeted to the inner cities which took away from the amounts of dollars for the rural areas and also the suburbs. A poor child in those areas is just as important as a poor child in the cities, and my colleagues on the other side of the aisle, the gentleman from Michigan [Mr. KILDEE] along with Dr. Payzant and Secretary Riley, worked out a compromise formula, and I believe in targeting, the moneys were not taken away from the rural areas. That was fantastic.

The bipartisanship that went on was good in the bill.

The impact aid, although underfunded, there was a compromise, and an amendment was removed which in my opinion made the bill a little more palatable.

The Eisenhower plan, which allows for teacher training and upgrades so that our students get better training, those are all good. But quite often the Government gets involved to where the moneys we give to the schools are eaten up by the advanced paperwork. If you can imagine giving a school, say for example, $20,000 in an opportunity to learn program, and then you mandate so much paperwork and bureaucracy that those dollars are eaten up, we take away the original process and the reason why we are trying to give those funds.

The opportunity to learn provisions in H.R. 6 are much more threatening to State and local education officials than the same provisions we saw in Goals 2000 language. These standards are not voluntary, and unfunded mandates, and all of us talk about unfunded mandates, and we will not support them.

Opportunity to learn, as it exists, is unfunded and is a bad portion of this bill. I hope we can work out some compromise, Mr. Chairman.

Mr. KILDEE. Mr. Chairman, I yield 5 minutes to the gentleman from Ohio [Mr. SAWYER].

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

Mr. Chairman, I rise today in strong support of H.R. 6 and would like to congratulate my subcommittee chairman, DALE KILDEE, and his staff for their extraordinary work on this bill. And to our distinguished full committee chairman, BILL FORD, let me express my genuine admiration and respect for the legacy you will leave when you retire at the end of this year. You have produced a body of law that protects the rights and advances the well-being of millions of children, students, working and retired Americans.

As one of the original authors of the ESEA, one of the greatest achievements of this body, BILL FORD must be extremely proud of the challenge and optimism that this bill represents. Along with Goals 2000, this remarkable reauthorization will finally bring the Nation's education needs into full partnership in education reform at the State and local level. For too long efforts to reinvigorate our public schools have been pulled in so many contradictory directions that real progress has been impossible to measure.

With Goals 2000 as the framework, and this reauthorization as the vehicle, we will by laying the foundation for real, sustainable systemic education reforms. The content and student performance standards, which are the primary organizing principle of both bills, are the core around which curriculum development, professional development and improved student assessment can be built. To meet local needs.

H.R. 6 does not provide a single-source Federal solution to our Nation's education problems; it recognizes the incredible diversity of schools and school districts and provides encouragement and incentives for schools, administrators, teachers, students, and parents to work together to improve student achievement.

Mr. Chairman, this reauthorization bill also incorporates two related changes in policy that, frankly, are long overdue. For the first time, we will distribute funds under the chapter I program directly to school districts, rather than counties. And those allocations will be based on poverty data that is updated every 2 years, rather than on numbers from the decennial census that quickly become outdated.

Those seemingly small changes will help us drive chapter I dollars with more precision to those communities that are most in need. At the same time, they will help alleviate the profoundly disruptive effects of large shifts in funding between States after each census.

Right now, we only get reliable poverty estimates below the national level once very 10 years, from the census. That data gets old quickly.

During the 1980's, the number of poor school-age children increased by as much as 67 percent in some States, and decreased by as much as 34 percent in others. Yet up until this past school year, we were distributing billions of chapter I dollars annually based on poverty data that reflected 1979 economic conditions. And then every 10 years, huge numerical shifts cause enormous funding dislocations at a single stroke.

That is simply unwise and unsound policy.

H.R. 6 provides for the distribution of chapter I funds based on poverty numbers updated every 2 years throughout the decade. Last November, the House passed legislation I sponsored to require the Census Bureau to produce poverty numbers every 2 years for States, counties, cities, and school districts.

The availability of more timely measurements of poverty will help target Federal education dollars toward our most disadvantaged students.

Concurrently, driving funds directly to school districts, instead of to larger and often more economically diverse counties, will ensure a greater share of resources for schools and communities

with large numbers of poor children or high concentrations of poverty. Even communities that lose population overall may face increases in concentrations of impoverished children. This formula recognizes those needs.

More timely data. More precise measurements for driving dollars to the local level. Those are but two of the many reasons why we should support the bill reported by the committee.

I would like to thank all my committee colleagues who worked with me on the Dwight D. Eisenhower Professional Development Program and Educational Technology Programs that are now part of title II of the bill. Both these provisions will make substantial investments in education reform. With national and State standards for the content of the curriculum taught in our schools rising to world class levels, the professional development of our teaching force has never been more critical. As Michael Kirst of Stanford University has said, "education is won or lost in the classroom where teachers meet children". The Eisenhower Professional Development Program will put resources and incentives in the hands that need them—our Nation's teachers.

The Educational Technology Program, hand in hand with the Eisenhower Professional Development Program, would provide venture capital to State and local educational agencies. In partnership with the private sector it encourages and supports the development and use of educational technology to improve teaching and learning in America's classrooms. And it ties that effort to State and local curriculum reforms.

Mr. Chairman, I urge my colleagues to support this bill. I believe it represents the most fundamental change in our Nation's federally supported K-12 education programs since 1965, when this landmark law was created.

It was an honor to have been a part of the work of this endeavor.

Mr. GOODLING. Mr. Chairman, I yield 3 minutes to the gentleman from Pennsylvania [Mr. WELDON].

□ 1150

Mr. WELDON. Mr. Chairman, let me first rise and commend the gentleman from Michigan [Mr. KILDEE], for his leadership in this effort and the gentleman from Pennsylvania [Mr. GOODLING], for his leadership.

Let me say that some of our colleagues here just do not get it when it comes to education. I rise in support of many of the provisions in this particular legislation primarily because I guess I am one of the few Members of Congress who was not an attorney before coming here. I am a classroom teacher. I spent 7 years in some of the most depressed communities in Pennsylvania, not only teaching in the classroom but running for 3 years a Chapter I Program, then called title I. I also worked on the ESEA title III program back when it was first established.

I applaud the committee's action which they have taken in regard to chapter I, now title I. It is a great program. It works. Educationally and economically deprived kids are being helped. It is a proper role for the Federal Government. We should support it, and I do support it.

We should support chapter II. It is a good program. If you listen to your local school boards and teachers, they will tell you the one positive thing they have coming from Washington is the ability to buy new technology, to improve and build innovations; and chapter II does that. This committee in this legislation has done a great job.

But, you know, Mr. Chairman, as I listen to people around the country and look at property taxes in Pennsylvania, we do not get it down here, because the biggest problem with local education—and I say this as a former vice president of my education association—is not that we need more money, it is that we need less mandates.

We have got to understand in America the bottom-line message coming from school boards and coming from teachers is, "Don't mandate something on us unless you are willing to pay for it."

Mr. Chairman, I will at the proper time include in the RECORD a letter to me from the mayor of Philadelphia, Edward Rendell, who said in 1960 there were two mandates on State and local government, in 1990, 61—a 3,000 percent increase.

The Governors' Association, the Mayors Association estimate $54 billion of costs we pass on to the local schools because we mandate everything from asbestos removal to underground storage tanks, to special education, which I support but which we do not fund fully. It has got to stop.

The one onerous provision of this legislation that has got to be dealt with is the opportunity to learn standards. Make no mistake about it, we cannot advocate something unless we are willing to pay for it. If you are not willing to put your vote up to pay for a program, do not tell State and local governments that they have to do it, because all you do is compound the problem. You cause outrageous frustration with local school boards, you have the teachers blamed for the increased costs of education, when the bulk of the problem lies right here in this Chamber.

We are the cause for the excess costs of public education in America. We still do not get it. Some of us still want to think that central planning and central control is the way to improve and control the public schools of this country. That is not what we are hearing across America, and I urge my colleagues to support the legislation because it does many good things, but to support the amendment to remove the opportunity to learn standards. That is not what our system is about, that is not what our people want, and that is not what our educational leaders want.

OFFICE OF THE MAYOR,
Philadelphia, PA, October 26, 1993.

Hon. CURT WELDON,
House of Representatives, Rayburn House Office Building, Washington, DC.

DEAR CURT. As you know, unfunded federal mandates are placing an increasingly unfair burden on state and local governments. The U.S. Advisory Commission on Intergovernmental Relations reports that federal laws regulating state and local governments increased from 2 in 1960 to 14 by 1990, 36 by 1980 and 61 by 1990—a 3000% increase. By being forced to comply with such mandates, state and local officials must reprioritize budget decisions and, as a consequence, many valuable programs suffer from lack of funding. We are often forced to reduce the number of police and firefighters that protect our city as well as funding for sanitation, recreation, parks, libraries and health care in order to pay for the cost of these unfunded mandates. I am enclosing background materials that more fully detail the magnitude of the problem.

Fortunately however, legislation has been introduced that offers a possible solution to this problem: Senator Kempthorne's Community Regulatory Relief Act—S. 993 (attached). This bill requires Congress to assume all costs for any mandate it wishes to impose on state and local governments.

I urge you to do everything you can to ensure that this bill is enacted. Your support of this important piece of legislation will enable elected officials nationwide to regain control of significant portions of their own budgets and to better respond to the needs of their communities. If you need any additional information regarding federal mandates, please contact Mark Gaige of my staff at (215) 686-2060.

Sincerely,

EDWARD G. RENDELL,
Mayor.

Mr. GOODLING. Mr. Chairman, I yield such time as he may consume to the gentleman from Illinois [Mr. FAWELL], a member of the committee.

Mr. FAWELL. I thank the gentleman for yielding to me.

Mr. Chairman, I am not able to support H.R. 6 at this time, but I am hopeful that things can be worked out so that it is legislation that I can support. We will see what happens.

Mr. Chairman, I rise in opposition to the current draft of H.R. 6. First of all, I would like to express my support for Congressman ARMEY's efforts to correct a serious flaw in the bill, thereby protecting home schoolers from Federal regulation. I have received hundreds of calls from parents who have opted to teach their children at home, because of concerns they have regarding the quality of public schools or subject matter taught at public schools. The Federal Government has no basis for regulating these parent-educators and schools. Requiring that home schoolers be certified in every subject

that they teach would effectively eliminate the ability of parents to teach their students at home.

With regard to H.R. 6 as a whole, our staffs have worked in a bipartisan fashion throughout the last several months to craft legislation to provide continued Federal aid to elementary and secondary schools, and assist States and localities with their efforts to reform their schools. The resulting reauthorization proposal enjoyed the support of the vast majority of our committee's membership.

I recently met with a group of educators in my district regarding this proposal, and the Goals 2000 legislation. Many stressed that failed reforms at the local level were usually the result of a lack of broad-based community support behind the reform efforts. Unfortunately, we have experienced the same problem at the Federal level. Despite the existence of broadly supported national education goals since 1989, we have been unable to agree on consensus legislation to codify these goals and help the localities to meet them. The Nation's children have suffered from our inability to forge a consensus on this important issue. With this in mind, I was extremely pleased that our committee was working in a bipartisan fashion on this important legislation.

Regrettably, this bipartisanship broke down during the committee markup of H.R. 6. Unfortunately, as the bill moved through the committee process, the proposal was loaded down with a teacher certification requirement which could apply to home schools, increased paperwork requirements, Federal mandates, $1.1 billion in new programs which will compete with existing and widely supported programs for scarce Federal dollars.

Like Goals 2000, the most controversial element of the proposal is the opportunity to learn [OTL] standards added by the Owens amendment during committee consideration. The philosophy behind OTL standards is that if a school does not provide resources deemed necessary by the Federal Government and the State, we cannot expect children to be able to learn. At President Bush's 1989 Education Summit with the Governors—including then-Governors Bill Clinton and Richard Riley—all participants agreed that the Nation's schools needed better results, not just more money. National content standards—what we expect students to know—would be set at world-class levels, and assessments would be used to determine whether students were mastering the curriculum. Teachers and principals would be given the necessary flexibility to find new ways of making their schools work, but would be held accountable for increased student achievement. Opportunity to learn standards represent would abandon this emphasis on results to emphasize school inputs.

As a result of the OTL standards, States would be required to develop school delivery standards addressing eight specific areas, including the quality and availability of curriculum; the access of teachers, principals, and administrators to professional development programs; the quality of school buildings; and any other factors which a State decides upon.

These standards are not voluntary. State education agencies will be required to develop them, and if a State does not, the Secretary of Education can withhold all of the State's chapter 1 allocation. Each State, local education agency, and school will have to review all of their policies, curricula, and instructional practices to ensure they are providing an opportunity to learn. In effect, the Federal Government will mandate that schools provide up-to-date textbooks, new computers, laboratory equipment, teacher training programs, building repairs and construction, and new gender equity programs without providing any funding for these purposes. This is precisely the type of unfunded mandate which our Governors and mayors have rebelled against. As Roy Romer, Colorado's Democrat Governor recently argued, "You don't want to get into the business of defining how many textbooks we have, and we don't want to get into the business of filling out forms."

Furthermore, these standards will result in a flood of lawsuits against States, local education agencies, and schools. An Alabama State court recently ruled that the K–12 State school system is unconstitutional because it does not provide students with an adequate education. Virtually all State constitutions require that States provide students with an adequate public education. If we provide an operational definition of what constitutes an adequate education, we invite parents and interest groups to sue schools which fail to meet the required standard. Likely to be lost in the effort to meet these opportunity to learn standards is how to help children with what they need to know to be productive citizens and workers.

For too many years, we have attempted to measure the quality of our schools by measuring inputs such as the credentials of school personnel, teacher-student ratios, and the amount of money spent per pupil. Despite these standards already utilized, few would argue that our schools are doing the job to prepare students for success in an increasingly competitive world. In fact, the American Legislative Exchange Council [ALEC] and Empower America recently released a report, "Report Card on American Education 1993," which reveals that despite a 62-percent increase—in constant 1992 dollars—in education funding over the last 20 years, there has been no significant improvement in student performance. In addition, the report found no statistical correlation between per-pupil expenditure and student achievement. In fact, Utah which had the lowest average per-pupil expenditure of any State, also had the fourth highest SAT scores and ranked eighth among States in the National Assessment on Education Progress.

Mr. Chairman, I am hopeful that the opportunity to learn issue, and other problems in the bill such as its potential for increasing regulation on private, parochial, and home schools can be corrected through amendments. Regrettably, if this is not the case, I will be forced to vote against H.R. 6.

Mr. GOODLING. Mr. Chairman, I yield 3 minutes to the gentleman from Florida [Mr. MILLER], a member of the committee.

Mr. MILLER of Florida. Mr. Chairman, I thank the gentleman for yielding this time to me.

Mr. Chairman, H.R. 6 cannot pass the House in its current form. Somewhere along the line the bill lost track of our tradition of allowing States, local school boards and families to develop education policy and, instead embarked on a mission to intrude and mandate educational policies on a national level.

The 1994 legislative agenda is certainly the most aggressive since the Great Society days of the 1960's or the New Deal days of the 1930's. With health care reform, welfare reform, and a major crime bill, we will be busy. The major debate on these issues focuses on the role of the Federal Government versus the local and State governments. The role of the Federal Government was greatly expanded in the Great Society days of Lyndon Johnson and today we are looking at a bill that makes a giant Lyndon Johnson leap to increase the role of the Federal Government in elementary and secondary education.

Like the other members of the committee committed to the ability of local school boards to develop appropriate education policy, I voted against reporting this bill to the floor. The bill has too many mandates that are both excessive and intrusive.

The bill is too expensive. The programs added by the leadership total $1.1 billion in additional spending above and beyond the request made by the President.

Not only does the bill add $1.1 billion in new programs, it also reinstates $62 million of programs targeted for elimination by the President, who called many of the programs worthy of termination or unneeded.

I do not see why we are authorizing $13 million for the education of native Hawaiians when the President said native Hawaiians can receive sufficient funds under such formula grant programs as Title I, Even Start, and Spe-

cial Education. Did we forget our intent to focus scarce Federal dollars on broad national education concerns, rather than on specific constituencies?

This bill is too prescriptive and restrictive. Mandating teacher certification is an infringement on the traditional rights of State and local educating agencies.

The Federal Government is entering the jurisdiction of local and State educational concerns, for the first time, by mandating teacher certification for full-time teachers. For the Federal Government to tell local schools who they can hire is a scary thought.

The bill dictates how to make education work for all States in its opportunities to learn mandate. It is an unfunded mandate. This provision requires schools to set opportunity to learn standards and issue annual reports on everything from how many textbooks the school has, to classroom size, to what kind of computers the school can buy, but provides no funds to do so. Therefore, schools will be forced to implement this mandate with chapter I funds, neglecting economically disadvantaged children in favor of fulfilling a new Federal mandate.

I do not believe that President Clinton or Secretary Riley, both former Governors, really want this expanded role for the Federal Government. It wasn't the bill they brought to us last year.

Now, let us either clean this bill up or reject it and start over. Think about it, we provide only 5 percent of the funds to local educating agencies and we're mandating 100 percent of their activities.

Mr. KILDEE. Mr. Chairman, I yield 5 minutes to the gentleman from Indiana [Mr. ROEMER].

Mr. ROEMER. I thank the gentleman for yielding this time to me.

Mr. Chairman, I rise in support of H.R. 6 and would begin my comments by heaping accolades on the gentleman from Michigan [Mr. KILDEE] and his staff and the entire staff of the Committee on Education and Labor for their hard work and diligence.

I would also like to commend the gentleman from Michigan [Chairman FORD]. I think his legacy is served by this legislation and by legislation like direct loans and Goals 2000.

Mr. Chairman, last year the House Education and Labor Committee began the task of reexamining the Federal Government's programs to assist elementary and secondary schools in our Nation. The committee 13 months ago began crafting a comprehensive reauthorization of the Elementary and Secondary Education Act of 1965 that provides local education agencies with more freedom in how they use Federal education dollars. In exchange for this flexibility, we will now demand greater educational achievements in our Nation's schools.

We are not saying unfunded mandates, we are not requiring States to do all kinds of new things; we are challenging our schools and our teachers, going into this new century, to meet some higher standards.

I think this reflects Abraham Lincoln's adage, "As the times are new, we must think anew and act anew."

One of the major components of this bill is the Title I Program which provides compensatory education to educationally disadvantaged students. I believe that the committee crafted a title I formula which will effectively target limited Federal resources.

Some may argue that this formula does little to concentrate title I dollars to high poverty areas. I believe that the bill does contain this targeting, but it does not do so at the expense of other less poor but still needy communities.

I do not think that the Title I Program needs to have winners and losers. I think that all students, whether they live in Chicago, Washington, DC, South Bend, IN, should be given the educational resources they need to excel.

□ 1200

I believe that H.R. 6 goes a long way toward achieving that goal, Mr. Chairman, and I would also like to applaud the administration and President Clinton, particularly Secretary of Education Riley. Mr. Riley has done great work on getting additional moneys into this continuing account: 659 million additional dollars will go into this, and we need to continue to concentrate our precious resources on children at risk.

I am also pleased that H.R. 6 places a high priority on professional development. We cannot get our teachers the skills that they need and then say to them in Goals 2000, "We need better math and science scores; we need safe, drug-free schools," without investing in our teachers.

I do, however, have serious reservations about the chapter 2 program in the bill. The initial reauthorization proposal would have applied existing chapter 2 resources to the Eisenhower Professional Development Program. I continue to believe that we need to focus our resources on professional development and not on a duplicative program which studies indicate does little to foster local school reform.

I do think that we need to have some clarifying language, Mr. Chairman, on this bill not affecting the rights and privileges of people to home school their children and that States and local governments should address that problem. That is not what the Federal Government should be doing in this bill, and I think the gentleman from Michigan [Mr. FORD] and the gentleman from Michigan [Mr. KILDEE] will offer language later on reassuring that parents in this country can give home schoolers the right to continue that by saying that the State and the local governments should act on that and that nothing in this bill threatens that opportunity for parents to take that action.

The reauthorization process was guided by one principle: the need to enable all students to reach high standards. I believe that H.R. 6 will help students and teachers accomplish this goal. Most important, the bill will provide a solid foundation for our Nation's education system to excel into the next century.

Mr. GOODLING. Mr. Chairman, I yield 4 minutes to the gentleman from Wisconsin [Mr. PETRI] who has been very active in the formula fight.

Mr. PETRI. Mr. Chairman, H.R. 6, Improving America's Schools Act, reauthorizes and amends most of the Federal Government's programs of aid for elementary and secondary education. This legislation will affect virtually every public school in the country and has the potential to be a powerful tool for education reform. The Committee on Education and Labor has spent more than a year in considering this legislation and, for the most part, the process has been bipartisan.

I am pleased that the title I funding formula authored by the gentleman from Michigan [Mr. KILDEE] and myself, and passed in committee by a vote of 40 to 2 is included in this legislation. I believe this formula is fair and equitable to all regions of the country. This formula ensures that disadvantaged children, in both urban and rural areas, will continue to receive the Federal assistance they need.

The Kildee-Petri consensus formula consists of two parts. The first part, for money up to the fiscal year 1994 level is based on current law. However, targeting is increased by calculating these grants at the local education agency level rather than by county as is currently the case. In addition, the poverty estimates used for the calculation of these grants will be updated biennially, as opposed to decennially as is currently the case. This will help reduce the drastic funding shifts which have occurred in this program following each census.

The second part of the formula, used to distribute new appropriations over and above the fiscal year 1994 level, will be calculated using a weighted pupil factor based on the percentage of families living in poverty in the local educational agency's area. All disadvantaged children will get some help from the new title I money, but those living in areas with high concentrations of poverty will get slightly more. These grants will also be calculated at the LEA level, and poverty estimates will be updated every 2 years.

This formula represents a true compromise. And, in the spirit of a true compromise everybody wins, but no one wins completely.

Another provision which I support is the inclusion of charter schools language. The committee adopted an amendment that would authorize the Secretary of Education to make grants for the planning and startup of charter schools. Charter schools are public schools in which teachers and principals are empowered to try innovative new methods to better meet the needs of students. In exchange for the waiver of some statutes and regulations which often stifle public education, charter school administrators agree to ensure that their students achieve high standards.

Unfortunately, there are still provisions in this legislation which cause me great concern. I firmly believe that improvement of our education system must come form the local level. The Federal role in education should never be to dictate reform from Washington. Rather, it should be to help give our communities the tools they need to best serve their students based on their own firsthand knowledge.

With this in mind, I am particularly concerned with a provision in the bill which requires teacher certification of all teachers in any State receiving title II funds. It is not the role of the Federal Government to dictate to States whether or how they certify teachers. In addition, there is great concern that this provision could require the certification of those who teach in private schools or choose to school their children at home. Whatever one's view of home schooling, it is a matter which has traditionally been left to the States and we should not be trying to effectively outlaw it at the Federal level by stealth. I am pleased to note that the gentleman from Michigan [Mr. FORD] and the gentleman from Texas [Mr. ARMEY] will both be offering amendments to fix this problem. I will certainly support such a fix and I urge my colleagues to do the same.

I am also concerned that language in the bill requiring the development of very specific "opportunity to learn standards" may create a new, unfunded Federal mandate on States, local education agencies, and schools, and at a minimum has the potential to generate a tremendous amount of needless redtape and litigation. Of greater concern is the possibility that these federally mandated standards could erode the traditional State and local roles in curricula development, teacher training, and facility construction and maintenance. The gentleman from Michigan [Mr. KILDEE] will be offering a compromise amendment to remove the burden which these standards would otherwise impose on State and local governments. I will be supporting this amendment, and again, I urge my colleagues to do likewise.

Mr. Chairman, when the committee began this process over a year ago, it set out to provide State and local education agencies with the tools they need to help children learn to higher standards. To a large extent, H.R. 6 accomplishes this. I do remain concerned over certain provisions in the bill. However, I am hopeful that many of these problems can be worked out as we proceed.

Mr. KILDEE. Mr. Chairman, I want to commend the gentleman from Wisconsin [Mr. PETRI] for his great work on the formula. We generally have had formula fights, and with his input we put together the Petri-Kildee formula which we worked out with Secretary Riley.

Mr. Chairman, I yield 5 minutes to the gentleman from New York [Mr. ENGEL].

Mr. ENGEL. Mr. Chairman, I rise in support of H.R. 6, the Improving America's Schools Act as reported out of the House Education and Labor Committee, and in opposition to any weakening amendments or substitutes.

H.R. 6 is the product of over a year's worth of intensive review by the Education and Labor Committee on the Nation's existing educational system. I applaud Chairman KILDEE, Chairman FORD, and my fellow committee members, on both aisles, for their commitment in crafting a fair, innovative, and comprehensive education bill. The legislation represents a systematic approach to educational reform, follows the framework set forth in Goals 2000, and includes needed program improvement changes.

H.R. 6 reauthorizes and restructures most Federal elementary and secondary education programs in an effort to assist States and school districts in their school reform efforts. The legislation permits increased flexibility on the State and local levels with improved accountability requirements if expected achievements are not met. In addition, H.R. 6 does not reauthorize 12 existing programs which have been proven to be outdated or ineffective. Instead, H.R. 6 includes new, innovative, and systematic education reform strategies and programs.

As everyone knows by now, H.R. 6 reformulates the title I funding formula and increases local and State flexibility. However, H.R. 6 also contains several lesser known but equally important provisions, including the Technology Education Assistance Act, the Library Media Program, the School Facilities Improvement Act, the Civic Education and Ellender Fellowship programs, and an Urban/Rural Education initiative.

In addition, H.R. 6 contains the Community Arts Partnership Act, which I introduced in August of this year. Since that time, this legislation has gained the support of over 30 House Members and has been endorsed by over 100 arts and education organizations.

The reasoning behind this initiative is simple. The arts have recently been included in the national education goals. This is certainly appropriate since research has shown that the arts play an invaluable role in educating our children. The arts have been shown to aid in the development of higher-order thinking skills; an increase in multicultural understanding; an enhanced learning environment; improved self-esteem and positive emotional responses to learning; and engagement of a variety of learning styles. In addition, recent budget constraints have placed tremendous burden on local and State agencies, and as a result, school arts programs are often the first to be cut or eliminated. Many States, including New York, now have a mandated arts curriculum. However, with no resources, it is often totally ignored.

In summary, the Community Arts Partnership Act authorizes the Secretary to award demonstration grants to Title I eligible LEA's to work in partnership with local cultural organizations and institutions of higher learning to improve the educational performance of at-risk children and youth by providing comprehensive and coordinated educational and cultural services. The provision is designed to provide seed money to leverage resources from community cultural institutions for the benefit of the LEA's. This program is a cost-effective, and inventive method to facilitate innovative education strategies at the local level.

In conclusion, H.R. 6 in its current form will clearly serve as an important vehicle in redirecting the Federal Government's role in education. I urge my colleagues to support H.R. 6 in its entirety, opposing any weakening amendments.

□ 1210

Mr. GOODLING. Mr. Chairman, I yield 3 minutes to the gentleman from California [Mr. HUNTER].

Mr. HUNTER. Mr. Chairman, I want to thank the ranking member for being so kind as to give me some time on this issue.

Let me ask my friends, what is the most important lesson that the world has learned in the last 20 years? I think that lesson is that big government does not work, and yet this bill, H.R. 6, is an exercise in big government. It is an exercise in unfunded mandates and it is an exercise in micromanagement.

I think that if we look at all the students that are enumerated and manifested in this bill and we look at what has gone before, we can only come to the conclusion that now a great deal of the taxpayers' money will be spent in a bureaucracy to maintain those mandates and those standards rather than being spent in that critical time between teachers and students.

Mr. Chairman, let me speak for just 1 minute about what I consider to be one

of the most critical aspects and most damaging aspects of this bill. A reasonable reading of this bill shows, I think, that there is a threat to home schooling.

Let me talk for just a minute about mothers and fathers. Mothers and fathers, all experts agree, are critical to the education of our young people. They are critical to the success of our society, and they are critical to bringing down crime rates, bringing down irresponsible behavior, and rebuilding American society. So why is it that the education bill that we have put together for work on the House floor today is a bill that divides American families and takes American mothers and fathers who choose to home-school away from their children?

There are a lot of things that mothers and fathers cannot provide to their children. A lot of moms and dads in this country cannot guarantee a large sum of money to their children, they cannot guarantee them automobiles, and maybe some of them cannot guarantee good clothes. Maybe some of them cannot guarantee that they can afford a college education, but what many of them give to their children is themselves, and they give themselves to their children in home schooling. They spend a lot of hours in home schooling, preparing themselves. They sacrifice greatly, because they are paying taxes to support the public schools, and yet, because they consider their children to be the real treasures of their lives, they undertake to sacrifice and they home-schools their kids.

I respect those moms and dads, and I think it is time for this Congress to respect those moms and dads.

There is no President of the United States, there is no Congressman, there is no school administrator, and there is no teacher who is as important to the education of a young person as his or her own parents, and for that reason alone, we should vote down H.R. 6.

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

Mr. Chairman, let me note that on the alleged unfunded mandate, the opportunity-to-learn standards, we have reached a compromise so that it will not be an unfunded mandate.

I also wish to note that the gentleman from Michigan [Mr. FORD] and I will be offering an amendment that will make it abundantly clear that in no way does this legislation affect home schooling. It does not affect it as written, but when people have fears that it might be affected, I think we should respond to that, and we will respond to that. But it was never the intention of the legislation to affect home schools, and we will be offering an amendment to make sure that is abundantly clear.

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

Mr. KILDEE. I am happy to yield to the gentleman from California.

Mr. HUNTER. Mr. Chairman, I thank the gentleman for yielding, and I appreciate his statement that this language is going to be clarified, because as I read the language and the terms, "elementary," "residential school," and "nonprofit," with all those terms in the context in which they were placed, I think they raise legitimate fears with parents who are concerned that this will affect home schooling.

Mr. KILDEE. Mr. Chairman, whatever the case may be, I do not read it that way and the attorneys do not read it that way, but we will nevertheless respond to those terms with very clear language.

Mr. HUNTER. Mr. Chairman, I thank the gentleman.

Mr. KILDEE. Mr. Chairman, I yield 5 minutes to the gentleman from Maryland [Mr. HOYER].

Mr. HOYER. Mr. Chairman, I thank my friend, the distinguished gentleman from Michigan [Mr. KILDEE], for yielding this time to me. I thank the gentleman who is the chairman of the subcommittee, and also the chairman of the full committee, the gentleman from Michigan [Mr. FORD], and the ranking minority member, my good friend, the gentleman from Pennsylvania [Mr. GOODLING], who have done such an outstanding job with this legislation.

Mr. Chairman, I rise in support of H.R. 6, the Elementary and Secondary Education Act reauthorization. This important piece of legislation, along with the Goals 2000 bill, links Federal education aid to high standards for achievement, to accountability, and to consequences for poor performance. Experience has shown that without that kind of framework, all the money in the world won't improve our troubled education system.

Of course, adequate resources are a crucial piece of school reform. Dilapidated school buildings, inadequate teacher salaries, and outdated textbooks are all barriers to student achievement. We should spend more Federal money on education than we do, which is one feature of H.R. 6.

But meeting our national education goals will take more than money. It requires Federal policies that require performance and hold States, school districts, and schools accountable for results.

Federal education programs were designed to augment State and local investments, and encourage certain education priorities at the State and local level. Federal funds were never intended to do it all. In fact, the $12.4 billion H.R. 6 authorizes for the next fiscal year isn't even 5 percent of the $279.4 billion spent on elementary and secondary education in this country last year.

H.R. 6 recognizes, particularly with some of the ways in which it changes current law in titles 1 and 2, that systemic school reform must be an important goal of Federal education aid at this moment in time. Our investment is needed to leverage broad and basic change: Better trained teachers, more challenging and effective curricula, coordinated—often school-based—health and social services, safer school environments.

Secretary Riley could not have stated the goal better than he did in his speech at Georgetown last week: School improvement is a critical part of getting America to "connect up again with our children." In fact, every piece of legislation we work on in the fields of education, health care, and social services must be part of what Secretary Riley calls "A campaign for the future of our children." Otherwise, we are failing to meet the greatest challenge our Nation faces today—namely to reestablish the connection between parents and children, and between communities and schools. And, indeed, we at the Federal level must connect our education policies with the urgent needs of schools throughout this country.

Obviously, the Federal Government couldn't possibly implement these changes—Congress is not the great school board in the sky. But it is absolutely within our power to encourage and expect school improvement. H.R. 6 is a step in the right direction, but I hope that by the time this bill is signed into law and by the time this Congress adjourns we will have gone even further.

We need to do an even better job of marshalling our resources across programmatic lines and across Federal departmental lines. The coordinated services section of H.R. 6 is a start. So is the expanded schoolwide option in title 1, which I strongly believe should be opened up even further.

But experience around the country indicates there is further untapped potential in even broader State and local flexibility in Federal funding for education, social services, and health care.

Secretary Riley in his speech last week discussed what I believe could be the basis for an incredibly important new institution in American education and in American life: Neighborhood-based, early childhood family centers. We have seen this work in San Antonio; the Regina school project in Prince Georges County is another model for delivering school-based comprehensive family services.

Why this approach now? Because we know definitively that barriers to student achievement come in many forms: Parents who need literacy and job skills, youngsters who need medical care, the dearth of good child development programs for those aged 0 to 3.

Improving educational achievement in this country requires that kind of broad, interdisciplinary vision—at a time when a lot of schools are having

trouble with the basics, which need our urgent attention too. For us as policymakers, the task before us demands a fundamental reassessment of what drives school change toward educational excellence. Flexibility must be coupled with high-performance standards and tough consequences for poor performance. I will be offering an amendment on this when we consider title 1. Old turf battles and narrow political interests must be put aside.

The task is gargantuan, but so are the stakes—not only for the children in each of our districts, but for the Nation as a whole. Educational excellence will determine whether we can compete in the world economy, whether we can sustain a reasonable standard of living in this country, whether our democracy can flourish in a climate of reasoned discourse, and whether each individual American can have access to the myriad pleasures only learning affords.

□ 1220

Mr. GOODLING. Mr. Chairman, I yield 3 minutes to the distinguished gentleman from Delaware [Mr. CASTLE], the newest member on the Committee on Education and Labor, and the ex-Governor of Delaware.

Mr. CASTLE. Mr. Chairman, I thank the ranking member for yielding time to me, and I congratulate him for his extraordinary work on this, as well as Chairman FORD and Chairman KILDEE, all of whom I think have done a spectacular job.

Mr. Chairman, I rise in support of Mr. GOODLING's hope that in the process of amending this bill over the next week, we can enact a bipartisan bill that benefits—not burdens—our schools and students.

As a member of the House Education and Labor Committee, I want to commend the hard work of my colleagues on the committee and all the staff members. Reauthorization of the Elementary and Secondary Education Act provides a vital opportunity to improve worthwhile programs for poor and disadvantaged children throughout this country. And while H.R. 6 contains many improvements—there are clearly several problems with the bill before us that I believe must be corrected so that Congress does not impose the heavy hand of the Federal Government upon our States and local schools.

Phones in congressional offices across the country have been ringing off the hook over the mandatory teacher certification provision in H.R. 6, and how it affects home, private, and religious schools. In my Delaware offices alone, as of 11:30 this morning, we have received 1,966 phone calls from individuals expressing their opposition and anger with the Federal Government telling States how teachers must be certified in subjects they teach.

I, too, am extremely concerned about schools or institutions that do not receive funds from this act falling victim to its many mandates. I supported my colleague, Mr. ARMEY, in the Education and Labor Committee with his amendment to protect our home and private schools that do not receive funds under H.R. 6 from this bill's demands. Unfortunately, the amendment failed on a party-line vote.

While I understand the chairman of this committee is attempting to correct this problem—there is a very important reason why I urge my colleagues to support the Armey amendment, rather than the other homeschool amendment. The chairman's amendment is an incomplete solution because it does not provide any protection to private schools. More importantly, it doesn't even protect all home schools, because 17 States, including my State of Delaware, refer to home schools as private schools.

On the other hand, the Armey amendment will solve the problem entirely.

Furthermore, teacher certification is a State prerogative. The Federal Government has no business telling States to decide who is or who is not a certified teacher.

We also need to address the problem of the opportunity-to-learn standards inserted into H.R. 6. What they should be called is "No opportunity-to-receive funds." Mr. Chairman, the language that my Democratic colleagues agreed to in committee would require a school to set standards and issue reports on everything from what books it purchased—to the size of a classroom in order to receive funds under this act. Further, it fails to provide a school with the funds to comply with the demands of doing the paperwork alone.

Education has always been a State and local function. However, the above provisions would shift that role dramatically. And I do not believe it is in the best interest of our students, teachers, and parents to give the Federal Government more control over what goes on in classrooms across this country.

Mr. Chairman, this bill presents an opportunity to improve elementary and secondary education. However, as I have outlined above, I have some grave concerns that I hope will be addressed through amendments we vote on today and next week. In the end, I hope we can enact a bipartisan measure that truly helps our schools improve what and how our children are taught—without imposing costly, burdensome, and meddling mandates upon our schools.

Mr. KILDEE. Mr. Chairman, I yield 2 minutes to the gentleman from Tennessee [Mr. CLEMENT].

Mr. CLEMENT. Mr. Chairman, 82 percent of those that are incarcerated in our prisons today are high school dropouts. That is why I congratulate Secretary Riley, Secretary of Education, so much, as well as Chairman FORD and Chairman KILDEE, as well as the gentleman from Pennsylvania, Mr. GOODLING, and many others, for constructing H.R. 6.

I am a former college president. I have been on the front lines when it comes to education and the needs and the concerns that we have to improve quality education in America today.

I do believe strongly that we are going to have to make some adjustments in H.R. 6. I am very pleased with what has already been said, because my phone has been ringing off the wall when it comes to home schoolers.

This provision, this language needs to be very clear concerning home schoolers. In Tennessee we have thousands of parents who believe the best education their children can have is to receive an education at home, and they should have that right, because parents know what is best for their children.

The other issue in this legislation that has me concerned is the Federal Government's new involvement in what we teach in public schools. We are treading in dangerous water any time Congress enacts legislation expanding the powers of the Federal Government.

It is concerning me greatly and many others that the Federal Government is moving in an area which they should not move. I believe in neighborhood schools. I believe in community schools. I think it is tragic that we have gotten so far away from that. That offers safety to our school children and to our children that need safety more than anything else. How can they learn anything if they are concerned about what is going to happen to them next.

With those adjustments, support H.R. 6.

□ 1230

Mr. GUNDERSON. Mr. Chairman, I yield 2 minutes to the gentleman from Illinois [Mr. PORTER], ranking member of the Subcommittee on Labor-Health and Human Services-Education of the Committee on Appropriations.

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

I support H.R. 6. This is not a perfect bill, and we are going to vote later today and next week to fix some of the problems, particularly in the provisions regarding home schooling. But both of the gentleman from Michigan and the gentleman from Pennsylvania have brought out a bill that on the whole deserves our support.

Those of us concerned about federally impacted schools have worked for years on this reauthorization. The chairmen and ranking member have worked with us diligently, and we appreciate their help. I want to thank two staff in particular—Lynn Selmser and Jeff McFarland who spent more time working on Impact Aid than could reasonably have been expected.

H.R. 6, as modified by the chairman's amendment, creates an Impact Aid

Program that focuses for the first time on need and ensures that heavily impacted school districts will be treated fairly.

This bill deserves our support, and I encourage Members to vote for H.R. 6.

Mr. Chairman, H.R. 6 reauthorizes the Impact Aid Program. It creates a new, need-based formula which allocates funding based on the relative impact of Federal activities on each district. At the same time, while shifting funding to those schools districts most in need, the new formula recognizes that the program continues to be underfunded. It therefore provides a hold-harmless provision which ensures that school districts which will experience funding decreases under the new formula will have 3 years to adjust the new system. Under this provision, schools will be guaranteed at least 90 percent of their current-year allocation in the first year under the new formula, 80 percent in the second year, and 70 percent in the third year. This provision will provide a smoother transition to the new system for all schools.

Most importantly for the people of my district, H.R. 6 includes a provision which I helped to work out with the subcommittee chairmen and ranking member, the National Association of Federally Impacted Schools, the Military Impacted Schools Association, other interested Members of Congress, and the administration. This provision creates a new category of Additional Assistance for Heavily Impacted Local Educational Agencies. Under this provision, heavily impacted schools with heavy impact and high local tax effort, like North Chicago District No. 187 in my congressional district, will qualify for additional assistance to help reduce the local subsidy currently provided to federally connected children due to underfunding of the Impact Aid Program.

I am particularly encouraged by the adoption by the committee of this provision because, if enacted, it will help alleviate the situation faced earlier this year by District No. 187 when it was forced to petition for dissolution. While it was able to avoid a complete school shutdown, a teachers strike subsequently closed the schools for over 40 days. The new assistance we are about to approve today will literally mean having a public school to attend for over 4,000 students in north Chicago.

Mr. Chairman, I also want to address more fully the issue of teacher certification for home schoolers and private schools. I am unequivocally opposed to any Federal involvement in this issue. Teacher certification for private and home schools is an issue that States and communities have dealt with for our entire history as a nation. There is no reason for the Federal Government to involve itself in any way in this matter, and I will vote for any and all amendments that will ensure this result.

Mr. KILDEE. Mr. Chairman, I yield 2 minutes to the gentleman from Ohio [Mr. TRAFICANT].

Mr. TRAFICANT. Mr. Chairman, in 1968, there were 20,000 blind students in our secondary and elementary schools, 40 percent of those blind students could read Braille, 45 percent could read large print, large type; 4 percent could read both.

It is now 1994. There are 50,000 blind students in our elementary and secondary schools. Only 9 percent can read Braille. Only 27 percent can read large type. And 40 percent of all of our blind students cannot read at all.

There are 40,000 more blind children today in school, 30 percent can read, 70 percent cannot, versus 95 percent that could read in 1968.

I have an amendment today I am hoping the committee will support. It does several things. It costs no money, but it extends the program that has been established in now 21 States.

The first section calls for an individual assessment of a blind student's capabilities to read and provides an individualized program.

The second section established teacher competency standards and training, specialized training for those teachers. And finally, the third section facilitates the production of Braille and digital text and materials at essentially no cost for our blind students.

Let me say this, this is a good bill. But it overlooks our blind students, and I am hoping that the committee finds favor with my amendment.

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

Mr. GUNDERSON. Mr. Chairman, I yield 3 minutes to our friend and colleague, the gentleman from Nebraska [Mr. BEREUTER].

Mr. BEREUTER. Mr. Chairman, during House consideration of H.R. 6, many views will be expressed regarding many specific provisions contained in this voluminous legislation.

However, this Member believes there is a very fundamental issue that must be discussed during this debate. Unfortunately, under this legislation the Federal Government would be moved dramatically into areas where it does not belong. For example, the teacher certification requirements added to the bill during committee markup unfortunately break new ground in Federal involvement in education. Additionally, the mandatory opportunity-to-learn standards constitute yet another constitutionally inappropriate and unfunded Federal mandate on States and local school districts. Any regulation of home schooling is also outside the constitutional responsibility of the Federal Government.

If Congress enacts this legislation in its current form it would be unsurping the role that the U.S. Constitution clearly gives to the States. Mr. Chairman, I want to remind my colleagues that under the determination set out by article X of the U.S. Constitution, the responsibility to provide and regulate education is left to the States; there is no primary Federal role in public education specified by the U.S. Constitution, in spite of the views of activists inside and outside of Congress.

Mr. Chairman, again, this Member urges his colleagues to reject the usurpation of the education responsibilities of the States and their school districts that is now a part of H.R. 6. This enlargement of the Federal role in certification and regulation of education is in direct contradiction to our federal system of government as prescribed by the U.S. Constitution.

May I say to my colleagues, we have had a tremendous outpouring of concern about this issue. It is unfortunate, I think, that Members of this House are placed in the position by the activities or the perception of inactivity to correct uncertainties in the legislation of the House Committee on Education and Labor. But perhaps this outpouring of concern could have a positive side. Perhaps this could be a watershed mark where Congress begins to take a more careful look at what the Federal responsibilities for education really are.

This Member considers himself to be an activist on education, very much interested in encouraging education at all levels. But, in my judgment, my colleagues, the responsibilities of the Federal Government are primarily two, when it comes to education.

One, it is to assure equal access to public education to all Americans. That is a primary role given to the Federal Government by several amendments. That is our duty.

The second responsibility, to be exercised on rare occasions, it seems to me, is to act in a few cases where there is a large public concern across the Nation about some important aspect of education and encourage appropriate actions by the States and their school district to meet that concern of high public priority.

A few years ago, for example, it was felt across the country, and then in this Congress, that there was a major deficiency in science and match education, especially in our secondary schools. And this Congress acted to provide encouragement to the States and their districts to act to meet this problem. That is the second and limited role for the Federal Government in the field of elementary and secondary education.

Beyond that, the Federal Government should permit the States to do their job in education, and to give them encouragement for their responsibilities. No mandates, no certifications, no requirements from the Federal Government are appropriate.

Mr. KILDEE. Mr. Chairman, I yield 2 minutes to the gentlewoman from the District of Columbia [Ms. NORTON].

Ms. NORTON. Mr. Chairman, my mother, Vela Lynch Holmes, now in her eighties, is a retired schoolteacher. She taught many disadvantaged children in this very city.

She would be the first to say that it is much tougher to teach such children today.

I have come to the floor to thank the gentleman from Michigan [Mr. FORD],

the gentleman from Michigan [Mr. KILDEE], and the ranking members for the compromise they have forged that begins to recognize that compensatory education title I funds should begin to shift more toward those most in need of compensatory education.

I believe that more is needed, but I appreciate that a compromise was also needed to move this bill and that the committee has been skillful in crafting one.

I would certainly not want to shortchange a single child based on geography, and I do not believe that this compromise does that. Surely, what we see when we go home to our own districts or nearby, and I know what we see through the local media in this city, reinforces the need to pay more attention to the many children we are simply losing in the inner city. And we lose them beginning with elementary school. We simply are increasingly unable to reclaim them.

High poverty rates correlate to high dropout rates. And of course, these dropout rates, in turn, correlate to the high crime rates.

The weighted student formula at least begins to recognize that some districts have overwhelming poverty and overwhelming numbers of poor children. If we expect teachers, administrators, and others to reach these children, we simply have to weight the resources toward them.

Soon, Mr. Chairman, we will have before us a crime bill. I would venture that the bill before us today is likely to do a lot more about crime than the crime bill and a lot more about many other problems our country faces as well.

I want to thank the chairman and the members of the committee.

□ 1240

Mr. GUNDERSON. Mr. Chairman, I yield 2 minutes to my friend and colleague and the future Senator, the gentleman from Wyoming [Mr. THOMAS].

Mr. THOMAS of Wyoming. Mr. Chairman, I rise in opposition to this bill as reported by the committee.

I am somewhat disappointed about that. I had hopes that this reauthorization would signal a return to the bipartisan approach that for so long dominated education legislation. Unfortunately, that has not materialized.

I must oppose this bill, Mr. Chairman, because it mostly ignores the primary role of local teachers, administrators, school boards and States in education quality and inserts the Federal Government in areas that may be unconstitutional and are certainly inappropriate.

Once again we see a bill come out of the Education Committee that assumes Washington has the answers.

The home school, and private school certification provisions we have heard so much about have no business in this bill. I am a strong supporter of the rights of parents to have a choice of how to educate their children, and this bill infringes on that.

Beyond that objection, however, this provision infringes on State responsibility. Clearly, certification is a State issue. This provision should be just as troubling for public schools as it is for home school parents and private schools. I have schools in my State, for instance, that rely on teachers to cover several different subjects—we cannot afford a Federal mandate that would not let a science teacher teach a math class.

Federal opportunity to learn standards are a huge mistake. With opportunity to learn standards, which address conditions in schools, the Federal Government is clearly violating the principle of State and local control in education.

Under this bill, the Federal Government will tell districts what books they have to buy, what equipment they must spend money on. The allocation of resources must be a local issue. In addition, this Federal unfunded mandate will invite expensive litigation.

We have not heard a lot about this, but maybe the most troubling provision in this bill is the corrective action provision. The Federal Government has absolutely no business targeting local school district governance, as this bill does. This is clearly a responsibility for State and local cooperation.

Once again, the feds want 60 percent of the control for 6 percent of the bucks.

No bill is all bad. There are some good things in this bill and it's a great improvement compared to the all-out assault on funding for rural areas under the Clinton administration's bill.

The decision to retain a Chapter 2, program is very positive, and I believe vital. This is really the only flexible money we give to States, and in Wyoming we're doing some great innovative things with this money.

Charter schools can be valuable—we have several up and running in my hometown of Casper, WY.

This bill does provide additional flexibility, which I believe is vital. I introduced a bill last year addressing flexibility, and I am pleased to see the committee take positive steps in that direction.

Unfortunately, the Federal power grab so evident throughout this bill far outweighs the positive aspects.

This bill, simply put, is an exercise in micromanagement by the Federal Government and unless some serious changes are made, I will be forced to vote against this bill.

Mr. KILDEE. Mr. Chairman, may I inquire how much time I have remaining?

The CHAIRMAN pro tempore (Mr. DE LA GARZA). The gentleman from Michigan [Mr. KILDEE] has 4 minutes remaining, and the gentleman from Wisconsin [Mr. GUNDERSON] has 13 minutes remaining.

Mr. KILDEE. Mr. Chairman, I yield 2 minutes to the gentlewoman from Washington [Mrs. UNSOELD].

Mrs. UNSOELD. Mr. Chairman, I thank the gentleman from Michigan [Mr. KILDEE] for his fine work on this bill.

Mr. Chairman, I rise in support of H.R. 6, the Improving America's Schools Act. H.R. 6 brings much needed Federal education dollars to our public school systems. It sets higher standards for our public schools, increases parental involvement, and requires increased accountability for all those involved in educating our children. H.R. 6 also addresses critical issues in our public school systems by addressing teacher training, educational technology, and drug abuse and violence prevention programs.

In particular, I am very pleased with the hard work the committee did on title I of the bill and wanted to outline some of the provisions I helped add to target assistance where it is most needed.

Title I contains important provisions that help our schools do a better job of keeping some students from dropping out of the system and bringing others into it. We need to encourage schools to support and expand dropout prevention programs for pregnant teens and teen mothers. For those who do not think we should be supporting these young women, let me offer some sobering statistics. If we don't help these young women stay in school, it will end up costing us. More than half of all women who are currently receiving welfare benefits first became mothers as teenagers. In my home State of Washington, pregnancy becomes a fact of life for 1 of every 13 female teens. The question should not be how much it costs to keep these women in school, but how much it costs if we do not.

At the same time, we have got to do a better job of supporting our students from the moment they begin elementary school. That is why there are provisions in the bill providing funding to schools to establish transition projects to support preschool children. We all know the importance of intervening as early as possible in order to help our at-risk children. This is one way that we can encourage schools to focus their energy and resources on helping Head Start and Even Start children to enter school ready to learn.

In between, of course, we must do all that we can to help our children thrive in school. I believe the provisions we've outlined in title I will allow our schools to do just that. I urge my colleagues to support title I and vote for the entire Improving America's Schools Act.

Mr. GUNDERSON. Mr. Chairman, I yield 2 minutes to our colleague, the

gentleman from California [Mr. BAKER].

Mr. BAKER of California. Mr. Chairman, I thank everyone who has worked on this problem.

Mr. Chairman, let me say that if H.R. 6 was simply about reauthorizing existing elementary and secondary school programs, I would be supporting this bill.

H.R. 6 is about Federal encroachment on a local matter—the education of our children. Washington's education elite want to control the education of America's children.

I oppose H.R. 6 because I believe parents, teachers, principals, and local school boards in Contra Costa and Alameda Counties have a better understanding of our children's needs than Washington bureaucrats.

Yesterday I received a letter from the National School Boards Association, stating:

For the first time in the almost 30-year history of this landmark education law (Chapter I), the federal government targets local school district governance for the most drastic punitive actions when local student performance is found wanting—regardless of the cause. These actions could include dissolving the local school board, removing the superintendent, abolishing the local school district, and otherwise dismantling the local governance and management structure of the local public schools.

In other words, this bill says to schools across Alameda and Contra Costa Counties: Do it Washington's way or we will come in and replace your local school management with our own team of Washington experts.

I say, Washington, no thank you. We have already seen how much damage you can do. In 1992, Congress regulated the cable TV industry. Now Government mandates which stations you, the consumer, may receive and how much we must pay. So in my area we are deprived of State capital news and features in order to receive foreign language and shopping channels.

I am also concerned that H.R. 6 seriously encroaches on the rights of parents who choose to educate their children in private schools or at home. Experts in private and home-school education are unanimous in their opposition to H.R. 6. H.R. 6 would require that all teachers in private schools be certified to teach the academic subjects to which they are assigned. Also, home schoolers would have to be certified by the State before teaching their children. This must be corrected, and the Armey amendment, which exempts private and home-school educators, is the only amendment that can correct this serious flaw. Rural areas must also be exempted.

Finally, we need to free our teachers to teach—H.R. 6 fails to do so. It was the love of teaching that led them to choose this profession. It was not an affection for filling out countless government reports and assessments.

Our scarce resources must be focused on teaching our children, not satisfying the intellectual and experimental philosophies and social agendas of the Washington education elite.

For these reasons we must say "no" to H.R. 6.

The CHAIRMAN. The gentleman from Michigan [Mr. KILDEE] has 2 minutes remaining.

Mr. KILDEE. Mr. Chairman, I yield such time as she may consume to the gentlewoman from Hawaii [Mrs. MINK].

Mrs. MINK of Hawaii. Mr. Chairman, I rise in strong support of H.R. 6, the Improving America's School Act, which reauthorizes all major Federal elementary and secondary education programs.

It is with great pride and pleasure that I speak in support of this bill, for I was on the Education and Labor Committee in 1965 when we first passed the Elementary and Secondary Educational Act. At that time it was a landmark piece of legislation which demonstrated the Federal Government's commitment to assisting State and local efforts to educate the children of America, particularly the disadvantaged, those in poverty, and children with special needs.

We have all witnessed the success of the Elementary and Secondary Education Programs over the last 30 years. School districts all across the Nation depend upon these Federal dollars to meet the educational needs of their children, whether it is through chapter I, chapter II, the Eisenhower Math and Science Program, Impact Aid, Bilingual Education and many other important programs.

Today the bill we bring to the floor retains the strong Federal commitment to help those children most in need, while revamping programs to better coordinate with local reform efforts.

H.R. 6 builds on the education reform framework set out in the Goals 2000: Educate America Act and provides the necessary assistance to local school districts to help all children meet the national education goals and raise educational achievement.

Mr. Chairman, we are all in agreement that we must set high educational standards for our children and this bill along with the Goals 2000 bill will move us in that direction. However, it deeply concerns me that when talk about setting high standards for school systems and assuring that children will have the necessary resources to meet those high standards many start crying foul and use the excuse of Federal mandates to avoid discovering whether or not a school system really measure up.

The opportunity to learn standards are not Federal mandates, they simply seek to demonstrate what a child needs in order to meet the high educational standards being set at the State and local levels.

In essence, this is really what the Elementary and Secondary Education bill is all about. It is about providing children an opportunity to learn by giving school districts additional funds in areas where they need extra assistance.

Providing the resources to provide children with an opportunity to learn is not a new concept. This was the original intent of the legislation 30 years ago and it still stands true today. This bill simply seeks to help school districts move forward in identifying what elements in the school system are essential to provide students with an opportunity to learn.

There are many other features of this bill that are significant. The new title I formula better targets funds to areas of high concentrations of poverty. We establish a new professional development program and a new program on technology; we improve the bilingual education program; the Impact Aid Program which is of great importance to my State is retained and I think improved.

I would just like to mention two specific areas that are of particular interest to me. This first is the reauthorization of the Women's Educational Equity Act and the inclusion of many provisions throughout the bill dealing with gender equity.

The bill includes the provisions of the Gender Equity in Education Act, a package of bills developed by the congressional caucus on women's issues to address the educational inequities girls and women face in our education system.

This was the first time that the caucus put together a legislative package on education issues. As Chair of the caucus task force on economic and educational equity I worked closely with the Cochairs of the caucus, PAT SCHROEDER and OLYMPIA SNOWE and the other caucus members in developing this legislative package.

The Gender Equity in Education Act includes nine bills introduced by members of the caucus, several of whom are members of the Education and Labor Committee; Representatives JOLENE UNSOELD, LYNN WOOLSEY, and SUSAN MOLINARI. NITA LOWEY, a former member of the committee, also contributed to this legislation, as well as OLYMPIA SNOWE, CONNIE MORELLA, LOUISE SLAUGHTER, and CARDISS COLLINS.

The caucus developed this legislation in response to the increasing evidence that despite the fact that title IX prohibits sex discrimination in our schools, girls continue to face many inequities. Research shows that a pattern of gender inequity persists in school practices, even where discriminatory policies have been abolished:

Teachers pay less attention to girls than boys;

Girls lag in mathematics and science scores, and even those who do well in those subjects are not encouraged to choose math and science careers;

Sexual harassment of girls is increasing in our schools;

Some tests contain biases against girls, hurting their chances for scholarships and college admissions;

Textbooks still ignore or stereotype women;

Girls learn almost nothing in school about many of their most pressing problems like sexual abuse, discrimination, and depression;

Vocational education programs continue to channel women into traditionally female-dominated jobs, which are usually low-skilled and low-paying; and

While women make up the majority of the teaching force, they are not well representative among the higher levels of the education bureaucracy.

The Gender Equity in Education Act was developed to address the overall inequities for

girls in our education system and some very specific areas, including teacher training, math and science, pregnant and parenting teens, sexual harassment and abuse, coordinated health and social services, and data collection.

The cornerstone of this legislation which was included in H.R. 6 is the reauthorization of the Women's Educational Equity Act. I am the author of the Women's Educational Equity Act [WEEA] which was established in 1974 to promote the letter and spirit of title IX.

WEEA funds research, development, and dissemination of curricular materials, training programs, guidance and testing activities, and other projects to promote educational equity for women and girls.

However, for over a decade WEEA has been severely neglected enduring severe budget cuts and was proposed for elimination by previous administrations. In 1980 the program received $10 million, but by 1992 the program had been whittled down to just $500,000. Current funding for the program is at $2 million. The President's fiscal year 1995 budget provides for $5 million.

The bill retains the current WEEA grant program to develop and disseminate model programs, curricula, and materials to advance educational equity and establishes an implementation grant program to provide funds to school districts, community organizations and other entities to implement gender equity programs within local school systems.

The bill also establishes within the Department of Education a special assistant for gender equity to promote, coordinate and evaluate gender equity programs in all education programs, including the Women's Educational Equity Act. Currently gender equity programs of varying sizes exist throughout the Department of Education, however, there is no mechanism to ensure communication or evaluation of progress among all gender equity programs.

The special assistant to the Secretary for gender equity would help assure the promotion, coordination, implementation, and evaluation of gender equity activities within the Department of Education and work with other Federal agencies with jurisdiction over Federal education programs.

The bill includes provisions to promote professional development strategies, methods, and techniques which meet the needs of female students. Specifically, the bill requires that chapter I programs, the largest Federal elementary and secondary education program, to include professional development strategies for identifying and eliminating gender and racial bias in instructional materials, methods, and practices.

The bill also includes several provisions within the new Eisenhower Staff Development Program which require school districts to incorporate teacher training strategies to meet the needs of girls.

The bill also encourages the recruitment of female and minority teachers in subject areas in which they are underrepresented.

The bill includes dropout programs targeted to address the needs of pregnant and parenting teens so that they will stay in school. Pregnancy is the most common reason girls give for dropping out of school, and almost half of teen mothers who drop out never complete high school.

The bill targets services to pregnant and parenting teens under the prevention and intervention services for delinquent youth and youth at risk of dropping out under title I. It also specifies that funds under this program may be used for health and social services that address needs of pregnant and parenting teens at risk of dropping out of school. It requires program evaluations to track progress of male and female students separately, in order to collect better data on how female students are doing comparatively speaking.

A fundamental prerequisite for an effective learning environment is that it be free from sexual harassment and abuse. To address the problem of sexual harassment in our schools, the bill includes sexual harassment prevention programs in the definition of violence prevention programs in the Safe and Drug Free Schools Act (title V).

It also allows funds under the Safe and Drug Free Schools Act to be used for sexual harassment prevention programs and other strategies including conflict resolution and mentoring to prevent sexual harassment in schools.

Title X of the bill establishes a new coordinated services program designed to assist schools in providing comprehensive education, health, and social services in a school-based or school-linked setting.

Many schoolchildren today are struggling with a host of social problems—including poverty, poor nutrition, drug abuse, family violence, and inadequate health care—that prevent them from achieving their full academic potential. A hungry, sick, worried child will not learn well; her basic needs must be met before she can turn full attention to schooling.

Under this provision schools and school districts can use up to 6 percent of their funds received under the Elementary and Secondary Education Programs to finance the coordination of services.

The bill also provides funds under the Safe and Drug Free Schools Act to be used for the development of curricula related to child abuse prevention and training of personnel to teach child abuse education and prevention to elementary and secondary school children. The Safe and Drug Free School Act will help train teachers to recognize and identify child abuse and to educate children about child abuse prevention.

The bill expands data collection requirements for chapter I and all major Federal education programs in order to better assess the achievement and participation rates of males, females, minority and ethnic populations, and the disadvantaged.

Research and data collection are vital components of any attempt to eliminate gender inequity in education. Unfortunately, current Department of Education data collection activities provide insufficient information on gender issues.

I am also pleased that this bill includes the Native Hawaiian Education Act. The Native Hawaiian Education Act was first established in 1988 to fulfill the U.S. Government's historical and legal obligation to the native Hawaiian people incurred by its participation in the overthrow of the Hawaiian monarchy over 100 years ago.

For over 70 years the Federal Government has acknowledged its responsibility to the native Hawaiians as native Americans, by providing assistance for the improvement of their social and economic development. The Native Hawaiian Education Act is one of several programs designed to uphold the United States' trust responsibility to the indigenous people of Hawaii.

The Native Hawaiian Education Act consists of five programs: The native Hawaiian model curriculum implementation project, the native Hawaiian family-based education centers, the Native Hawaiian Higher Education Demonstration Program, the Native Hawaiian Gifted and Talented Program, and the Native Hawaiian Special Education Program.

H.R. 6 reauthorizes these programs with the exception of the model curriculum implementation project. The Federal commitment to this program has been phased out over the last several years.

The bill also establishes the native Hawaiian language immersion project to support the revitalization of the native Hawaiian language through the public school system.

In addition, a Native Hawaiian Education Council is established to coordinate activities among the five programs and advise the Department of Education and the Congress on the educational needs of the native Hawaiians and the progress of the Native Hawaiian Education Act.

The bill also includes a new provision to the native Hawaiian higher education demonstration project to prohibit the limitation of scholarships to those who attend school in Hawaii.

Mr. Speaker, this bill is the fine product of many hours of hard work by Members and staff. I commend the Chair of the subcommittee, DALE KILDEE, for his good work, and want to especially recognize the Chair of the committee, WILLIAM FORD, with whom I worked on the original Elementary and Secondary Education Act of 1965. I think it is particularly fitting that one of the major accomplishments of the Education and Labor Committee during his last year in Congress is this bill. BILL, you have done great work over the past 30 years. This bill is a prime example of your total commitment to our Nation's children.

I hope that all my colleagues will join me in supporting H.R. 6, the Improving America's Schools Act.

Mr. KILDEE. Mr. Chairman, I yield 2 minutes to the gentleman from Pennsylvania [Mr. KLINK].

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

Mr. Chairman, I congratulate Chairmen FORD and KILDEE and the committee for the hours and hours of work that they have put in on this legislation over the last year. The House is indebted to them.

I am pleased to support H.R. 6. It will help set the direction for States and school districts to reform education in this country by linking title I funding for disadvantaged students to the content and performance standards contained in the Goals 2000 legislation already passed by both the House and Senate.

In addition, I am encouraged that a compromise was reached on the formula for the distribution of title I

funds so that there will be greater targeting in areas with high concentrations of lower income students. That is where this funding should be going.

I am also grateful that the committee accepted my amendment to make service learning an allowable use of funds in relevant sections of H.R. 6.

Service learning is a method of teaching and learning that combines academics and community service. Students develop and apply their knowledge and skills in the context of working to solve significant social, educational, and environmental problems in the school and the community.

My amendment will encourage the use of the service learning approach.

Service learning is based on the idea that students learn best by doing, by being active and interested in the process of learning. Active learning through community service, especially if it is curriculum based, improves student achievement by making classroom learning more meaningful. It can reengage students turned off by traditional teaching methods.

Service learning can inspire innovative educational methods that combine classroom teaching with hands-on work experience. It can broaden classroom walls to include the entire community and enable new and veteran teachers alike to take advantage of teaching methods that promote both academics and civic responsibility.

Typically, students will spend several class periods each week performing community service and the remainder of the program is spent in class working on skills specific to the service experience.

Some schools are integrating community service and academic subjects with great success. Many more could do the same.

In Pennsylvania, the statewide Pennserve Program is working to bring a culture of service into the schools. In Philadelphia, sixth grade students study nutrition and teach healthy habits to lower-level elementary students. Eighth graders work in neighborhood health centers to learn about health careers.

In Milwaukee, juniors and seniors learn construction skills by working on an urban rehabilitation project. In Lansing, MI, students learn and apply basic math skills by sponsoring a market for senior citizens in urban apartment complexes. In Washington State, fifth and sixth grade students use scientific skills and computer technology to monitor the water quality of a nearby creek.

I am pleased that the committee accepted my amendment.

In closing, Mr. Chairman, H.R. 6 is good legislation. It will help to improve and reform elementary and secondary education in the United States and direct Federal funding in an equitable manner. Chairmen FORD and KILDEE have done excellent work on this bill.

I urge my colleagues to support H.R. 6.

□ 1250

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

Mr. Chairman, I would like to indicate that all of us agree with many of the issues raised by the gentleman from New York [Mr. OWENS]. Al Shanker would love to have properly certified, highly qualified teachers in all New York City schools. He cannot do that. We cannot do that with any kind of mandate.

We would love to have the books, the library equipment, and other materials in those schools. The Chapter II Program that some would like to eliminate helps them to do just that, as a matter of fact. But we cannot guarantee it unless we spend money, and that is the focus of this debate.

Local citizens and the courts must deal with the issue of school finance equalization. Local citizens and the courts—not the Federal Government.

In Pennsylvania, we have an ideal equalization formula and it works well by setting a base for every student. If somebody is able to do more than that in the local area, fine, but States provide the base to make sure that everyone has equal opportunity.

So, this argument is not about school resources. The argument is that if we do not send any money, we send unfunded mandates, and a golden opportunity for all sorts of litigation. So, the little bit of money that they would have to spend to improve their education system instead is spent in court. That helps the lawyers. That does not help the youngsters that we are trying to educate or their parents.

Mr. Chairman, I am happy to yield 1 minute to my dear friend, the gentleman from Texas [Mr. DE LA GARZA], the chairman of the Committee on Agriculture.

Mr. DE LA GARZA. Mr. Chairman, I thank my distinguished colleague for yielding me the time. I want to commend him and the chairman and the chairman of the subcommittee for the work they have done on this legislation.

As I look through all of the areas that impact upon my district in a very positive way, there is some concern, and I understand that the issue of home schools and private schools will be addressed adequately. And I am glad that they have arrived at some degree of compromise in this area.

But the main thing is that this enhances the education of our children. It gives us the tools that they need to secure employment, to secure jobs. An educated citizenry is the best citizenry that any nation can have. I commend them, one, for working on the issue that has become somewhat controversial, but mainly in the thrust that this legislation takes in behalf of the children of the United States of America.

Mr. COX. Mr. Chairman, I rise in opposition to H.R. 6, a bill which would greatly expand the Federal Government's control over the entire landscape of American education. I also rise to express my strong support for the amendment offered by Mr. ARMEY.

Instead of fostering the real school reform America needs, H.R. 6 would restrict the ability of parents to participate in the critical decisions affecting their children's education. The bill would create new frivolous spending programs, pile still more Federal mandates on local school districts, and expand Federal control over local schools—both public and private.

One of the most destructive provisions of H.R. 6 would require certification not only of public schoolteachers, but of private teachers as well. Of course, the practical effect of this requirement would be to add significant new burdens on private schools.

Ironically, the sponsors of H.R. 6 entrust Federal regulators, and the same education bureaucrats and unions who've given us the status quo, with broad new powers to oversee school "reform." But they don't trust parents to have any responsibility for deciding what's best for their children's education.

Given the abysmal performance of many of our Nation's public schools, it should come as no surprise that an increasing number of parents are electing to secure a better education for their children.

Our Government's educational policy should be especially supportive of parental choice. Parents who are willing to invest significant time and resources in the education of their children are much more likely to produce a better educated child.

This natural human desire—to see to it that one's children are educated in the best possible manner—is a noble impulse, and it should be nurtured, not discouraged. Rather than seek to change the fundamentals of human behavior, a sound educational policy should tap into this force as a powerful engine to improve the quality of our Nation's schools.

But the authors of H.R. 6 think that they know best. Their bill would take a giant step in the wrong direction by infringing on the rights of parents and restricting the educational options available to them.

To protect against some of the bill's potentially destructive provisions, I am pleased to lend my full support to the amendment offered by Mr. ARMEY. This amendment will improve H.R. 6 by deleting the bill's mandatory Federal teacher certification requirements, and by further clarifying that none of the bill's other provisions infringe on the right of parents to secure the best possible education for their children.

In closing, I urge my colleagues to support the Armey amendment. It will protect the fundamental right of parents and students to choose their own education. Giving parents and students greater freedom to participate in one of the most critical decisions affecting their lives is the best way to improve the quality of our educational system.

Mr. CARDIN. Mr. Chairman, in the last several days my office has received nearly 1,000

phone calls from constituents who are opposed to the establishment of Federal standards for teacher certification. They are especially concerned over the potential application of such standards to home schooling arrangements. I fully support their concerns.

Thousands of parents in Maryland's Third Congressional District, and hundreds of thousands across this country, have made the decision to educate their children at home. They have made this decision for educational reasons and for religious reasons. What all these parents have in common is a concern for their children's education, and a willingness and a determination to instill in their children a love of learning and a strong sense of values.

I rise in support of the amendments to strike the certification provision from this bill, and to further assure that no provision of this bill will extend Federal involvement to home schools, or private, parochial or religious schools. The provision which has generated so much controversy would mandate that teachers under the jurisdiction of local State agencies must be certified to teach the subject which they are assigned. I support adoption of the amendment to strike this provision from the bill.

The responsibility for maintaining high standards in our schools rests with State and local education agencies. That responsibility includes hiring qualified teachers and ensuring that those teachers remain qualified. The Federal Government cannot usefully intrude into the micromanagement of local schools. It certainly should not seek to interfere with or dictate the terms of decisions by parents to home school their children.

The amendments we debate today recognize that parents and local educational boards better understand the needs of the children in their own communities than the Federal Government does. I am pleased to support these amendments to assure the continued independence of home schools as well as private, parochial, and religious schools.

Ms. MOLINARI. Mr. Chairman, I come to the floor to express my support as well as my disappointment for the bill before us today. Much to my disappointment, provisions still exist in the bill which may make it impossible for me to fully support it. However, I continue to hope that during floor consideration today, and through House-Senate conference, these differences will be worked out.

For the sake of our children it is vital that education not fall victim to partisan politics. This bill is one of the most important legislative efforts of this session. The $12 billion sent to State and local school agencies under authority of this act must become the driving force for a dramatically improved education system for all students.

This driving force is embodied in what I believe to be the two most important policy goals of this reauthorization, guaranteeing high quality programs for disadvantaged children and granting schools the flexibility necessary to provide a quality education to the students they serve. I firmly believe that quality improvements must go hand in hand with allowing schools greater flexibility in the use of Federal funds in exchange for increased student achievement.

Originally, I supported the administration's bill because of its focus on flexibility as well as targeting more closely the limited but desperately needed chapter I funds. Due to the implementation of the 1990 census data, New York City lost a devastating $63 million in chapter I dollars. New York City needs increased chapter I funds, not decreased funds to serve our ever growing chapter I population. I simply could not support a formula which would have further devastated our area, and believed that the administration's formula was the fairest and best approach in helping to target our already limited Federal dollars.

While the committee worked out a fair and equitable consensus chapter I funding formula which I felt I could support, I was dismayed by the inclusion of the opportunity to learn standards [OTL]. It was for this reason that I felt I had to vote against reporting the bill favorably from the Education and Labor Committee. These OTL standards would provide far too much micromanagement by the Federal Government. According to the language in the bill, in order for a State to receive its share of the money allocated under chapter I, it must develop standards with which the Secretary of Education agrees. If the Secretary does not agree with the State's OTL standards, he or she would be able to withhold funds. This clearly goes against local control and increased flexibility, two policies I do not believe we can afford to back away from in this reauthorization bill.

I was particularly pleased that during committee consideration a Republican amendment to retain a refocused but flexible Chapter II Program was adopted. I did not agree with the administration's proposal to eliminate chapter II and I strongly supported reinstating this program, while at the same time refocusing it on education reform and achievement of the National Education Goals. These chapter II funds may be used for technology, library services materials, assessments and the development of instructional and educational materials, as long as they are tied to overall school reform efforts.

Additionally, I was pleased that the committee adopted the gender equity amendments offered by myself and Congresswoman MINK. Recent reports documented that girls do not receive equitable amounts of teacher attention, that they are less apt than boys to see themselves reflected in the materials they study, and that they often are not expected or encouraged to pursue higher level mathematics and science courses. The implications of these reports are clear—the system must change!

I know all too well that gender politics is a subject that many in our schools, and society, prefer to ignore, but we can no longer afford to ignore the potential of girls and young women in our society. Congresswoman MINK and I were able to use this reauthorization process to infuse education policy with gender equity efforts and implement programs devoted to gender equity issues.

I was very pleased that large provisions from my equity training legislation was incorporated into H.R. 6. One means of implementing policies devoted to gender equity is through the creation of equity training programs to identify and eliminate inequitable practices in the classroom. My language makes equity training programs an allowable use of funds under the Elementary and Secondary Act. This language will act as a catalyst to help encourage schools to develop equity training programs for teachers, administrators and counselors.

Whether you are looking at preschool, elementary, or high school classrooms, at female teachers or male teachers, research consistently reveals that boys receive more attention than girls. This indicates that gender equity issues are not well understood by many educators. Teachers are not always aware of the ways in which they interact with students. The use of equitable teaching strategies, and innovative training programs, should be one of the criteria by which gender equity is implemented.

I remain committed to working with my colleagues to garner bipartisan support for this legislation in order to obtain real change in education. This is the last reauthorization of elementary and secondary education programs before the beginning of the 21st century. It is imperative that we work out our disagreements to help the children of our country by focusing on high quality standards and flexibility.

Mr. CLAY. Mr. Chairman, H.R. 6, the Improving America's Schools Act of 1994 extends through 1999 almost all of the major Federal elementary and secondary education programs.

Three of the programs included in this legislation are: the Chapter I Program, a revised Dwight D. Eisenhower Mathematics and Science Education Program, and the Magnet Schools Assistance Program.

Since the inception of the Elementary and Secondary Education Act of 1965, title I, the current title, chapter 1, is changed to title I as it was in the original legislation, is the largest Federal elementary and secondary education program contained in this legislation. Title I through the years has provided a vital and crucial link in helping to provide high quality education to economically disadvantaged children.

In this regard, title I has served as a basis of hope in helping many economically disadvantaged young people sometimes perceived as losers to become winners. Chapter I has been extremely significant in providing services to our Nation's children and youths in reading and mathematics as well as in the development of critical thinking skills.

The move toward excellence and inclusiveness which began so nobly in 1965 when, then, President Lyndon Baines Johnson signed the Elementary and Secondary Act into law, must be permitted to move forward.

The current Dwight D. Eisenhower Mathematics and Science Program will become the Dwight D. Eisenhower Professional Development Program which will encourage professional development of teachers, staff, and administrators in increasing their knowledge and skills of the subject matter.

The Magnet Schools Assistance Program is the primary program that the Congress has established that helps school districts fulfill the Federal commitment to school desegregation in this country. A recent report on school desegregation, issued in December 1993 by Gary Orfield states: "For the first time since the Supreme Court declared school segrega-

tion in the South unconstitutional in 1954, the public schools in that region have turned back toward greater segregation." Clearly, how we modify and reauthorize the Magnet Schools Assistance Program will demonstrate our continuing commitment to school desegregation in compliance with Brown versus Board of Education (1954).

Mr. Speaker, I support the opportunity-to-learn standards provisions as included in this legislation. Opportunity-to-learn standards would identify the elements necessary in helping children to achieve the content and performance standards. The legislation clearly provides for content and performance standards as well as assessments that would be established or used for title I programs. Content standards indicate what children should know and be able to do; performance standards determine whether children are learning. I fully support both content and performance standards; however, I firmly believe that it is inequitable to hold students accountable for their performance without addressing the capacity of the school to educate children to the level required under the student performance standards. If we require content and performance standards, then opportunity-to-learn standards should be included in this legislation.

This legislation is needed in order to enrich and expand educational opportunity for children and youths at all levels, that is, kindergarten through postsecondary.

The reality is that chapter I and the other programs included in this legislation are crucial if we are to provide world class standards for children.

Mr. Speaker, I urge my colleagues to support H.R. 6, the Improving America's School Act of 1994.

Mr. FALEOMAVAEGA. Mr. Chairman, I rise in support of H.R. 6, a bill which proposes real reform and improvement to elementary and secondary education in America and oppose any amendment that will weaken this legislation.

H.R. 6 contains new and innovative improvement to the current system by restructuring existing programs to focus on helping disadvantaged children achieve high performance standards, provides much-needed assistance to States and school districts in their school reform efforts, and establishes the much-needed professional development programs for all teachers.

Mr. Chairman, in addition to the major provisions of this bill, H.R. 6 also contains several lesser known programs, including those which are critically needed in the outlying areas. These programs consist of a newly created de Lugo Territorial Education Improvement Program to fund innovative proposals which will enhance student learning, increase the standard of education, and improve the performance levels of all students in the outlying areas. H.R. 6 also restores critically needed funds for territorial teacher training programs as well as restoring and restructuring territorial coverage currently provided under chapters 1 and 2.

Mr. Chairman, similar to other small territories, my district of American Samoa is currently facing an educational crisis. Our teachers lack the proper credentials to give our children the quality education they deserve and we are without funds and technical assistance to implement innovative and quality programs to bring our educational system up to par with mainland levels. According to recent national educational tests, the territories are at the bottom of the national scale when it comes to achievement scores and we definitely need the type of assistance provided through this legislation to enable our students to reach mainland levels.

Mr. Chairman, I want to extend my appreciation to my distinguished colleague from Michigan, Mr. WILLIAM FORD, chairman of the Education and Labor Committee for his suburb leadership demonstrated in guiding H.R. 6 to the floor today and also commend him for his endless support of real reform and improvement in elementary and secondary education. I am also grateful to my colleagues on Education and Labor for their hard work and devotion to providing quality education for our children, especially for the lesser known programs which are critically needed in the outlying areas.

I urge my colleagues to support this measure and oppose any amendments which weaken H.R. 6.

Mrs. MALONEY. Mr. Chairman, as a former teacher and school administrator, I am personally proud to participate in today's deliberations, as we prepare to pass H.R. 6 and extend for another 5 years the authorization for most of the Federal elementary and secondary education programs.

Many of us may have honest differences of opinion about the merits of specific provisions of this legislation. But on the whole, it is a landmark legislative package, the purpose of which is to help America's schools strive for excellence.

I want to congratulate and thank Chairman FORD, Chairman KILDEE, the committee members and staff for patiently crafting this comprehensive legislation, which is so crucial to America's future.

There are many important features of this bill which will benefit millions of schoolchildren and teachers, in New York and throughout the country.

The compensatory education provisions of title I, for example, will help disadvantaged children to achieve high levels of performance, and not just focus on remedial, low-level skills. I applaud the committee for its efforts to promote such a pursuit of excellence.

I am also very impressed by the cost effectiveness of such title I programs.

Studies have shown that spending $1 on such programs now can save at least $6 later, just by preventing students from having to repeat grades. If one adds in other effects, such as more advanced job skills, earlier availability for employment, decreased incidence of unemployment, and fewer social and crime problems, the benefits to society are enormous when compared to the very modest cost.

In New York City, over half the city's schools are title I schools and benefit from its program, 666 schools out of a total of 1,105. An estimated 237,200 students receive title I services. The sad fact, however, is that 428,948 students are actually eligible because of educational deprivation, but there isn't enough funding to go around.

To put it into perspective, Mr. Chairman, in some parts of the country, if a school has 25 percent of its students at poverty level, it becomes a title I school. By contrast, in New York City a school must have 62.2 percent of its students at poverty level to satisfy the targeting requirements for the limited resources. Thus, a New York City school can have almost two-thirds of its students at poverty level and still not be included in the title I programs, a fact which provides a strong argument for the merits of the Clinton administration's original proposals to target more of the available resources at the Nation's poorest schools.

I would like to mention several other important features of this legislation that will benefit children throughout our country.

For instance, title IV authorizes funding of the Safe and Drug-Free Schools Programs. These drug and violence prevention programs will help to create the safe environment that our schoolchildren deserve. Title V promotes magnet schools, which offer advanced programs to attract children of different backgrounds and promote racial, ethnic, and cultural diversity.

Under title II, a program of technology education provides funds to improve learning through technology. It also will provide, through the Eisenhower Professional Development Program, sustained and intensive teacher training opportunities not just for math and science teachers, as in the past, but for teachers in all the core academic areas.

Mr. Chairman, I am proud to support this legislation and urge its passage. It is a monumental investment in our children's future, and therefore in America.

Mr. CLINGER. Mr. Chairman, I rise to voice my opposition to H.R. 6, Improving America's Schools Act as it is currently drafted. In particular, I am concerned about its mandatory opportunity to learn standards which would dramatically increase Federal involvement in local education.

The problem of unfunded Federal mandates has finally begun commanding the attention of Congress. Several amendments have been offered to bills on the House floor to address unfunded Federal mandates, and a number of members, including myself, have introduced bills to eliminate existing Federal mandates that are unnecessary or too onerous, and require Congress to pay for the laws we pass in the future. If you are at all concerned about unfunded Federal mandates and the burden that they place on States and local governments, then you should join me in opposition to these mandatory opportunity to learn standards.

Clearly, one of the most objectionable and controversial provisions in H.R. 6 would require States receiving title I funds to develop opportunity to learn standards that focus on the inputs into the educational process, rather than the results. The standards would be submitted to the Secretary of Education for approval and would force local schools to issue annual reports on how they are living up to them.

Opportunity to learn standards could dictate everything from how many books the library must have to how many computers or film projectors each school must purchase. Local

school districts—many of which are already operating under tight budgets—may be forced to hire more teachers, build bigger schools, or completely rewrite their curriculums in order to comply with the standards.

However, probably the most egregious aspect of H.R. 6 is that it directs States and local school districts to develop these new standards and to issue the required annual reports without helping them pay for it. And once these standards have been set, the Federal Government still will not provide any guidance or funding to help schools meet the prescriptive standards. Congress must stop passing the buck onto State and local communities. If Congress really believes that these opportunity to learn standards will improve student achievement, then Congress should be willing to provide schools the necessary funding to realize these standards.

In my rural district in Pennsylvania, many areas lack a strong, growing economic base to generate the local taxes needed to sufficiently support their education system. As it is, most of my school districts rely on title I funds just to get by, and teachers, school administrators, and parents must struggle with tight budgets, cut through bureaucratic red tape, and overcome different social problems to help students learn. The imposition of new opportunity to learn standards will force many school districts to spend what little money they do have on projects they can not afford. These new unfunded Federal mandates would tie the hands of local school officials who would be compelled to dedicate more money to meeting these arbitrary standards, processing paperwork, and issuing annual reports instead of targeting these scarce resources on the school's most critical needs.

Aside from being unfunded Federal mandates, opportunity to learn standards are also intrusive Federal mandates that provide for micro-management of our local education systems by the Federal Government. The Secretary of Education will approve States opportunity to learn standards, issue regulations concerning their development, and deny title I funds to States that fail to submit their standards for approval. In my view, mandatory opportunity to learn standards are dangerous because they open the door for the U.S. Department of Education to become intimately involved in the education of our children.

This directly conflicts with my support for and our country's tradition of local control of education. Only 6 percent of the money spent on elementary and secondary education comes from the Federal Government while the rest is provided by State and local governments. Despite the Federal Government's relatively small financial contribution, H.R. 6 and its mandatory opportunity to learn standards would allow the U.S. Department of Education to significantly influence curriculum quality and resource allocations, decisions traditionally made at the State and local levels.

While it may be appropriate for the Federal Government to set national goals and provide leadership in education policy, I believe we must preserve the principle of State and local authority in education. Congress must recognize that policymakers and bureaucrats in Washington are too far removed to affect positive change, and that we must make sure the Federal Government does not suffocate and kill local education with excessive rules, regulations, paperwork, and bureaucracy. Instead, the Federal Government must provide flexibility, encourage innovated reform strategies on the local decision making.

Mr. Chairman, opportunity to learn standards clearly move education policy in the wrong direction; therefore, I urge my colleagues to oppose unfunded Federal mandates and to support local control of education by supporting the Goodling-Stenholm-Condit-Gunderson amendment striking mandatory opportunity to learn standards from H.R. 6.

Mr. BONILLA. Mr. Chairman, today we are considering H.R. 6, the Improving America's Schools Act. If only the bill's title were true. This comprehensive bill is comprehensively bad for America's schools and schoolchildren.

Let me share my concerns over two of the harmful provisions in this bill: the opportunity to learn provision and the private, parochial, and home school provision. Opportunity to learn standards represent nothing less than another mandatory, unfunded Federal mandate which dictates what States must expend to educate students. These standards are not about education, they are about power, about giving the Washington bureaucracy the power to withhold Federal funds from local school districts that fail to toe the line. Local school districts would have to get Federal approval on the quality and availability of their materials, teachers, and facilities.

This power grab violates our Nation's history of local control over education standards. Local control provides a protection that schools will respond to the special needs of its student body. The Federal Government provides less than 6 percent of all money spent on education but wants its fingers in every part of the State and local education pie. This makes the Federal Government the judge, juror, and executioner over local choices like curriculum quality and resource allocations. This is not what the Founding Fathers had in mind.

Another provision in the bill would intrude the Federal Government into relations between parent and child. This provision would require certification of all people who educate our children, with no specific exemption for parents. I am not alone with my concern. I have received hundreds of phone calls, letters, and faxes stating opposition to this provision. The Texas Association of School Administrators wrote to state:

> The Texas Association of School Administrators believes that a local school district can best perform its education duties when allowed the flexibility to provide curriculum, services, and staff which appropriately address the needs of that district. As such, we are disturbed by the possibility of Federal legislation that would wrest control from the local school district and place it in the hands of bureaucrats who would be too far removed from a district to understand or anticipate its needs.

The letter goes on to say:

> We are still concerned that passage of this amendment would set a dangerous precedent. * * * We ask that you do what must be done to curtail the potential dangers of legislation which extends Federal control to the minutiae of local school district concerns.

I could not have said it any better.

This Congress must not endorse a Federal power grab which sets mandates for schools which don't receive Federal funds. The Federal Government has no business interfering with State certification requirements for public school teachers. This mandate is yet another layer of bureaucracy which is the last thing American education needs.

This provision would tie the hands of public schools as well. Public schools often utilize teachers or substitute teachers to teach classes outside their concentration or certification area. An ironic side to this provision is even certified teachers would be banned from home schooling their own children at some point of their education. The Miller amendment would make it extremely difficult for any parent to meet the requirements to home school their own children in the secondary grades.

The Ford amendment does not go far enough. In my home State of Texas home schools are legally referred to as private schools and therefore, the Ford amendment would not apply. I support the Armey amendment to protect parental rights and protect private and home schools from overbearing regulations.

The Congress should look for ways to strengthen the family not restrict parental involvement in our children's futures. My colleagues, actions speak louder than words. Please show, through your actions, that you are truly committed to strengthening the American family and vote in favor of the Armey amendment.

Mr. KLUG. Mr. Chairman, today's debate over our children's education is proof positive that parents can and do make a difference and that Congress does listen. My office has received just under 1,000 calls and letters. This overwhelming response is indicative of the strength of convictions and overwhelming public outcry that results when the Federal Government messes around in the issue of home schooling, which hinges on whether the Government should interfere with parents' freedom of choice to educate their children away from Federal intrusion.

The Elementary and Secondary Education Act [ESEA] has been providing Federal support to our Nation's handicapped and disadvantaged children since it was enacted in 1965 as a part of President Johnson's war on poverty program. The reauthorization of the ESEA, under consideration today, will provide nearly $7.5 billion in grants for schools to provide compensatory education services to disadvantaged children. The program has been restructured to focus on assisting these children to achieve high-performance standards and providing more decisionmaking authority and flexibility at the local level. The bill is not perfect, but it is worthy of support.

The controversy today deals with provisions that would require teacher certification and what effects that would have on home schooling and nonpublic schools. In attempting to ferret out the facts from the fiction, my office has been pleased to work with Larry Kaseman, executive director of the Wisconsin Parents Association [WPA]. I share their view that the teacher certification issue in the bill does need clarification. While I believe that the language would not apply to homeschoolers or

to nonpublic schools in the State of Wisconsin, this is not true for all States. Therefore, I believe that the teacher certification requirement for both homeschoolers and other nonpublic schools is an unwarranted intrusion by the Federal Government and I will support the efforts to clarify or remove the requirement.

I don't want the Federal Government in the business of micromanaging the education of our children. Traditionally, educating our children has been left up to individual States, local school boards, and parents. I believe we need to assure the folks back home that we intend to keep it that way.

Mr. PACKARD. Mr. Chairman, I rise in opposition to H.R. 6 for several reasons. First, I am acquainted with the educational issues raised in this legislation from a local perspective. As a member of the Carlsbad Unified School District for over 12 years, I can tell you that the way to improve our educational system is not to micromanage every aspect over all forms of education. H.R. 6 does just that.

Specifically, by mandating the opportunity to learn standards, H.R. 6 will prove to be an enormous unfunded Federal mandate on States like California. Title 1 funding is the single largest Federal education program for elementary and secondary schools. In order for our schools to receive these funds, the opportunity to learn standards would require them to issue annual reports and quantify resources. Is it going to improve the education our children are getting to involve bureaucrats in Washington in every decision a school makes? Absolutely not.

The opportunity to learn standards in this bill is exactly the type of legislation Congress passes with astonishing frequency that does nothing to the real issue at hand. Will H.R. 6 improve education in our public schools at a time when our educational system is in crisis? Absolutely not. Instead of focusing on students, the real effect of this bill is to give more power to Washington. It violates the United States long history of local control over education. Bottom line: Our schools operate more effectively and efficiently with concerned parents and teachers at the helm. No mountain of regulations or new standards issued from bureaucrats is going to improve this system.

Second, I am opposed to the amendment proposed by my colleague from California [Mr. MILLER], and adopted in committee. His amendment again asserts that the long tentacle of Washington must intrude and impose upon everything. Mr. MILLER's amendment requires local education agencies to guarantee to the State agencies that all full-time teachers are certified to teach the academic subjects to which they are assigned. This is an assault on the educational systems which exist as an alternative to the public school system: The autonomy and existence of private schools and home schools are jeopardized by this amendment.

With the Miller amendment, H.R. 6 establishes new Federal control over any nonpublic school that does not take funds under this act. I urge passage of the Armey amendment to correct this onerous language.

Finally, I ask my colleagues to oppose this bill. This body should be passing legislation which does not expand the power of Washington over an elementary school in Oceanside, CA. This body should pass legislation to ensure that those students in Oceanside, and across the Nation, receive the best education in the world.

Mr. GOODLING. Mr. Chairman, I yield back the balance of my time.

The CHAIRMAN. All time for general debate has expired.

Pursuant to the rule, the amendment in the nature of a substitute printed in the bill, modified by the amendment printed in section 2 of House Resolution 366, is considered by title as an original bill for the purpose of amendment and each title is considered as read.

Title I of the committee amendment in the nature of a substitute, as modified, shall be considered by title of the Elementary and Secondary Education Act of 1965, as proposed to be amended by title I.

No amendments to the substitute, as modified, are in order unless printed in House Report 103–426 or in that portion of the CONGRESSIONAL RECORD designated for that purpose in clause 6 of rule XXIII prior to Friday, February 25, 1994.

Before consideration of any other amendment, it shall be in order to consider the amendments printed in House Report 103–426. Each amendment may be offered only in the order printed, may be offered only by a Member designated in the report, may amend portions of the bill not yet read for amendment, shall be considered as read, is not subject to amendment, and is not subject to a demand for a division of the question.

Debate time on each amendment printed in the report will be 1 hour, equally divided and controlled by the proponent and an opponent of the amendment.

Amendments caused to be printed by the gentleman from Michigan [Mr. KILDEE] may be considered en bloc, may amend portions of the bill not yet read for amendment, shall be considered as read, and shall not be subject to a demand for division of the question.

The Clerk will report section 1.

The Clerk read as follows:

H.R. 6

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 "Improving America's Schools Act of 1994".

(b) TABLE OF CONTENTS.—

Sec. 1. Short title.
Sec. 2. Effective dates; transition.
TITLE I—AMENDMENTS TO THE ELEMENTARY AND SECONDARY EDUCATION ACT OF 1965
Sec. 101. Amendments to the Elementary and Secondary Education Act of 1965.
"Sec. 1. Short title.
"TITLE I—IMPROVED EDUCATION FOR DISADVANTAGED CHILDREN
"Sec. 1001. Declaration of policy and statement of purpose.
"Sec. 1002. Authorization of appropriations.
"PART A—BASIC PROGRAMS OPERATED BY LOCAL EDUCATIONAL AGENCIES
"SUBPART 1—BASIC PROGRAM REQUIREMENTS
"Sec. 1111. State plans.
"Sec. 1112. Local educational agency plans.
"Sec. 1113. Eligible school attendance areas.
"Sec. 1114. Schoolwide programs.
"Sec. 1115. Targeted assistance schools.
"Sec. 1116. Assessment and school and local educational agency improvement.
"Sec. 1117. State assistance for school support and improvement.
"Sec. 1118. Parental involvement.
"Sec. 1119. Professional development.
"Sec. 1120. Participation of children enrolled in private schools.
"Sec. 1121. Fiscal requirements.
"SUBPART 2—ALLOCATIONS
"Sec. 1122. Grants for the outlying areas and the Secretary of the Interior.
"Sec. 1123. Allocations to States.
"Sec. 1124. Basic grants to local educational agencies.
"Sec. 1124A. Concentration grants to local educational agencies.
"Sec. 1125. Targeted grants to local educational agencies.
"Sec. 1126. Special allocation procedures.
"Sec. 1127. Carryover and waiver.
"PART B—EVEN START FAMILY LITERACY PROGRAMS
"Sec. 1201. Statement of purpose.
"Sec. 1202. Program authorized.
"Sec. 1203. State programs.
"Sec. 1204. Uses of funds.
"Sec. 1205. Program elements.
"Sec. 1206. Eligible participants.
"Sec. 1207. Applications.
"Sec. 1208. Award of subgrants.
"Sec. 1209. Evaluation.
"PART C—EDUCATION OF MIGRATORY CHILDREN
"Sec. 1301. Program purpose.
"Sec. 1302. Program authorized.
"Sec. 1303. State allocations.
"Sec. 1304. State applications; services.
"Sec. 1305. Secretarial approval; peer review.
"Sec. 1306. Comprehensive needs assessment and service-delivery plan; authorized activities.
"Sec. 1307. Bypass.
"Sec. 1308. Coordination of migrant education activities.
"Sec. 1309. Distance learning.
"Sec. 1310. Definitions.
"PART D—PREVENTION AND INTERVENTION SERVICES FOR DELINQUENT YOUTH AND YOUTH AT RISK OF DROPPING OUT
"Sec. 1401. Findings; purpose; program authorized.
"Sec. 1402. Payments for programs under this part.
"SUBPART 1—STATE AGENCY PROGRAMS
"Sec. 1403. Amount of allocation to State.
"Sec. 1404. State plan.
"Sec. 1405. Use of funds.
"Sec. 1406. Institution-wide projects.
"Sec. 1407. Three-year projects.
"Sec. 1408. Transition services.
"SUBPART 2—LOCAL AGENCY PROGRAMS
"Sec. 1410. Programs operated by local educational agencies.
"Sec. 1411. Program evaluations.
"Sec. 1412. Definitions.
"PART E—FEDERAL EVALUATIONS, DEMONSTRATIONS, AND TRANSITION PROJECTS
"Sec. 1501. Evaluations.
"Sec. 1502. Demonstrations of innovative practices.
"Sec. 1503. Innovative elementary school transition projects.

"PART F—GENERAL PROVISIONS
"Sec. 1601. Federal regulations.
"Sec. 1602. Coordination of Federal, State, and local administration.
"Sec. 1603. State administration.
"TITLE II—IMPROVING TEACHING AND LEARNING
"PART A—DWIGHT D. EISENHOWER PROFESSIONAL DEVELOPMENT PROGRAM
"Sec. 2101. Findings.
"Sec. 2102. Purposes.
"Sec. 2103. Authorization of appropriations; allocation between subparts.
"SUBPART 1—FEDERAL ACTIVITIES
"Sec. 2111. Program authorized.
"Sec. 2112. Authorized activities.
"SUBPART 2—STATE AND LOCAL ACTIVITIES
"Sec. 2121. Program authorized.
"Sec. 2122. Allocation of funds.
"Sec. 2123. Within-state allocations.
"Sec. 2124. State applications.
"Sec. 2125. State-level activities.
"Sec. 2126. Local plan and application for improving teaching and learning.
"Sec. 2127. Local cost sharing.
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"Sec. 2129. Higher education activities.
"SUBPART 3—GENERAL PROVISIONS
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"PART B—TECHNOLOGY EDUCATION ASSISTANCE
"SUBPART 1—ASSISTANCE TO STATE AND LOCAL EDUCATIONAL AGENCIES
"Sec. 2201. Short title.
"Sec. 2202. Findings.
"Sec. 2203. Statement of purpose.
"Sec. 2204. Definitions.
"Sec. 2205. In-State apportionment.
"Sec. 2206. Elementary and secondary education programs.
"Sec. 2207. Higher education programs.
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Mr. KILDEE (during the reading). Mr. Chairman, I ask unanimous consent that section 1 be considered as read, printed in the RECORD, and open to amendment at any point.

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

There was no objection.

The CHAIRMAN. Are there any amendments to section 1 of the committee amendment in the nature of a substitute, as modified?

If not, the Clerk will report section 2.

The Clerk read as follows:

SEC. 2. EFFECTIVE DATES; TRANSITION.

(a) EFFECTIVE DATES.—(1)(A) Except as provided in subparagraph (B), the provisions of title I of this Act shall take effect July 1, 1995, except that those provisions of title I that apply to programs under title VIII of the Elementary and Secondary Education Act of 1965, as amended by this Act, and to programs that are conducted on a competitive basis, shall be effective with respect to appropriations for use under such programs in fiscal year 1995 and in subsequent fiscal years.

(B) Title VIII of the Elementary and Secondary Education Act of 1965, as amended by title I of this Act, shall take effect on October 1, 1994.

(2) The provisions of title II of this Act shall be effective upon enactment, except that section 250 of such title shall be effective—

(A) July 1, 1995 for non-competitive programs in which funds are allocated on the basis of a formula; and

(B) for programs that are conducted on a competitive basis, with respect to appropriations for use under such programs in fiscal year 1995 and in subsequent fiscal years.

(3)(A) Parts A and B of title III of this Act shall take effect July 1, 1995.

(B) Part C of title III of this Act shall take effect on October 1, 1994.

(b) TRANSITION.—Notwithstanding any other provision of law, a recipient of funds under the Elementary and Secondary Education Act of 1965, as in effect prior to amendment by this Act, may use funds available to it under such predecessor authority to carry out necessary and reasonable planning and transition activities in order to ensure a smooth implementation of programs authorized by this Act.

Mr. KILDEE (during the reading). Mr. Chairman, I ask unanimous consent that section 2 be considered as read, printed in the RECORD, and open to amendment at any point.

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

There was no objection.

The CHAIRMAN. Are there any amendments to section 2 of the committee amendment in the nature of a substitute, as modified?

If not, the Clerk will designate title I.

The text of title 1 is as follows:

TITLE I—AMENDMENTS TO THE ELEMENTARY AND SECONDARY EDUCATION ACT OF 1965

SEC. 101. AMENDMENTS TO THE ELEMENTARY AND SECONDARY EDUCATION ACT OF 1965.

The Elementary and Secondary Education Act of 1965 is amended to read as follows:

"SECTION 1. SHORT TITLE.

"This Act may be cited as the "Elementary and Secondary Education Act of 1965".

The CHAIRMAN. It is now in order to consider amendment No. 1 printed in House Report 103-426.

AMENDMENT OFFERED BY MR. FORD OF MICHIGAN

Mr. FORD of Michigan. Mr. Chairman, pursuant to the rule, I offer an amendment on behalf of myself and the gentleman from Michigan, [Mr. KILDEE].

The CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment offered by Mr. FORD of Michigan:

Page 218, strike lines 10 through 18

Page 762, after line 8, insert the following:

"SEC. 9508. APPLICABILITY TO HOME SCHOOLS

"Nothing in this Act shall be construed to affect home schools."

The CHAIRMAN. Pursuant to the rule, the amendment may amend portions of the bill not yet read for amendment and shall not be subject to a demand for a division of the question.

The gentleman from Michigan [Mr. FORD] will be recognized for 30 minutes, and a Member opposed will be recognized for 30 minutes.

The Chair recognizes the gentleman from Michigan [Mr. FORD].

Mr. FORD of Michigan. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, the simplest way to describe this amendment is that it is an unnecessary solution to a nonexisting problem. But there is a perception that has been generated in one way or another that there is language in the legislation that upsets people. This amendment strikes the language that people are upset about from the legislation. And although that language had nothing at all to do with home schooling, we go the extra mile and provide a new section 9508 entitled "Applicability to Home Schools," saying, "Nothing in this Act shall be construed to affect home schools."

As I said at the beginning of the debate on the bill, we did not believe that the Miller amendment was getting us into the area that we have always, during the history of legislation, respected, of undue Federal intervention in the prerogatives of State and local school administrations. The question of whether or not home schooling is allowed is not a Federal question. It is a State question. And it revolves around the attitudes in the various States about compulsory school attendance.

Around the turn of the century we took the children off of the slag heaps in the coal mines and out of the sweat shops in our big cities, and we told farmers that they will not keep their children out of school in the spring to plant, and keep them out of school in the fall to harvest, because it was believed, State by State they came to the conclusion that it was in the public interest to require the education of the population.

□ 1300

Now, home schooling exists in various forms I would expect, in virtually all of the States, and it comes about for a number of reasons.

No one would ever try to, I hope, justify home schooling on the ground that it was an excuse for a farmer to keep his kids home to work on the farm when they should be in school, or for a coal miner to keep his kids home to work on the slag heaps because that is what he wanted them to do. There are other laws that would kick in in both of those instances, I expect, in most States.

We had no intention, in accepting the amendment offered by the gentleman from California [Mr. MILLER] which came at the very end of the markup of this bill, of doing anything that would affect the relationship between the States and their people with respect to either private schools or home schools. Unfortunately, what has been generated is a fiction that somehow the Miller language would affect private education, which it did not. If the amendment had affected private education it would not be in the bill, because, as one of the people who came to this floor with the original version of this bill in 1965, I can assure this House that during all of those years we have worked very closely with the private schools.

Now, I have discovered something. Some people who have been talking about private school choice have convinced themselves in their ignorance of the true facts that private schools do not now participate in the programs that we are reenacting here today for the ninth time since we originally enacted them. Private schools participate to a very, very large degree. They participate slightly less now than they did when we started because of a decision of the Supreme Court a few years ago called the Felton decision.

When the Felton decision put a limitation on the accommodation between public school authorities and private school authorities, the committee promptly reacted to that by passing what was called the Felton fix, which provided a pot of money for school districts and private schools to work out arrangements that would meet the constitutional objections of the Felton decision.

If you read that decision, it went further than the Court ever went before. In its dictum, it tied the hands of those school districts that had for years before quite willingly worked to maximize the participation by private school children in title I of this bill. We fixed that, we believe, and the GAO indicates that, as a result of the fix, we have almost recovered the level of participation by private schools that they had before the decision.

We will come later to another amendment which I understand they are still working on on the other side. I asked the Committee on Rules to make an amendment by the gentleman from Texas [Mr. ARMEY] in order last night. Unfortunately, from whatever cause, some people suggest that it was inadvertence on the part of the staff, the amendment that was delivered to the Committee on Rules to be made in order was not the amendment that he was discussing. When we read the language of the amendment that was delivered to the committee, we immediately shared it with the private school authorities and discovered that they are strongly alarmed, and that in his zeal to be the savior of the private schools, Mr. Armey is actually subjecting the parochial schools to the possibility of lawsuits that we have managed to avoid for them for 29 years. We will deal with that when the amendment comes up. I understand that they are working on their amendment over there and probably have had some contract with the U.S. Catholic Conference by now that will enable them to improve the amendment somewhat.

But this amendment that I offer for the gentleman from Michigan [Mr. KILDEE] and myself is clear and straight. You have got phone calls about a section of the bill, on page 218, lines 10 through 18, that were added by the gentleman from California [Mr. MILLER] in the committee. This amendment strikes all of that language out without qualification, any at all. It puts the bill as if the amendment had never been adopted.

I say that it is an unnecessary solution to a problem that does not exist. Because if any of us had believed that that language did in fact say what people are saying that it said, we would never have accepted it in the first place. Our amendment goes further to put at rest people who placed an improper interpretation of the Miller amendment by simply, flatly stating that nothing in this act shall be construed to affect home schools adversely.

We do not approve of home schools, and we do not disapprove of them. It is none of our business. It should not be the Federal Government's business to intervene in that matter, and we want to keep Federal education legislation as pure as it now has been for 29 years.

Mr. Chairman, I urge the Members to overwhelmingly support this amendment.

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

The CHAIRMAN. Who wishes to claim the time reserved for opponents of the amendment?

Mr. GOODLING. Mr. Chairman, I ask unanimous consent to claim the time since there are not any opponents.

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

There was no objection.

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

Mr. Chairman, the chairman of the committee explained exactly what this amendment does, and I agree wholeheartedly with what he said.

I do not believe the legislation at the present time does what some people think it does, but if they think that, then, of course, we have now corrected it.

My argument had nothing to do with whether one group of people or one group of educators are involved. My argument is that we on the Federal level should have nothing to do with certification of teachers whatsoever. It is positively a State responsibility. I tried to explain earlier that you really have to have been a school administrator to understand that there are times when you positively cannot get a certified teacher. I would rather say qualified anyway than certified, because I can get some qualified teachers who may have a master's degree, but they do not have pedagogical training. I have some other descriptions of what it is. But they would be ideal teachers in the classroom.

If you have a resignation 2 weeks before school begins, you positively have to get the best possible person you can get into that classroom. You cannot steal a certified teacher some other place. You have to get the best person and that person may not have all of the necessary education credits in order to be properly certified by that State. A school may have an extra section, as I said before, of chemistry to teach. You cannot go out and hire one whole new properly certified chemistry teacher to teach one class at $30,000 to $40,000 a year. You have to get the best possible general science teacher that you can find, or the best advanced math teacher who can pick up that section, and you can give them the general chemistry program at that particular time.

I am just pointing this out to show you how complicated it is for States.

Can you imagine how complicated it would then be from the Federal level where we get involved in certification?

My whole argument is against our being involved in certification. I do not believe the legislation, or the person who submitted it intended it to deal with any one particular group that is not now covered. They are covered by the States. They are covered by local teaching requirements or local school districts. We should not be involved at all.

So if you accept the chairman's amendment, then you have corrected any fear that they may have, and we can go on keeping in mind that everybody else is protected under GEPA; private and parochial schools are protected under GEPA. Therefore, we should not need any additional legislation.

Mr. Chairman, I yield such time as he may consume to the gentleman from Wisconsin [Mr. GUNDERSON].

Mr. GUNDERSON. Mr. Chairman, it is important, because of all the publicity that has been involved in this issue, that every Member understand exactly what we are doing. If you want to solve the problem or the perception that there is a problem regarding the ability of home schools, private schools, religious schools, et cetera, to provide for their own certification criteria of their teachers and not have that controlled by the Federal Government or, in many cases, the State governments, you must vote yes on the Ford amendment.

This is the amendment that solves that problem by doing two things. First, it deletes the whole section on teacher certification. There was, frankly, a bit of a philosophical debate in the committee about whether there should or should not be a Federal role for teacher certification. Obviously the gentleman from Pennsylvania [Mr. GOODLING] and myself and others never believed there should be, but in credit to the gentleman from Michigan [Mr. FORD], recognizing the controversy over this whole section, he said, "Let us just delete the whole section and be done with it."

□ 1310

Second, Mr. FORD adds a provision that says, "Nothing contained in this act shall be construed to affect home schools." So we solved, second, or once again, this issue of whether we will or will not affect the home schools. Now having said that, I know that there is a great desire, because of all the publicity over this issue, for everyone to vote for the Armey amendment. I am going to tell you we have to work out the language of the Armey amendment before I think most of you will want to vote for that, and, hopefully, that can be accomplished in the very near future.

But the problem is that the Armey amendment, as written, says that nothing in this act shall be construed to permit, allow, encourage, authorize any Federal control over any aspect of any private, religious, or home school that does not receive funds under this act.

The problem with that, ladies and gentlemen, is that most private schools and some home schools receive all kinds of Federal money. They can participate directly or indirectly in such program as title I, the Eisenhower Professional Development, the Star schools, library media, innovative education programs, gifted and talented, the RIF program, civic education, the Ellender Fellowships, bilingual immigrant in 91–42.

So, because all of that activity is there, they receive some form of Federal funds which, as the Armey amendment is presently drafted, would bring them under the control, the very thing the Armey amendment, I think, intends not to do.

So, understand, again, you do solve the problem of home schools by voting for the Ford amendment, and, hopefully, there will be some language resolved later in this debate that will allow Mr. ARMEY to make sure that none of the provisions of this act in other sections other than teacher certification get into this area of home schools and regulating private education.

Mr. BARTON of Texas. Mr. Chairman, will the gentleman yield?

Mr. GUNDERSON. I am happy to yield to the gentleman from Texas.

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

Understandably, the gentleman is much more knowledgeable on this issue, being on the committee. Would it be inappropriate for Members to vote for both amendments, in your opinion?

Mr. GUNDERSON. I am not opposing the Armey amendment. I guess my advice is, to people, to simply understand the Ford amendment solves the home schools issue on teacher certification. What Mr. ARMEY intended to do was to clear up any potential problems in other sections. The problem is we have to work out the language of the Armey amendment to make sure we clear it up and we do not further confuse it.

Mr. FORD of Michigan. Mr. Chairman, I yield such time as he may consume to the gentleman from Michigan [Mr. KILDEE].

Mr. KILDEE. I thank the chairman for yielding this time to me.

Mr. Chairman, I think we are all of goodwill, here trying to solve, get language that will address what is perceived to be a problem. I think it is important, however, that the solution should not create another problem, and that is very, very important. That is why the gentleman from Michigan [Mr. FORD] and I offered this amendment to make sure that solution does not create another problem.

It is very simple. It strikes from the bill the language on certification, strikes all that language, and then indicates that this act does not apply in any way to home schools.

My problem with the Armey amendment is that it does create another problem. First of all, let me indicate that the Seventh Day Adventists have

sent a letter indicating support of the Ford/Kildee amendment. I have here, too, a letter from the department of education of the Catholic Conference.

Their concern with the language of the Armey amendment—may I read part of it:

It has also come to our attention that Congressman ARMEY will offer an amendment to H.R. 6 which, in part, would add the following new provision: "Nothing in this act shall be construed to permit, allow, encourage, or authorize any Federal control over any aspect of any private, religious, or home school that does not receive funds or does not participate in programs or services under the act."

We oppose this provision in the Armey amendment for two reasons: First of all, the Armey amendment explicitly states that private schools that do not participate in programs under H.R. 6 are not subject to Federal control, the amendment implies that private schools who themselves or whose students and teachers do participate in H.R. 6 programs, are subject to broad Federal control.

I submit, Mr. Chairman, with the adoption of the Armey amendment we would jeopardize those schools, those students, and those teachers in the private and parochial schools who are able to participate in H.R. 6.

The attorneys at the Catholic Conference have scrutinized this language very carefully over 2 days and arrive at that very same conclusion. They feel that language is such that the Federal control could be exercised over those schools that do participate, by saying those who do not participate cannot have Federal control, you imply that those who do participate will have Federal control.

They also go on to say in their letter:

It has also been suggested that the following sentences could be added at some time to the language quoted above: "This section shall not be construed to bar private, religious, or home schools from participation in programs or services under this act." This sentence states a truism which only serves to underscore our concern that this provision in the Armey amendment separates private schools into two groups, schools that do or do not participate in Federal education programs under H.R. 6 with the former being susceptible to broad Government control. Highlighting the distinction exacerbates rather than alleviates the concern.

They raise questions as to both parts of the Armey amendment. I think the Ford/Kildee amendment avoids those pitfalls. I am sure that if the Armey amendment passes, there will be a plethora of court cases that will follow because we will be saying that those who do receive, the schools who do receive or the students who do receive some assistance or teachers who receive some assistance are susceptible to broad Federal control.

I just think we will have court cases. Those who have been very involved in nonpublic education for many years, the United States Catholic Conference, oppose the amendment, based upon a close scrutiny of the law, and the Seventh Day Adventists support the Ford/Kildee amendment.

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

Let me be very clear: I am only going to try to be repetitive in order to help purchase the time necessary to see if we can all have a consensus on what we are doing next.

Let me just echo the remarks of the gentleman from Michigan [Mr. KILDEE] that if you want to solve this problem, you support the Ford amendment. This is the amendment that deals with home school certification. Also, that we have language that either has to be corrected on the Armey amendment or else it creates the very problem for the private schools that it was thought this was going to solve. I do not know if we are going to get that language worked out or not.

Perhaps if the chairman of the full committee will yield for a question. Is it the chairman's intent to have a recorded vote on his amendment?

Mr. FORD of Michigan. Mr. Chairman, will the gentleman yield?

Mr. GUNDERSON. I yield to the chairman.

Mr. FORD of Michigan. I thank the gentleman. I say to the gentleman, "yes."

Mr. GUNDERSON. Perhaps we could get on to the recorded vote, which would then allow us during that time to see if we could work out the language on Armey. Is that acceptable to everybody?

Mr. FORD of Michigan. Mr. Chairman, this gentleman is ready to go, surely.

Mr. GUNDERSON. Mr. Chairman, I yield such time as he may consume to the gentleman from Texas [Mr. ARMEY].

□ 1320

Mr. ARMEY. Mr. Chairman, I thank the gentleman for yielding, and I want to thank everybody. I want to thank the chairman, the subcommittee chairman, the gentleman from Michigan [Mr. KILDEE]. I want to thank my own ranking Republican member, the gentleman from Pennsylvania [Mr. GOODLING].

Mr. Chairman, this is, of course, a very difficult situation in which we find ourselves, and, as my colleagues know, there has been an enormous amount of concern expressed from across the country regarding this. The trick that we have here is to write language that makes America's home schoolers feel secure that they can continue to enjoy practicing their freedom in their home rather than defending their freedom in the courts. That concern is what first caused me to become involved in this legislative effort.

In addition to that, Mr. Chairman, we naturally want to reach out and provide the same sense of certainty, and surety and security that the freedoms will be secured for private schools in addition to home schools.

Within the context of the private schools, Mr. Chairman, we have a particular generosity on the part of the private Catholic schools that should be recognized in that so often the Catholic schools involve themselves in such a way as to participate in programs covered by this bill, H.R. 6, on behalf of other students, and that should be protected as well.

We have the curious phenomenon that 17 States in America define "home school" in such a way as to call them private schools. The difficulty we have had is in writing legislative language that provides a sense of security for the freedoms of all of these people who practice the education of their young people outside of the public schools, and in that process we will, and should correctly, vote for the amendment to be offered by the gentleman from Michigan [Mr. FORD] which deletes the entire section which has been so threatening to these schools. And I would encourage my colleagues to vote for that.

Where I differ with the gentleman from Michigan [Mr. FORD], the chairman of the committee, is his belief that the amendment does the entire job. While I grant that it does an enormous amount of good and should be supported for that purpose, Mr. Chairman, I still believe there is more that needs to be done. My staff and I have been working with the attorneys for the Catholic schools, and with the attorneys for other private schools and with the attorneys for the home schoolers, and we have an amendment which we believe, under consideration after this vote, will, in fact, provide that certainty for all persons involved.

Unfortunately the final concerns raised by the private Catholic schools were not clearly enunciated until after the amendment was filed with the Committee on Rules yesterday. We will be offering a unanimous-consent request to add that final perfecting language to our amendment. We assume that no one will object to it. The gentleman from Michigan [Mr. FORD] has certainly assured me he will not object to that unanimous-consent request, in which case, once that request is honored, we can proceed then with the Armey amendment, and at that point we can have, I think for all parties concerned, a full and certain understanding that the legislation is corrected to the extent that their freedoms will not be threatened either by bureaucratic intervention or by courtroom cases.

Mr. Chairman, it has been a long and arduous process. The patience of all of us has been tried, I think, sometimes beyond what many of us thought was necessary. But I think we can resolve this problem today, and we ought to do so in order to put an end to that anxiety.

Let me encourage then the Members of the body to please vote for the Ford amendment as he has printed it, and then give consideration to my amendment, recognizing the impact, if my colleagues will, of my unanimous-consent request when I make it. We should then, I think, have a very quick debate and be able to vote on the Armey amendment at that time, and all of us can spend the weekend feeling confident that we have relieved people of the anxiety that their freedoms might be compromised in any respect and move on with the rest of the business on this bill.

Mr. Chairman, I want to again thank the gentleman from Michigan [Mr. FORD], the gentleman from Michigan [Mr. KILDEE], the gentleman from Pennsylvania [Mr. GOODLING] and their staffs for their patience and their cooperation in our efforts to work out this rather difficult language.

The CHAIRMAN. The Chair informs Members that each side has 16 minutes of debate time remaining.

Mr. FORD of Michigan. Mr. Chairman, I yield 2 minutes to the gentleman from Georgia [Mr. BISHOP].

Mr. BISHOP. Mr. Chairman, I thank the gentleman from Michigan [Mr. FORD] for yielding this time to me.

Mr. Chairman, I rise today in support of H.R. 6, which extends for 5 years the appropriation for most of our Federal elementary and secondary education programs. This very important bill supports major education initiatives and provides funding for school improvement, education of migratory children, expanding opportunities for learning, urban and rural education assistance, prevention and intervention services for at-risk youth, to name just a few.

Over the past several weeks, our office has received numerous calls from parents who teach their children at home and who are concerned about a provision in the bill that apparently would have required all teachers to be certified. This would have given Federal control over home schools.

The amendment by Representatives FORD and KILDEE states that nothing in the bill shall be construed to affect home schools, thereby, protecting home schoolers. In my home State in Georgia, the general assembly passed legislation making it possible for parents to teach their children at home.

I am a strong supporter of the parents' right to select that type of education for their children. The Federal Government does not have the right to usurp that choice, and we should not take it upon ourselves to take that option of home schooling away from parents.

Mr. Chairman, I urge my colleagues on both sides of the aisle to support the Ford-Kildee amendment and to support H.R. 6. Our schools need it, our parents need it, and, most of all, our children need it.

Mr. GUNDERSON. Mr. Chairman, I yield such time as he may consume to the gentleman from Illinois [Mr. MANZULLO] for the purpose of a colloquy.

Mr. MANZULLO. Mr. Chairman, I wish to thank the distinguished gentleman from the State of Michigan [Mr. FORD] for this utmost fairness in seeing that the very difficult problem is quickly being resolved, and I would simply ask, and I think this is the case, that in the distinguished chairman's statement nothing contained in this act can be construed to affect home schools, and that would mean whether or not a home school is treated as a private school or home school under State law.

Would that be correct?

Mr. FORD of Michigan. Mr. Chairman, will the gentleman yield?

Mr. MANZULLO. I yield to the gentleman from Michigan.

Mr. FORD of Michigan. Yes. Whatever somebody else calls it, my understanding is that people wanted to be assured that in those States that permit it people who choose to educate their children at home will be permitted to do so. We are not going to get into that field, and that is the intention of that language.

Mr. MANZULLO. Mr. Chairman, I thank the distinguished gentleman from Michigan.

Mr. FORD of Michigan. Mr. Chairman, I yield 3 minutes to the gentleman from California [Mr. MILLER].

Mr. MILLER of California. Mr. Chairman, I thank the gentleman from Michigan [Mr. FORD] for yielding this time to me, and I want to say to the House that I am terribly sorry about the misinformation and the misconstruing of the language that I put into this bill. It was my feeling, after very often being confronted in my district with teachers who tell me that they are forced to teach classes for which they have not studied, nor do they know the subject matter, for the convenience of their school and/or their school district, and thereby feeling that they cannot carry out their obligations to their students, that, when we are spending $8 billion and $9 billion in the Elementary and Secondary Education Act, and this is targeted to the poorest and the most disadvantaged children in our society, that the least we could do for the shareholders of this operation, for the taxpayers, is to ensure that those children, where we are sending Federal money, would be entitled to have a qualified teacher teach them the subject for which they are teaching.

□ 1330

That sounds fairly logical, that no longer should we continue to tolerate a teacher who is schooled and qualified in English having to teach geometry against their will or against their qualifications, or let us say we have a PE teacher who is qualified to teach PE all of a sudden teaching algebra because it is convenient for the school district or they cannot find a qualified person. We start to ask the question, no wonder these children are falling behind in their test scores and such.

But this amendment never did have any impact on home schoolers. That never was intended. It was discussed in the committee, and the approach was within the public school system to make sure that qualified individuals were teaching our children the subject they were qualified to teach. Unfortunately, that was locked onto for political reasons to generate scare tactics, and unfortunately my colleagues have received many phone calls from people who have been misled and who misunderstand the amendment. But that was to the ends of certain individuals' political purposes. Those same people, unfortunately, because of scare tactics, have spent their money, taken their children out of school, and come here to lobby. I hope that is a good civics lesson, and that is certainly their right to do so. But that was never the amendment nor the language that was in this legislation.

What went on here in the last 4 or 5 days has nothing to do with the language in this bill. It has to do with some other agenda of organizations that decided they were going to steam up a lot of parents and a lot of individuals who are genuinely deeply concerned about the education of their children, their right to have their children in private schools, and the right to teach their children at home. That right is honored by this committee, by this legislation, and, I believe, by every Member of this Congress. But somebody could not pass up the political opportunity to gin those people up and arouse them and have them spend their time, their money, and their resources beseeching the Congress on a problem that never existed.

And if I understand the debate that has taken place here in the last few minutes, the solution to that problem now is even worse than the perceived problem they were talking about that they were going to cure. There were numerous opportunities to cure the perceived problem earlier. People chose not to avail themselves of that opportunity because they wanted the political advantage, they wanted the phone calls, they wanted the scare tactics, and they wanted the result they have now. The result will be that children in title I will continue to be taught by many teachers who do not have the ability nor the qualifications to teach those children. That is a tragic end to this story.

Mr. GOODLING. Mr. Chairman, I yield back the balance of my time.

Mr. FORD of Michigan. Mr. Chairman, I yield 1 minute to the gentleman from Michigan [Mr. KILDEE].

Mr. KILDEE. Mr. Chairman, in response to the question from the gentleman from Illinois, I want to add also that the Ford-Kildee amendment refers to all home schools, however they are classified by the States. The reference is to all home schools.

Mr. FORD of Michigan. Mr. Chairman, I yield back the balance of my time.

The CHAIRMAN. All time has expired.

The question is on the amendment offered by the gentleman from Michigan [Mr. FORD].

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

RECORDED VOTE

Mr. FORD of Michigan. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 424, noes 1, not voting 13, as follows:

[Roll No. 31]

AYES—424

Abercrombie
Ackerman
Allard
Andrews (ME)
Andrews (NJ)
Applegate
Archer
Armey
Bacchus (FL)
Bachus (AL)
Baesler
Baker (CA)
Baker (LA)
Ballenger
Barca
Barcia
Barlow
Barrett (NE)
Barrett (WI)
Bartlett
Barton
Bateman
Becerra
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
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
Dooley
Doolittle
Dornan
Dreier
Duncan
Dunn
Durbin
Edwards (CA)
Edwards (TX)
Ehlers
Emerson
Engel
English
Eshoo
Evans
Everett
Ewing
Farr
Fawell
Fazio
Fields (LA)
Fields (TX)
Filner
Fingerhut
Fish
Flake
Foglietta
Ford (MI)
Ford (TN)
Fowler
Frank (MA)
Franks (CT)
Franks (NJ)
Frost
Furse
Gallegly
Gallo
Gekas
Gephardt
Geren
Gibbons
Gilchrest
Gillmor
Gilman
Gingrich
Glickman
Gonzalez
Goodlatte
Goodling
Gordon
Goss
Grams
Grandy
Greenwood
Gunderson
Gutierrez
Hall (OH)
Hall (TX)
Hamburg
Hamilton
Hancock
Hansen
Harman
Hastert
Hayes
Hefley
Hefner
Herger
Hilliard
Hinchey
Hoagland
Hobson
Hochbrueckner
Hoekstra
Hoke
Holden
Horn
Houghton
Hoyer
Huffington
Hughes
Hunter
Hutchinson
Hutto
Hyde
Inglis
Inhofe
Inslee
Istook
Jacobs
Jefferson
Johnson (CT)
Johnson (GA)
Johnson (SD)
Johnson, E. B.
Johnson, Sam
Johnston
Kanjorski
Kaptur
Kasich
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)
Lightfoot
Linder
Lipinski
Livingston
Lloyd
Long
Lowey
Machtley
Maloney
Mann
Manton
Manzullo
Margolies-Mezvinsky
Markey
Martinez
Matsui
Mazzoli
McCandless
McCloskey
McCollum
McCrery
McCurdy
McDade
McHale
McHugh
McInnis
McKeon
McKinney
McMillan
McNulty
Meehan
Meek
Menendez
Meyers
Mfume
Mica
Michel
Miller (FL)
Mineta
Minge
Mink
Moakley
Molinari
Mollohan
Montgomery
Moorhead
Moran
Morella
Murphy
Murtha
Myers
Nadler
Natcher
Neal (MA)
Neal (NC)
Norton (DC)
Nussle
Oberstar
Obey
Olver
Ortiz
Orton
Owens
Oxley
Packard
Pallone
Parker
Pastor
Paxon
Payne (NJ)
Payne (VA)
Pelosi
Penny
Peterson (FL)
Peterson (MN)
Petri
Pickett
Pickle
Pombo
Pomeroy
Porter
Portman
Poshard
Price (NC)
Pryce (OH)
Quillen
Quinn
Rahall
Ramstad
Rangel
Ravenel
Reed
Regula
Reynolds
Richardson
Ridge
Roberts
Roemer
Rogers
Rohrabacher
Romero-Barceló (PR)
Ros-Lehtinen
Rose
Rostenkowski
Roth
Roukema
Rowland
Roybal-Allard
Royce
Rush
Sabo
Sanders
Sangmeister
Santorum
Sarpalius
Sawyer
Saxton
Schaefer
Schenk
Schiff
Schroeder
Schumer
Scott
Sensenbrenner
Serrano
Sharp
Shaw
Shays
Shepherd
Shuster
Sisisky
Skaggs
Skeen
Skelton
Slattery
Slaughter
Smith (IA)
Smith (MI)
Smith (NJ)
Smith (OR)
Smith (TX)
Snowe
Solomon
Spence
Spratt
Stark
Stearns
Stenholm
Stokes
Strickland
Studds
Stump
Stupak
Sundquist
Swett
Swift
Talent
Tanner
Tauzin
Taylor (MS)
Taylor (NC)
Tejeda
Thomas (CA)
Thomas (WY)
Thompson
Thornton
Thurman
Torkildsen
Torres
Torricelli
Towns
Traficant
Tucker
Underwood (GU)
Unsoeld
Upton
Valentine
Velázquez
Vento
Visclosky
Volkmer
Vucanovich
Walker
Walsh
Watt
Waxman
Weldon
Wheat
Whitten
Williams
Wise
Wolf
Woolsey
Wyden
Wynn
Yates
Young (AK)
Young (FL)
Zeliff
Zimmer

NOES—1

Miller (CA)

NOT VOTING—13

Andrews (TX)
de Lugo (VI)
Faleomavaega (AS)
Gejdenson
Green
Hastings
Kennedy
Kennelly
McDermott
Synar
Washington
Waters
Wilson

□ 1354

Ms. SHEPHERD changed her vote from "no" to "aye."

So the amendment was agreed to.

The result of the vote was announced as above recorded.

PERSONAL EXPLANATION

Mr. DE LUGO. Mr. Chairman, I missed the vote on the Ford-Kildee amendment earlier in the day as I was chairing a meeting on the nuclear problem in the Marshall Islands and got here a few seconds late. Had I been here I would have voted in support of the Ford-Kildee amendment.

PERSONAL EXPLANATION

Mr. McDERMOTT. Mr. Speaker, on rollcall vote No. 31 I was unavoidably detained.

Had I been here I would have voted yes.

The CHAIRMAN. It is now in order to consider amendment No. 2 printed in House Report 103–426.

AMENDMENTS EN BLOC OFFERED BY MR. ARMEY

Mr. ARMEY. Mr. Chairman, I offer amendments en bloc.

The CHAIRMAN. The Clerk will designate the amendments en bloc.

The text of the amendments en bloc is as follows:

Amendments en bloc by Mr. ARMEY:

On page 218, line 14, insert "public" before "schools" and strike "under the jurisdiction of the agency".

On page 218, line 16, after "assigned." insert the following new sentence:

"Nothing in this subsection shall be construed to require the certification or regulation of teachers in any private, religious, or home school.".

On page 735, line 6, insert "institutional" after "nonprofit".

On page 737, line 13, insert "institutional" after "nonprofit".

On page 762, after line 8, insert the following new section:

"SEC. . GENERAL PROVISION REGARDING NON-RECIPIENT NONPUBLIC SCHOOLS.

"Nothing in this Act shall be construed to permit, allow, encourage, or authorized any federal control over any aspect of any private, religious, or home school that does not receive funds or does not participate in programs or services under the Act.".

MODIFICATION OF AMENDMENTS EN BLOC OFFERED BY MR. ARMEY

Mr. ARMEY. Mr. Chairman, I ask unanimous consent that the amendments en bloc be modified.

The CHAIRMAN. The Clerk will report the modification.

The Clerk read as follows:

Amendment, as modified by Mr. ARMEY:

On page 735, line 6, insert "institutional" after "nonprofit".

On page 737, line 13, insert "institutional" after "nonprofit".

On page 762, line 9, insert the following new section and redesignate subsequent sections accordingly:

"SEC. 9508. GENERAL PROVISION REGARDING NON-RECIPIENT NONPUBLIC SCHOOLS.

"Nothing in this Act shall be construed to permit, allow, encourage, or authorize any federal control over any aspect of any private, religious, or home school, whether or

not a home school is treated as a private school or home school under state law. This section shall not be construed to bar private, religious, or home schools from participation in programs or services under the Act.".

□ 1400

The CHAIRMAN. Is there objection to the modification to the amendment offered by the gentleman from Texas [Mr. ARMEY]?

There was no objection.

The text of the amendments en bloc, as modified, is as follows:

Amendments en bloc, as modified, by ARMEY:

On page 218, line 14, insert "public" before "schools" and strike "under the jurisdiction of the agency".

On page 218, line 16, after "assigned." insert the following new sentence:

"Nothing in this subsection shall be construed to require the certification or regulation of teachers in any private, religious, or home school."

On page 735, line 6, insert "institutional" after "nonprofit".

On page 737, line 13, insert "institutional" after "nonprofit".

On page 762, line 9, insert the following new section and redesignate subsequent sections accordingly:

"SEC. 9508. GENERAL PROVISION REGARDING NON-RECIPIENT NONPUBLIC SCHOOLS.

"Nothing in this Act shall be construed to permit, allow, encourage, or authorize any federal control over any aspect of any private, religious, or home school, whether or not a home school is treated as a private school or home school under State law. This section shall not be construed to bar private, religious or home schools from participation in programs or services under the Act.".

The CHAIRMAN. The gentleman from Texas [Mr. ARMEY] will be recognized for 30 minutes, and the gentleman from Michigan [Mr. KILDEE] will be recognized for 30 minutes in opposition to the amendment.

The Chair recognizes the gentleman from Texas [Mr. ARMEY].

Mr. ARMEY. Mr. Chairman, let me begin by expressing my appreciation to the gentlemen from Michigan [Mr. KILDEE and Mr. Ford], the gentleman from Pennsylvania [Mr. GOODLING] and the gentleman from Wisconsin [Mr. GUNDERSON], other members of the committee, and in fact to all the Members of this body for their patience with respect to this issue.

The issue became an issue because there were people across this country who have sought refuge from the mandates to public education from the Federal Government by either enrolling their children in private schools or maintaining their children in a home school. These people have what we now can clearly all understand and agree is an extraordinary commitment to the preservation of their own freedom as parents and educators.

The question was raised among these people across the country over, in particular, section 2124(e), which has just been deleted by an amendment which we passed, offered by the chairman, the gentleman from Michigan [Mr. FORD], and over other possible intrusions against their freedom from the bill itself.

It came to my attention, and I have worked with the attorneys for the home schoolers, I have worked with the attorneys for the National Association of Christian Schools, and I have worked with the attorneys from the Catholic schools to try to come up with, in particular, section 9508, which was just written in such a way as to accomplish a protection of the freedoms yet allow the voluntary, and I might say very generous, participation in many of these programs, especially by the Catholic schools, without fear of Government control over the affairs of the school.

It has been a long and arduous task. It has tried the patience of all of us, but we believe now, with full confidence, that this language provides that protection to everybody considered. In particular, the expression we find, that whether or not a home school is treated as a private school or a home school under State law, protects all home schoolers, even those in the 17 States where home schooling is prescribed by State law and definition as private school.

This sentence in the section that says, "This section shall not be construed to bar private, religious, or home schools from participation in programs or services under the Act," protects the rights primarily of the Catholic schools to continue their generous participation on behalf of children across this Nation in these programs, without sacrificing the autonomy and control of their own programs to Federal mandate.

I am confident that this language solves everybody's problem and gives them a reassurance that their freedoms are protected. There are many among us who would argue that, in fact, the language is not needed, that those protections are already granted by this bill or by other legislation. That may or may not be the case.

The fact still remains that many people across the country, as we all know so well, have felt and do feel threatened and are confident that the passage of this amendment will assure that their freedoms will be enjoyed in the home rather than defended in the courts.

Still, nevertheless, Mr. Chairman, let me assure everybody concerned, those who in fact are in their own home schools or their own private schools, those who are in this body, that I will seek to be on the conference that attempts this legislation, and I will cooperatively and willingly continue to work with everybody to make very certain that the final bill has language that will in fact provide everybody the guarantee that their freedoms will not be impinged upon by this legislation.

This is an extraordinarily important thing. Clearly we have seen that the people who love this freedom for themselves and their family will rise to the defense of that freedom. We think we can resolve the issue with the passage of this amendment. They can feel secure in their homes this weekend and then beyond, and we will continue to work with everybody in the most cooperative fashion possible to make sure we have the most perfect language from the conference, should there be any remaining reservations about this language.

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

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

Mr. Chairman, I am sure we all have the same purpose and the same objective here. I am not convinced that this language will still not get us into a constitutional thicket and get us into court on those dollars that have been flowing to the private schools, the parochial schools, for a number of years under the decision of this Congress.

Mr. Chairman, I am not convinced that the gentleman's language remedies what was defective in his original amendment. For that reason, I am not going to support the gentleman's amendment.

I think we have had probably plenty of debate in debating the previous amendment, and I am not going to take any more time, but I will look forward to working with everyone to make sure that we have the proper language. I am not convinced we have it here in the gentleman's amendment.

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

Mr. ARMEY. Mr. Chairman, let me suggest that I have a large number of people who have requested time to speak on this. In consideration for those who have asked, I must maintain my time.

Mr. KILDEE. Mr. Chairman, I yield such time as he may consume to the gentleman from Michigan [Mr. FORD].

Mr. FORD of Michigan. Mr. Chairman, I would like to engage with the gentleman from Texas [Mr. ARMEY] in a colloquy, if possible.

Mr. Chairman, we have been working with the gentleman as he has tried to amend his amendment to meet problems he did not anticipate when he first started out with it. I know he has been working in good faith to try to get it to come as close to satisfying the private school interests that are now upset by the amendment as possible.

I am looking now, Mr. Chairman, at section 432 of the General Education Provisions Act, which was passed in 1970, and does not come up for reauthorization. It is permanent law, unless somebody introduces legislation to change it.

In this permanent law, Mr. Chairman, it says:

Prohibition against Federal control of education. No provision of any applicable program shall be construed to authorize any department, agency, officer, or employee of the United States to exercise any direction, supervision, or control over curricula, program of instruction, administration, or personnel of any educational institution, school, or school system, or over the selection of library resources, textbooks, or other printed or published instructional materials by any educational institution or school system, or to require the assignment of transportation of students or teachers in order to overcome racial imbalance.

I know where the gentleman wants to come out, I believe, and we agree with him on where he would like to get. The problem that this revised amendment leaves us with is that it repeats, unfortunately redundantly, protections that are already in permanent law, but it does not repeat them all.

The lawyers in this Chamber will appreciate the fact that if the gentleman is looking for a way to get himself into court, and we take action to reenact something, but we leave part of it out, that is a strong enough argument to get him into court.

There are groups that do not like to see parochial schools get any of the benefits that they presently get from these programs. That is the reason the parochial schools are concerned about an amendment that could be construed to have changed longstanding law that has never successfully been challenged, 24 years now this year, 24 years in April, it was.

This is the problem I have with this. I am not objecting to the gentleman making these changes. I want him to have a vote on his amendment. I hope we vote soon. I am, unfortunately, in a position where I have to play it safe and vote "no," and hope if it does pass I will be able to straighten it out in a conference with the Senate.

Mr. DE LA GARZA. Will the gentleman yield?

Mr. FORD of Michigan. I yield to the gentleman from Texas.

Mr. DE LA GARZA. I thank the gentleman for yielding.

Mr. Chairman, I have been listening to the debate. My understanding, and if the gentleman would verify that, is that the issue of the personal education of the home schools, that is settled, is that correct?

Mr. FORD of Michigan. That is correct.

Mr. DE LA GARZA. If the gentleman will continue to yield, now what we have left in the discussion, technical as it may be, is on the private or parochial schools, is that correct?

Mr. FORD of Michigan. That is correct, and the parochial schools in particular, not church-related private schools. They would not be affected.

Mr. DE LA GARZA. So the parochial schools, if the gentleman will continue to yield, are those identified solely as Catholic or Lutheran, Episcopal, and the other ones?

Mr. FORD of Michigan. Catholic, Baptist, Lutheran, Hebrew day school, any school that is related to a religion and has as part of its function the teaching of the tenets of that religion, Christian schools.

Mr. DE LA GARZA. Christian schools. So the area that was concerned on home education or home schools, that has been corrected? That is satisfied, under the amendment adopted?

Mr. FORD of Michigan. That is correct.

Mr. DE LA GARZA. If the gentleman will yield further, this one could, in some way, endanger the assistance to the so-called parochial or private schools?

Mr. FORD of Michigan. That is their belief, communicated to us.

Mr. DE LA GARZA. I thank the gentleman for making it clear, so we may be able to address the issue adequately.

Mr. ARMEY. If the gentleman will yield, I was under the impression, Mr. Chairman, that when he rose he wanted to engage me in a colloquy.

Mr. FORD of Michigan. Mr. Chairman, that can be done very easily.

Mr. Chairman, I would ask the gentleman, is it his intent that notwithstanding any language in his amendment that might be construed by anybody or the courts to the contrary, that he intends to ensure all of the protections that are in the permanent law in section 432, prohibition against Federal control of education, in the General Education Provisions Act?

Mr. ARMEY. Will the gentleman yield?

Mr. FORD of Michigan. I yield to the gentleman from Texas.

Mr. ARMEY. Mr. Chairman, it is my intent, of course, to do honor to those provisions. We see, as the chairman himself so aptly pointed out, that although my amendment may have a redundancy to that, it does not in fact belie any of the provisions of that bill, and there are some provisions of the bill that are not covered by my amendment.

My response to the gentleman is that redundancy in defense of freedom is a virtue, and I do not mind committing that redundancy just for further assurance.

Mr. FORD of Michigan. I just wanted the gentleman to make clear on the record, so courts trying to interpret what we are doing here will understand that the gentleman recognizes that what he is doing is simply reenacting the already existing law, and he does not intend to change it.

Mr. ARMEY. If the gentleman will yield further, I do not intend to change the authority of section 432, as the chairman has just read.

Mr. FORD of Michigan. I thank the gentleman.

Mr. ARMEY. Mr. Chairman, I yield 1 minute to the gentleman from Illinois [Mr. HYDE], the distinguished leader of the Republican Policy Committee.

Mr. HYDE. Mr. Chairman, briefly, I support the so-called Armey amendment. I think it improves on the so-called Ford amendment, which I welcome, but the Ford amendment only talks about home schools, and there are private schools that are equally involved in this intrusive attempt or apparent attempt to require certification of them.

Mr. Chairman, I am satisfied that that was not the intention, but there is a well-known road paved with good intentions, and it is well to specify what the gentleman is talking about.

The so-called Armey amendment does indeed do that, and specifies that home schools, even those home schools that are defined as private schools in 17 States, and private schools, need not be certified as public schools are.

I am convinced that the parochial schools, the private schools, will not suffer any diminution in benefits that they receive under the existing law now.

□ 1410

So I wholeheartedly support the Armey amendment.

Mr. ARMEY. Mr. Chairman, I yield 1 minute to the distinguished gentleman from Ohio [Mr. BOEHNER], a member of the Committee on Education and Labor.

Mr. BOEHNER. Mr. Chairman, if there is anything that we have heard over the past week with the thousands of phone calls that all of us have received in our offices, it is that the American people want us to stay out of their education system. My wife and I, as the mother and father of two daughters in public schools, want our neighbors and community leaders to make decisions about our schools. We do not need Federal bureaucrats in Washington, DC, making decisions that affect the education of our children.

Now we have before us a 900-page bill that virtually no Member of this body has read. That is how these problems come to this body.

The Armey amendment fixes one of those problems. But we ought to remember to take time as we are legislating to make sure that we know what we are doing, to make sure that we know what is in the legislation before we bring it to this floor.

The Armey amendment is a good amendment. I believe it does protect parochial schools, and as one who spent 16 years in parochial schools, along with my 11 brothers and sisters, I am satisfied that parochial schools are well covered with this language.

Mr. KILDEE. Mr. Chairman, I yield such time as he may consume to the gentleman from Pennsylvania [Mr. GOODLING].

Mr. GOODLING. Mr. Chairman, I plan to vote for the amendment with the understanding that we will have the language corrected before it be-

comes law so that we do not have 6 million telephone calls instead of 1 million, and because I believe we could get to that point. So I hope we will get everything corrected before anything becomes law.

Mr. KILDEE. Mr. Chairman, I yield such time as she may consume to the gentlewoman from Hawaii [Mrs. MINK].

Mrs. MINK. Mr. Chairman, the colloquy that we just heard between the gentleman from Texas [Mr. ARMEY] and the chairman of the full committee indicates that the pending amendment is merely to reiterate what already is the law, and that the aspects of redundancy ought to be ignored even though the purported redundancy might create an enormous amount of mischief. And I want to cite why this mischief ought to caution us, despite the phone calls and the faxes that we are receiving, not to vote for this amendment.

We have been advised by the parochial schools, by other private schools that this is a very mischievous amendment. It comes to us under a guise of misunderstanding, that there are no Federal regulations whatsoever that control the use of Federal funds under the Elementary and Secondary Education Act. It is not true.

People have gone to court. This is a very contentious issue, and as a result of the decisions by the courts, there are carefully construed procedures by which private and parochial and other religious schools may expend Federal funds. Some of them are very complicated. They make no sense.

For instance. a public school teacher may not go onto a private school premise in order to utilize Federal funds for the benefit of private children. Computers may be put into private schools, but they may not be utilized and the use may not be under the control of the private or parochial teacher. It must be under the control of the public school system. Under title 2 they can buy books and so forth, but they must be property of the public school system, and on and on. There is an abundance of procedural regulations that have been required because of litigation. And when the chairman say when a redundancy may appear to be innocent, what he is cautioning this body is if we change, even a minutiae, the wording of existing law, we are inviting litigation, and the parochial and private schools are concerned that we are changing the content of the provisions of existing law which have been carefully worked out over the 20-someodd years that it has worked.

□ 1420

None of us want to see any prejudice whatsoever to the ability of private and parochial schools to benefit from the use of Federal funds for the particular targeted children But if we adopt this amendment, we are inviting chaos and further litigation.

So I urge this House to vote down this amendment.

Mr. ARMEY. Mr. Chairman, I yield such time as she may consume to the gentlewoman from Washington [Ms. DUNN].

Ms. DUNN. Mr. Chairman, I thank the gentleman for yielding.

Mr. Chairman, I am the watchdog for over 1,500 people who have called in to my office.

Mr. ARMEY. Mr. Chairman, I yield 1 minute to the distinguished gentleman from Virginia [Mr. WOLF].

Mr. WOLF. Mr. Chairman, I rise in strong support of the Armey amendment.

While I strongly support public schools, and my five children have gone to public schools, and I went to public schools, I believe every parent ought to have the opportunity to send their children to public schools, parochial schools, private schools, or home school.

What has happened here, and the body ought to recognize it, is that the American people were upset. Moms and dads who are concerned about what was going to happen to take away their right to educate their children called the Congress, and I think it is important that they know that by calling the Congress they have moved this body. They have made a difference. So their participation is helpful and they are to be congratulated.

Let me just take a second to commend the gentleman from Texas [Mr. ARMEY]. I have confidence that members of the committee will work together to resolve this problem. But the Armey amendment, when it comes up for a vote, is a good yes vote to send a message back to mothers and fathers and parents that they have the right to determine the education for their children.

Education faces many important challenges. I firmly believe, however, that it is up to parents to determine what is best for their children. Parents must be the decisionmakers for their children's future, not the government. Parents, no governments, are the best arbiters about what is best for their kids.

Many parents opt to send their children to nonpublic schools or to home school their children for a variety of reasons. Some send their children to nonpublic schools for religious reasons, cultural reasons, or because the alternative school offers opportunities that are not afforded by public schools.

Mr. Chairman, we need to support all of our schools—public, private, religious, and home schools. There are probably as many ways to raise and teach children as their are children and parents. What I do know is that parents are uniquely positioned to make a better determination about what is best for their kids than the government.

Mandatory certification of home school teachers and private school teachers will make it difficult if not impossible for these valuable alternatives to public school to continue to exist. The Armey amendment will make clear that the Federal Government is not going to be in the business of mandating certification of private, religious, or home schools.

Mr. Chairman, I strongly urge Members on both sides, in a bipartisan way to support this Armey amendment and reaffirm our commitment to preserving the autonomy parents should have in making critical education decisions for their kids.

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

Mr. Chairman, I am convinced that all of us here are trying to achieve the same goal. I think we all have good will on that.

The language that the gentleman from Michigan [Mr. FORD] and I offered in our amendment had been worked out very carefully with those who have been historically long involved in nonpublic education or religious education, the Catholic Conference, the Seventh-day Adventists. It was very carefully drafted.

My fear is that we may unintentionally restrict the participation of those religious and private schools in many of the programs that we have enacted over many, many years, because language written here on the floor, with scratched-out and something inserted and a caret put here and a deletion and a stet put here, and it is pretty hard to determine really what we have.

We are writing language that will affect the future of many schools in this country. So while I concur that we all are of good will here, good will alone will not guarantee that we will have the proper language.

Now, the gentleman from Michigan [Mr. FORD] and I worked very hard, worked with the various groups, with our own attorneys, here to get proper language, did not do this on the floor of the House, scratching out, putting carets and stets as were writing.

I say that only because, and I wish that the gentleman from Texas [Mr. ARMEY] would listen, because I am talking to him primarily, and I want some response, I know we both have the same goal in mind. I think we would concede that, that we have the same goal in mind.

But there are groups out there, and you know who they are, I say to the gentleman from Texas [Mr. ARMEY], there are groups out there who are ready to pounce on parochial schools, and this language, I fear, may give them an opportunity to drag those schools into court. That is my only fear. Maybe my fears are groundless.

But when I look at an amendment that is scratched out, stet, take it back in, caret here, insert here, I really do not like to write law that way that affects so many schools.

Now, I am sure in your own heart you are convinced this language is correct. I am not at all convinced yet. So I am not going to support it. Because I think this is an area of law in which we have to be most careful, because there

are groups out there that would like to drag certain schools into court.

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

Mr. ARMEY. Mr. Chairman, I yield myself such time as I may consume. Mr. Chairman, let me say very quickly that I do appreciate the point just made by the gentleman from Michigan [Mr. KILDEE], and that is why in fact we have sought counsel from and gotten an approval of support for our amendment from the American Association of Christian Schools, the Association of Christian Schools International, the National Association of Evangelicals, and those letters are here, and those will be submitted for the RECORD.

THE RUTHERFORD INSTITUTE,
Charlottesville, VA, February 17, 1994.

Hon. Congressman _____,
House of Representatives, Washington, DC.

DEAR CONGRESSMAN: The Rutherford Institute wishes to express its concern regarding the recent amendment of Congressman George Miller (D–CA) of H.R. 6, the legislation known as the "Improving America's Schools Act of 1994" and the constitutional and statutory basis for voting against the amendment. Congressman Miller's amendment appears to require all homeschooling parents within states that receive federal funding to be certified teachers. This would effectively prevent most parents from educating their children at home, including those who do so for religious reasons.

A provision such as Congressman Miller's poses serious constitutional and statutory concerns. For example, under the recently enacted Religious Freedom Restoration Act ("RFRA"), Congressman Miller's amendment would likely fail a challenge since it would pose a substantial burden on the free exercise of religion by homeschooling parents as well as those who send their children to religious schools.

In addition, the freedom of belief, which includes the freedom to formulate beliefs, is a fundamental right which may only be abridged by the government in order to achieve a compelling state interest and only by the least restrictive means possible. Clearly, teacher certification requirements are not the least restrictive means available to achieve any interest of the state in the education of its future citizens.

This matter is understood by the courts and state legislatures. Hence, only a few states have deemed it necessary to require teacher certification for homeschools and religious schools. Aside from constitutional concerns, the need for teacher certification in connection with home and religious schools has not been shown. For example, standardized tests show that students in homeschools often receive better educations than students in public or accredited private schools. In any case, most states have implemented other, more constitutional, means of achieving the state's interest in an educated citizenry such as portfolio and proficiency exams.

The right of privacy has been found to be a constitutionally protected fundamental right. The Supreme Court has arguably expanded this fundamental right through a long line of cases to include the right of parents to direct the education of their children and to be the primary decisionmakers in the arena. Since this right also has fundamental protection, any requirement such as the one proposed by Congressman Miller must withstand the requirements of the U.S. Constitution as well as RFRA, as noted above.

A requirement for teacher certification that overrides state statutory schemes would also violate the basic constitutional notion that education is a right retained by the people under the Ninth Amendment to the U.S. Constitution. Moreover, since education of the American citizenry is not a power delegated to the federal government by the Constitution and education is not a power prohibited from the states, it is a power reserved to the states under the Tenth Amendment to the Constitution.

Finally, teacher certification requirements, favored by teachers' unions and the National Education Association, test the skill of the parents, not the students. Where the interests of the state in an educated populace are met and validated through ends-orientated means, means-oriented requirements are overly intrusive and unnecessary.

The Rutherford Institute is the leading legal organization in the United States in the area of religious civil liberty and has long been involved in matters affecting parents' rights and the free exercise of religion. As its founder and president, I litigated (and won) a homeschool case involving teacher certification which was one of the first homeschool cases litigated in the United States.

Since that time, the Institute has continued its active rule in these areas. As part of this effort, I recently co-authored a book with Alexis Crow, Legal Coordinator of The Rutherford Institute, entitled "Home Education: Rights and Reasons", a copy of which will be hand delivered to you tomorrow. Since time is short, I request that you read at least the sections of the book that deal with the matter of teacher certification and the academic performance of homeschooled students.

I would be pleased to provide any other material or information that would assist you in understanding the unconstitutional nature of Congressman Miller's amendment to H.R. 6.

Thank you for your serious consideration of this letter and supporting materials.

Sincerely,

JOHN W. WHITEHEAD,
President.

CONCERNED WOMEN FOR AMERICA,
Washington, DC, February 23, 1994.

HOUSE OF REPRESENTATIVES,
Washington, DC.

DEAR REPRESENTATIVE: Concerned Women for America joins in wholehearted support of the amendment by Congressman Dick Armey to clarify the scope of H.R. 6 by specifically protecting private and home education. CWA has long been a supporter of the right of parents to determine the method of education best suited for their children, whether public, private, religious, or home-based.

With rising school violence, declining achievement scores, and high pupil to teacher ratios, growing numbers of parents are electing non-public schooling for their children. Such options are effectively eliminated through recent language changes to H.R. 6 which add onerous certification requirements per subject matter for all teachers nationwide, whether public, private or home-based.

In the face of the firestorm of protest from parents of private and home-educated students, Congressman George Miller now claims that his amendment never sought to regulate private or home schools. This appeal seems rather disingenuous since Mr. Miller and the Education and Labor Committee earlier rejected the clarifying amendment by Congressman Armey.

Therefore, it is incumbent upon Congress to match rhetoric with action. If indeed the Miller language were never intended to cover non-public schools, the Armey Amendment should be overwhelmingly adopted on the House floor. Any alternative amendment is not acceptable and must be opposed.

Concerned Women for America urges you to protect parental choice by supporting the Armey Amendment. We will be monitoring this important vote respecting federal control over education.

BEVERLY LAHAYE,
President.

COALITIONS FOR AMERICA,
Washington, DC, February 23, 1994.

Hon. RICHARD ARMEY,
Cannon House Office Building,
Washington, DC.

DEAR CONGRESSMAN ARMEY: On Thursday, February 24th, the House is scheduled to vote on H.R. 6, the Elementary and Secondary Education Act which significantly threatens the freedom and effectiveness of private and home schools. H.R. 6 would require state certification for all home school parents and teachers of non profit religious schools.

According to section 2124 (e) of the proposed bill (p. 201) would require that each local education agency beginning with the 1998–99 school year to assure the Secretary of Education that every fulltime teacher within its school district is certified to teach in the subject area to which he/she is assigned.

This language could be interpreted to mean home schooling parents must be state-certified before they can teach their children. This also encourages further church/state entanglement with the certification of religious school teachers.

Coalitions for America is an umbrella group of conservative social, economic and pro-defense organizations that support efforts to stop government intervention of personal freedoms.

Coalitions for America fully endorses your amendment to protect home school and private school freedom. We are urging other members to support your amendment as well.

Sincerely,

ERIC LICHT,
President.

ASSOCIATION OF CONCERNED TAXPAYERS,
Washington, DC, February 22, 1994.

House of Representatives,
Washington, DC.

DEAR MEMBER OF CONGRESS: The members of the Association of Concerned Taxpayers nationwide are in strong support of the efforts of Rep. Dick Armey to protect the rights of home-schooling parents to educate their children free from bureaucratic interference. The issue goes much further than the specific provision in H.R. 6. Crucial to the future success of education in the United States is the flexibility to reach beyond the current pool of NEA-certified teachers to others with real expertise in various subjects. Without that the tax burden of education will eventually consume the entire State and local budget.

ACT is opposed to the federalizing tendency expressed in all the provisions of H.R. 6, but at a minimum, we need the protections contained in the Armey Amendment. I strongly urge you to vote for the Armey

Amendment and to oppose any attempts to weaken its provisions.

Sincerely,

GORDON S. JONES,
President.

AMERICANS FOR TAX REFORM,
Washington, DC, February 23, 1994.

DEAR MEMBER OF CONGRESS: On behalf of the 60,000 members of Americans for Tax Reform, I am writing to offer our strong support for Rep. Dick Armey's amendment to H.R. 6, the Elementary and Secondary Education Act.

In its present form, H.R. 6 would dramatically expand the role of the federal government by providing for federal regulation of private and home school students. This takes American education in exactly the wrong direction while taxpayers—both those who choose public schools for their children and those who choose private schools—foot the bill in the form of higher federal spending and additional tax hikes at the federal, state and local level.

The Armey amendment will do much to make a bad bill less bad.

I strongly encourage you to support and vote for the Armey amendment when it comes to the floor and against any amendment that would weaken the impact of the Armey amendment.

Sincerely,

GROVER NORQUIST,
President.

AMERICAN LEGISLATIVE
EXCHANGE COUNCIL,
Washington, DC, February 24, 1994.

Hon. RICHARD K. ARMEY,
House of Representatives, Cannon House Office Building, Washington, DC.

DEAR CONGRESSMAN ARMEY: The American Legislative Exchange Council is the nation's largest bi-partisan individual membership organization of state legislators, with 2,500 members throughout the 50 states, Puerto Rico and Guam.

The American Legislative Exchange Council is strongly opposed to the mandate, currently contained in H.R. 6, requiring all teachers in public, private and home schools to be certified under the guidelines of their state educational agency, as included in the "Miller" amendment.

Current law dictates that public school teachers are required to be certified. By expanding this to include all schools, the "Miller" amendment would essentially end home schooling and severely impair private and religious schools. This legislation would further increase federal control in an area which has traditionally been under state authority. Additionally, it would strip away at the rights of parents to choose the manner in which their children are educated.

The American Legislative Exchange Council supports your amendment to H.R. 6 which would exclude private schools and home schools from the scope of the "Miller" amendment.

Respectfully,

SAMUEL A. BRUNELLI,
Executive Director.

AMERICAN FAMILY ASSOCIATION,
Washington, DC, February 24, 1994.

Hon. DICK ARMEY,
House of Representatives, Cannon House Office Building, Washington, DC.

DEAR REPRESENTATIVE ARMEY: On behalf of our President, Dr. Donald E. Wildmon, and the more than one million supporters of the American Family Association, I would like to express strong support for your amendment to eliminate the provision in H.R. 6 which would require state certification for teachers in private schools and home schools.

Without the Armey Amendment, H.R. 6 would eliminate nearly all home schools in America and deal a grievous blow to private Christian schools.

Your leadership on this important matter is appreciated by the American Family Association.

Most sincerely,

PATRICK A. TRUEMAN,
Director of Governmental Affairs.

CHRISTIAN COALITION,
CAPITOL HILL OFFICE,
Washington, DC, February 23, 1994.

STOP THE FEDERAL POWER GRAB OVER LOCAL EDUCATION—VOTE "YES" ON THE ARMEY AMENDMENT!

DEAR MEMBER OF CONGRESS: On behalf of the one million members and supporters of the Christian Coalition, we would like to express our strong support for Congressman Dick Armey's amendment to eliminate the provision in H.R. 6 which would require state certification for teachers in private and home schools.

This provision in H.R. 6 represents an outrageous grab for power by the education bureaucracy. The Armey amendment addresses a grievous provision in this legislation that would undermine parental rights and threaten private and home schools with burdensome government regulation. We urge you to support this amendment because it would prohibit requiring state certification of private schools and home schools.

The Christian Coalition will include the vote on the Armey Amendment in its upcoming Congressional Scorecard which is distributed annually to 40 million voters throughout the United States. Please vote "yes" on the Armey Amendment.

If we can provide further information, please do not hesitate to contact us at (202) 547-3600. Thank you for your support on this important matter.

Sincerely,

MARSHALL WITTMANN,
Director, Legislative Affairs.
HEIDI SCANLON,
Director, Governmental Affairs.

AMERICAN ASSOCIATION OF
CHRISTIAN SCHOOLS,
Independence, MO, February 23, 1994.

Hon. DICK ARMEY,
House of Representatives,
Washington, DC.

DEAR CONGRESSMAN ARMEY: The American Association of Christian Schools (AACS) is one of the leading organizations of Christian schools in the country. Founded in 1972, the AACS serves over 140,000 students enrolled in approximately 1000 member school throughout the United States.

Congressman Armey, the AACS is very concerned about H.R. 6, the Elementary and Secondary Education Act, euphemistically titled the "Improving America's Schools Act". Generally speaking, H.R. 6 is a death blow to local control of education. As the National School Boards Association said on Dec. 30, H.R. 6 "is heavy-handed, undemocratic, and a direct threat to local supervision. It has no place in federal law."

More specifically, we in private, Christian schools are alarmed at the possibility of a state teacher certification mandate being applied to all schools—public, private, religious or home schools—regardless of whether we accept any federal funds or not. Congressman George Miller's amendment added on February 8 in the Education and Labor Committee during the mark-up of H.R. 6 is unacceptable. We consider this one of the most dangerous assaults on the freedom of Christian schools seen in recent history.

The AACS whole-heartedly supports the Home School-Private School Freedom Amendment. Thank you for your willingness to support this amendment. We will be working hard and praying hard for its passage.

Sincerely,

CARL D. HERBSTER,
President.

HOME SCHOOL
LEGAL DEFENSE ASSOCIATION,
Paeonian Springs, VA, February 17, 1994.

DEAR REPRESENTATIVE: H.R. 6 contains a provision which could be interpreted in a manner to drastically eliminate the right of virtually all home schoolers to educate their own children. §2124(e) would potentially require all home school parents to be certified teachers. This subsection is a recent addition to H.R. 6 by Representative George Miller.

No state currently requires parents to be certified teachers to home school their children. This has been a gradual change over the past decade. The last state to eliminate the teacher certification requirement was Michigan. Its requirement was eliminated by court decision in *Michigan* v. *DeJonge*, 501 N.W. 2d 127 (Mich. 1993) when the Supreme Court of Michigan ruled that it was unconstitutional to require religiously-motivated parents to be certified teachers.

Section 2124(2)(e) provides:

"ASSURANCE.—Each State applying for funds under this title shall provide the Secretary with the assurance that after July 1, 1998, it will require each local educational agency within the State to certify that each full time teacher in schools under the jurisdiction of the agency is certified to teach in the subject area to which he or she is assigned."

The definition of schools contained in H.R. 6 has been changed from current law. The new definitions are as follows:

"§9101 (11) The term 'elementary school' means a nonprofit day or residential school that provides elementary education, as determined under State law."

"§9101 (20) The term 'secondary school' means a nonprofit day or residential school that provides secondary education, as determined under State law, except that it does not include any education beyond grade 12."

The word "nonprofit" has been added to each of these definitions. Any prior ambiguity as to whether private and home schools were included in the definition of school has been eliminated by the addition of the word "nonprofit."

Moreover, Representative Dick Armey attempted to solve this problem in committee by adding the following amendment:

Nothing in this title shall be construed to authorize or encourage Federal control over the curriculum or practices of any private, religious, or home school.

However, this amendment was rejected in committee.

Based on this history, home schoolers believe that school officials will interpret this section to deem home schools to be "schools under the jurisdiction of the agency." Since most home schools must report some form of information to a local education agency, aggressive school officials will likely make this interpretation. They will therefore contend that home schools and private schools must

exclusively use teachers who are certified to teach the subject matter at hand. This is the equivalent of a nuclear attack upon the home schooling community.

We have spoken to Congressman Miller's office to seek an agreed amendment to this section to limit its provision only to public schools. While the staffer stated that it was not their intent to have this provision apply to home schools, she stated that they were currently unwilling to make any amendment to this section—not even an amendment which simply added the word "public" prior to the word school.

There have been several occasions in the recent past where language in an education bill could be plausibly interpreted to include home schools and private schools. In every case, the sponsor of such legislation has disclaimed any intent to harm the home school community. We have prepared a proposed Home School/Private School Freedom Amendment (copy attached) to make it clear that home schools and private schools are not to be subjected to any federal legislation unless it is specifically intended. This approach will allow us to not only solve the current crisis regarding H.R. 6, but will prevent any unintended conflict in the future.

Having been informed by committee staff that they intend to move H.R. 6 on a very fast track and bring it to the floor for a vote on February 23 or 24, we have launched a nationwide alert to home schoolers to ask them to contact their Congressmen and women. We hope you will support our requested amendment when it is voted on by the House.

If you are able to assure us of your support today or tomorrow, we will make every effort to contact the home school leadership in your district with the request that they do what they can to stem the tide of phone calls coming to your office.

Thank you so much for your kind consideration of our request.

Sincerely,

MICHAEL P. FARRIS,
President.

P.S.—Because of several complaints that staffers are unable to locate the relevant language on their computers, we have included a copy of the referenced sections of H.R. 6.

HOME SCHOOL
LEGAL DEFENSE ASSOCIATION,
Paeonian Springs, VA, February 23, 1994.

DEAR REPRESENTATIVE: We would like to clarify a few matters related to H.R. 6.

THERE IS A REAL DANGER TO HOME SCHOOLS AND PRIVATE SCHOOLS

Section 2124(e) as written by Rep. George Miller does pose a serious danger to private schools and home schools. The definition of "local education agency" is irrelevant to the correct legal analysis. The question is: "Are home schools and private schools under the jurisdiction of a local education agency?"

Based on our eleven years of defending home schools against legal challenges by local education agencies, it is beyond dispute that it is the position of local school authorities that home schools and private schools are under their jurisdiction. We are not willing to subject our freedoms to a court decision which will interpret the phrase "under the jurisdiction" of a local education agency.

The danger was seriously exacerbated when the Education committee rejected Dick Armey's original amendment. This amendment would have excluded home schools and private schools from the purview of this Act. If the intent of Congress was directed exclusively at public schools, what was the justification of rejecting Armey's original amendment?

By rejecting Armey's original amendment Congress created a legal presumption that it intended to force home schools and private schools to adhere to the standards in this legislation.

ANY AMENDMENT MUST EXEMPT HOME SCHOOLS AND PRIVATE SCHOOLS FROM THE ENTIRE ACT

HSLDA and dozens of other organizations (see attached list) are committed to the passage of the Armey amendment which protects private and home schools (which do not receive federal funds) from the application of any portion of this entire Act. An amendment which merely deals with §2124(e) is unacceptable. The "standards" sections in Title I repeatedly uses the phrase "all children." We do not want to take any risk that "all children" will be literally construed to mean all children, including homeschoolers. Armey's amendment protects all forms of private education from compelled compliance with these federal curricular "standards" which do not receive federal funds.

SPEAKER FOLEY HAS STATED HIS SUPPORT FOR THE PRINCIPLES REFLECTED IN THE ARMEY AMENDMENT

Speaker Tom Foley made a public statement at a community forum, Saturday, February 19, 1994, at Rogers High School in Spokane. He committed that he would vote for an amendment which would exempt home schools and private schools from this Act. To accept anything less than an amendment which exempts home schools and private schools from the entire Act would be irresponsible given our duty to protect the home schooling community from potential threats. Armey's amendment would meet the standard established by the Speaker. We heartily concur in the sentiment expressed by the Speaker.

WE ATTEMPTED TO RESOLVE THIS MATTER WITH REPRESENTATIVE MILLER BUT WERE STONEWALLED

We wish that a solution could have been attained without the full phone alert we have issued. However, on February 15 Mr. Miller's staff told us flatly what he would not agree to any amendments to §2124(e). With a vote only nine days away, we had no choice but to contact our entire constituency. If he had indicated any desire to negotiate, we would have delayed our alert, but we were flatly turned down. His own public printed releases from last week confirm that he would not agree to any amendment in advance. We would respectfully suggest that Mr. Miller's refusal to consider a clarifying amendment and the committee's rejection of Armey's original amendment are the proximate cause of all the phone calls. We hope that we can be consulted in advance in the future to avoid these problems.

THOSE CONCERNED ABOUT H.R. 6 GO FAR BEYOND THE HOME SCHOOLING COMMUNITY

Finally, if this outcry is understood to be limited to home schoolers, such analysis is not accurate. The people of this country do not want the federal government to dominate public education either. Your messages say "vote no on H.R. 6." We would urge Congress to strip away all provisions that usurp the principle of local control of schools. Few objections would be heard concerning aid to Title I schools. But the massive intrusion into all schools is simply ill-advised.

Thank you for your patience.

Sincerely,

MICHAEL P. FARRIS,
President.

HOME SCHOOL
LEGAL DEFENSE ASSOCIATION,
Paeonian Springs, VA, February 24, 1994.

DEAR REPRESENTATIVE: We once again urge you to vote for the Home School-Private School Freedom Amendment to H.R. 6 which will be offered today by Mr. Armey.

This organization provides legal representation to 37,000 families in all fifty states. We deal with thousands of legal controversies and dozens of lawsuits for home schoolers each year. Based on this considerable experience, it is our good faith professional opinion that many school officials and at least some judges would interpret home schools to be "schools under the jurisdiction" of a local education agency within the meaning of §2124(e).

If it is the intent of Congress to regulate only public schools and those private schools which receive federal funds, there is no legitimate reason why that intent should not be stated forthrightly.

There has been some discussion of the possibility of limiting the Home School-Private School Freedom Amendment to apply only to home schools. There are two problems with that approach. First, many private schools want this same protection since they have no desire to participate in federal funding. The American Association of Christian Schools, for example, has made it plain that they want to be a part of this protection. Moreover, in seventeen states home schools operate as private schools. In the majority of these seventeen states, the private school statute is the only means of statutory compliance for home schools. In the balance (approximately five states), the private school statute is an important alternative procedure for statutory compliance. For this reason, if Congress limited the protection of this Amendment to "home schools" it would end up failing to protect home schoolers in the following states: Alaska, Alabama, California, Colorado, Delaware, Illinois, Indiana, Florida, Kansas, Kentucky, Louisiana, Maine, Michigan, Nebraska, South Carolina, Texas, and Utah.

Home schoolers in these states would be justifiably upset if we agreed to language that failed to protect their interest.

We realize that you have received an extraordinary number of calls on this issue. We greatly appreciate your patience with our community in receiving their calls and letters. Thank you so much for listening to our concerns. We hope you will vote for the Home School-Private School Freedom Amendment today.

We would like to emphasize that regardless of how you vote, we want to express our genuine appreciation for your patience with our community and your constituents.

Sincerely,

MICHAEL P. FARRIS,
President.

HOME SCHOOL ORGANIZATIONS SUPPORTING PASSAGE OF THE ARMEY AMENDMENT

ALABAMA

Christian Home Education Fellowship of Alabama.*
Abundant Life School.
Anchor Christian Academy.
AOCHE.
Ashville Rd. Family Christian.
Atmore Christian School.
Auburn/Opelika Christian.
Baldwin Co. Home Educators.
Beacon Baptist Academy.
Believer's Christian School.
Bethel A/G Christian School.
Calvary Baptist Church.

Calvary Fellowship School.
Cathedral Christian Academy.
Cathedral Christian School.
Chattahoochee Valley Home School.
CHEAHA.
Christian Center.
Christian Educators at Home.
Christian Life Center.
Covenant Academy.
Covenant Christian Academy.
Covenant Christian School.
Crossroads Christian School.
Hope of Central Alabama.
Home Educators Lighting Pathways.
Evangel Family Christian.
Extended Hand Church.
Faith Christian School.
Faith Covenant Academy.
Faith Tabernacle Academy.
Fellowship Christian School of Double Springs.
Fellowship Christian School of Houston.
First Assembly of God.
Grace Baptist Satellite School.
Grace Bible Church School of Gadsden.
Grace Bible Church School of Dothan.
Harvest Christian Academy.
Heritage Academy of Tallessee.
Heritage Academy of Vestavia Hills.
Higher Ground Academy.
Hope Christian School.
I Am The Way . . . Truth . . . Life.
Jubilee Academy.
Leeds Christian Academy.
Maranatha Christian Academy.
Metro Christian School.
Mountain Top Christian School.
New Harvest Christian School.
New Hope Baptist Church.
New Life Christian School.
New Testament Baptist Church.
North AL Christian.
North AL Christian School.
North AL Friends School.
North AL Home Educators.
North AL Home School Organization.
Northside Assembly of God.
Omega Church School.
One Sense Church School.
Pathway Christian School.
Pintucky Christian School.
Riverwood Presbyterian Church Home School.
Russell County Support Group.
Simmsville Bible Church School.
Southwest Alabama Home Educators, Mobile.
Springville Road Community.
TEACH.
Tuscaloosa Home Educators.
Victory Baptist Church.
Vineyard Christian Academy.
Way Home Christian School of Holly Pond.
Way Home Christian School of Decatur.
Way Home Christian School of Arab.
Way Home Christian School of Athens.
Way Home Christian School of Cullman.
Way Home Christian School of Decatur.
Way Home Christian School of Falkville.
Way Home Christian School of Ardmore.
Way Home Christian School of Killen.
Way Home Christian School of Somerville.
Way Home Christian School of Scottsboro.
Whitesburg Baptist Christian.
Wiregrass Education Co-op.
Woodland West Christian.

ALASKA

Alaska Private & Home Educators Association.*

ARIZONA

Arizona Families for Home Education.*
Christian Home Educators Extension School, Lake Havasu.
Desert Hills Christian School.
Faithful Learners Home School Support Group, Phoenix.
Hualapai Home Schoolers, Kingman.
Havasu Home Educators.
Roadrunner Homeschool Support Group.

ARKANSAS

Arkansas Valley Christian Home Schoolers.
NWARK.

CALIFORNIA

Christian Home Education Association.*
Aliso Creek Presbyterian Church.
Anaheim Discovery Christian School/Independent Study Program.
Chalcedon Christian School, Murphys.
Christian Family Educators of Orange County.
Concerned Parents of Calaveras County Homeschool Ass.
Creekside Christian School.
Family Protection Ministries.
Magnolia Baptist Church.
North American Baptist Churches of Southern California.
Private/Home Educators of California.

COLORADO

Christian Home Educators of Colorado.*
Concerned Parents of Colorado.*
Bear Valley Home Schoolers Support Group.
Christian Cottage Schools.
Christian Family Educators, Pueblo.
Christian Home Educators of North Fork.
Christian Single Home Educators Network.
Colorado Heritage Education School System.
Colorado Springs Home School Support Group.
Estes Park Christian Home Educators.
F.A.I.T.H.
Foothills Bible Church Home School Support Group.
Front Range Eclectic Educators (FREE).
Golden Home School Group.
Grace Chapel Homeschoolers Support Group.
Grand County Home Educators.
Gunnison Valley Home Schoolers.
High Plains Home Educators Group, N.E.
Home Educators for Excellence in Durango.
Homeschoolers of Central Aurora.
Homeschoolers Under God (HUG), Elizabeth.
Longs Peak Home School Network, Longmont.
North Suburban Homeschool Association, Thornton.
Pleasant Hill Academy, Longmont.
Prairie Homeschoolers (North).
Prairie Homeschoolers (South).
Pueblo Home School Association.
Radiant Support Group of Colorado Springs.
San Juan Home Educators, Montrose.
Shema Christian Academy.
South Sheridan Baptist Church Home School Group, Denver.
Southern Adams County Home Educators.
Teller County Support Group.
Vineyard Southwest Homeschool Support Group.
West Prairie Homeschoolers.

CONNECTICUT

The Education Association of Christian Homeschoolers.*
Christ & Kids Homeschool Support Group.
Christian Educators at Home.
Christian Home Educators, New Haven.

DELAWARE

Old Capital Trail Academy.

FLORIDA

Florida Coalition of Christian Private School Administrators (FCCPA).*
Florida Parent Educators Association (FPEA).*
Home Education Foundation.*

GEORGIA

Georgia Home Education Association.*
Catthoochee Valley Homeschoolers.
C.H.E.R.I.S.H.
CRRA Home Education Association.
Fellowship of Christian Home Educators.
Greater Griffin Area Christian Home Educators.
Stewart-Webster County Home School Association.

HAWAII

Christian Home Schoolers of Hawaii.*
Christian Home Educators of Maui.

IDAHO

North Idaho Home School Education Association.
Idaho Coalition of Home Educators.*

ILLINOIS

Illinois Christian Home Educators.*
Christian Home Educators Coalition.*
Association of Peoria Area Christian Home Educators.
Carpenter Community Church Home Schoolers.
Chosen Generation Home School Support Group.
Christian Families for Home Education.
Christian Home Educators of Rockford.
Christian Liberty Academy Satellite Schools (CLASS).
Christians Actively Teaching at Home.
Grant City Home Educators.
Helping One Another Educate.
Illinois Family Institute.
Kane County Christian Home Schoolers.
Kankakee Christian Home Educators.
North West Suburban Christian Home Educators.
Oak Park Christian Home Educators.
Round Lake Christian Home Educators Association.

INDIANA

Indiana Association of Home Educators.*
Bethel Family Co-Op.
Berean Homeschools.
Broad Ripple Three Homeschool Support Group.
Christian Home Educators Association of North Dearborn.
Decatur County Home Educators.
Franklin County Homeschoolers.
Great Commission Academy.
Hamilton County East Home School Support Group.
Henders City Home Educators.
L.I.G.H.T.
Montgomery County Home Educators.
Morgan County Home Educators.
Northeast Indi-Elementary Grup, Indianapolis.
Putnam County Home Educators Support Group.
White River Home Educators.
Zionsville Home School Support Group.

IOWA

Network of Iowa Christian Home Educators.*
Abudon.
Algona.
Amea.
BYKOTA
Big Horn/Kimbalton.
Buena Vista.
Burlington Education Association of Christian Home Schoolers.

Calhoun County Support Group.
Carroll Support Group.
Catholic Home Schoolers of Iowa.
Central Iowa Home Schoolers.
Cedar Rapids Homeschool Support Group.
CHAMPS
Chariton.
Christian Homeschoolers of Dubuque.
Columbus Academy.
Council Bluffs.
Covenant Educators of Des Moines.
Creston
Dallas County Home School Support Group.
Families Associated in Triumphantly Homeschooling.
F.I.S.H.
Fort Dodge.
Green County.
Grimmell.
Hardin County Home Educators.
Heart and Home.
Heartland Home Educators.
Hicks Home School.
Home Educators for Excellence in Des Moines.
Home Educators In God's Honor Teaching Scholars.
Home Educators Learning Publication
Iowa City Christian Home Educators Fellowship.
Iowa City Home Learners.
Iowa County Area.
Iowa Falls.
Life Force.
Monroe County Support Group.
Mount Ayr.
North Iowa Christian Home Educators.
Northeast Montana County.
Northwest Iowa Home Educators.
Perry.
Pleasantville.
Plymouth Home Educators.
Quad Cities Area.
Red Oak.
Shenandoah.
Siouxland ACE Homeschoolers.
Southern Story County.
Southern Wayne County Support Group.
South East Woodberry.
South West Iowa Home School Association.
Supporting Home Educators in Eastern Polk.
Together Encouraging As Christian Homeschoolers.
Tri-State Homeschoolers.
Waterloo/Cederfalls.
Wisdom Seekers.

KANSAS

Christian Home Educators Confederation of Kansas.*
FAITH Home Schoolers Co-op.
Northwest Kansas Christian Family Educators.

KENTUCKY

Christian Home Educators of Kentucky.*
Kentucky Home Education Association.*
Ashland Home School Group.
Associates for Excellence in Education, Grayson County.
Carrollton Area Christian Home Educators (CACHE).
East Louisville Home Educators.
Heartland Home School Support Association, Elizabethtown.
Home Educators are Reaching Tomorrow for Christ.
Lakeland Home Educators, Paducah.
Oldham County Home Education Network.
Pennyrile Chapter of Christian Home Educators of Kentucky.

LOUISIANA

Christian Home Educator's Fellowship of Louisiana (CHEF)*
CHEF of Lafayette.
CHEF of New Orleans.
CHEF of the River Parishes.
The Tangipahoa Area Home School Support Group.
West St. Tammany Home Education Association.

MAINE

Christian Coalition of Maine.
Homeschoolers of Maine.*

MARYLAND

Maryland Association of Christian Home Educators.*
Christian Home Educators Network.*
Christian Home School Fellowship.
Greater Grace World Outreach.

MASSACHUSETTS

Mass. H.O.P.E.*

MICHIGAN

Information Network for Christian Homes.*
Christian Home Educators of Michigan (CHEM).
Alto Home Schoolers.
Branch County Area Home Schoolers.
Bridgefield 4-H Group.
Byron/Door Home Educators.
CARE.
Charlotte Area Christian Home Educators.
CHEM Ministry.
Christian Home Educators Association.
Christian Home Educators Extension.
Christian Home Educators Network of Hillsdale.
CHESS.
Covenant Life.
Dowagiac Area Home Schoolers.
FAITH.
FAST.
Fellowship Christian Association.
God's Harvest.
Gratiot Area Home School Support Group.
HEART.
Heartland HOMES.
Holland Area Home School Association.
HOME.
HOME.
Ionia County Home School Group.
JAHE.
KAHSA.
Koinonia.
KONOS Cooperative Schools.
Lakeshore Christian Home School Cooperative.
LATCH.
LEARN.
LIFE.
LIFE.
LIFE Support.
LIGHT.
LIGHT.
Macomb St. Clair Home Schoolers.
MARY.
Mason County Home Schoolers.
Michiana Christian Educators.
Mighty Warriors.
Mom's Alive.
Mount Pleasant Home Educators Association.
NATHHAN.
North Hampton County Home Educators.
NOTCH.
NW Connections.
Oceana County Home Schoolers.
Ogemaw Christian Home School Association.
PATH.
Portage/Schoolcraft/Vicksburg Support Group.
Precious Moments.
Resurrection Life Support Group.
Servants of Immaculata.
Sonrise Home Education Association.
Southfield Home School Support Group.
South Haven Home Schoolers.
South Lyon Area Support Group.
Thumb Area Christian Home Schoolers.
TEACH.
TEACHING.
Teemworks.
THEO.
TOUCH.
Tri-County Area.
True Life Center.
Twin Cities Scholars.
Upper Michigan Christian Home Educators.
Valley Home School Group.
Van Buren County Homeschoolers.
VICTORY.
The Voyagers.
Ward Home School Fellowship.
WATCH.
WISDOM.

MINNESOTA

Minnesota Association of Christian Home Educators.*
Minnesota Family Council.*
Minnetonka Home School Association.

MISSISSIPPI

Mississippi Home Educators Association.*

MISSOURI

Missouri Association of Teaching Christian Homes (MATCH).*
Missouri Association of Teaching Home Educators.*
Christian Home Education Fellowship.
Families for Home Education.
Home Education Association of Region III, Kansas City.
Practical Homeschooling.

NEBRASKA

Nebraska Christian Home Education Association.*
Ft. Calhoun Baptist Church Home Educators.
Southeastern Area Home School Support Group, Hickman.

NEW HAMPSHIRE

Christian Home Educators of New Hampshire.*

NEW JERSEY

Education Network Of Christian Home Schoolers (ENOCH).*

NEW MEXICO

New Mexico Christian Home Educators.*
Home Educators Association, Tucumcari.

NEW YORK

New York State Loving Education at Home (LEAH).*
Central Wayne County Chapter of LEAH.
Greene Chapter of LEAH.
Kinderhook Chapter of LEAH.
Livingston Chapter of LEAH.
LEAH—Region 6 representing 10 counties.
North County Home Schoolers.
Parents Instructing Challenged Children.
Port Gervis Chapter of LEAH.
Rensselaer County Chapter of LEAH.
Sempronius Chapter of LEAH.
Shawagunk Chapter of LEAH.
Southern Westchester Chapter of LEAH.
Syracuse Chapter of LEAH.
Tri-State Home Schoolers.
Ulster County Chapter of LEAH.

NORTH CAROLINA

North Carolinians for Home Education.*
H.O.M.E., Fayetteville.

NORTH DAKOTA

North Dakota Home School Association.*

OHIO

Christian Home Educators of Ohio (CHEO).*

Age to Age Christian Home Educators.
Ashtabula County Home Educators.
Bay Area Parent Educators.
Bedford County Christian Home Educators.
Christian Family Educators.
Christian Elective Educators of Ashtabula County.
Christian Heritage Home Schoolers.
Christian Home Educators of Cincinnati.
Christian Home Educators of Northwest Ohio.
Christian Home Educators of Southeast Ohio.
Christian Home Educators of Washington County, Marrietta.
Christian Home Educators Support System I.
Cuyahoga County Christian Home Educators.
Dayton Christian School, Inc.
Emmanuel Baptist Christian Schools, Toledo.
FAITH Home Educators Support Group of Columbus.
Families Advancing in Instruction Together at Home.
Garretsville Home Educators.
Geougo County Home Schoolers.
Grace Bible Church.
Grace Brethren Home Education Fellowship, Columbus.
Grace Home School Support Group.
Grace Home Education Support Group.
Heartbeat Christian Home Educators.
Hearts of Jesus, Columbia Station.
Hocking Valley Home School Support Group, Logan.
Home Education Action Council, New Carlisle.
Home Education League of Parents.
Home on the Rock Christian Home Educators, Grove City.
Homes County CHEO.
H.O.P.E. Christian Home School Group.
Impact.
Lake County Christian Home Educators.
Lancaster, Ohio, Homeschool Support Group.
Madison Home Schoolers.
Mahoning Area Christian Home Educators.
Medino Home Educators.
Miami County Christian Home Educators' Organization.
Moms Offering Moms Support, East Liverpool.
North Dayton Home Educators.
Northwest Association of Homeschoolers, Dublin.
Page Manor Christian Home Educators.
PATHWAYS Support Group, Etna.
Paulding County Homeschoolers.
Prevla County Support Group.
Servants for Home Educators of Southern Ohio.
Solanco Home Educators.
Sunbury Home Educators Support Group.
TEACH.
TLC Home Schoolers, Mansfield.
Trumbull County TEACH.
Twinsburg Home Educators.
Union County Home Schoolers Support Group.
Van West Area Home Schools.
Walnut Hill Community Church Home School Support Group.
Word of Life Fellowship Group Home School.

OKLAHOMA

Christian Home Educators Fellowship (CHEF).*
Ada Christian Home Educators.
Anadarko Christian School.
Carter/Love County Group.
Central OKC Homeschool Support Group.
Christian Home Educators of SW Oklahoma (CHESO).
Chickasha Home School Group.
Del City Home School Group.
Duncan Area Christian Home Educators Association.
Eastern Oklahoma County Support Group, Jones.
Edmond Home School Group.
Enid Area Christian Home Educators.
First Baptist Church of Moore Homeschool Support Group.
Guthrie Homeschool Support Group.
Lawton Christian Home Educators.
Life Christian Support Group, Newalla.
Oklahoma Central Home Educators Consociation (OCHEC).
Norman Area Home Educators.
Northwest OKC Home Educators Support Group, Bethany.
Northwest Teen Support Group, Bethany.
Perry Homeschoolers.
Piedmont Homeschool Support Group.
(Rocky) We're in This Together (WITT), Cordell.
Rush Springs Support Group.
Shawnee Christian Home Educators, Tecumseh.
Southside OKC Home Educators, Oklahoma City.
Stillwater Christian Home Educators Fellowship (SCHEF).
Tri-City Support Group, Tuttle.
Trinity Christian Home School Support Group, Norman.
Village Homeschool Group, Oklahoma City.
Weatherford Area Homeschoolers.
Woodward Area Homeschoolers.
Yukon/Mustang/El Reno Support Group.

OREGON

Oregon Christian Home Education Association Network.
(OCEAN).*
Christian Life Workshops, Gresham.
National Home Education Research Institute, Salem.
Salem Area Christian Home School Network.
The Teaching Home, national magazine.
Westside COACH, Portland.

PENNSYLVANIA

Lancaster County Home Education Association (L'CHEA).*
Beaver County Area Home Schoolers.
Bedford County Christian Home Educators.
Berks County Home Educators.
Bows and Arrows.
Bucks and Homeschoolers.
Catholic Homeschoolers Alliance, Bethlehem.
Carlisle Home Educators Association.
Central Christian Home-Educators Association, Mill Hall.
CHALICE, Bethlehem.
Chester County Homeschoolers.
Christian Home Educators Fellowship of Lycoming County.
Christian Homeschoolers of Upper Bucks County.
Claysville Area Home Schoolers.
Clearfield County Homeschoolers.
Clinton County Pennsylvania Home Schoolers Association.
Community of Believers Christian School.
Creative Education Network.
Delaware County Home Schoolers Association.
Ellwood City Home Schoolers.
Erie County Homeschool Support Group.
Faith Christian School, Pittsburgh.
Fawn Homeschoolers.
Greater Latrobe Area Home Schoolers.
Green County Home Schoolers.
Greensburg Area Home Schoolers.
Greenville Area Homeschool Association.
Harmony Home Educators.
Homes Organized for Meaningful Education (HOME).
Home Schoolers of Red Lion.
Home Schooling Families of Faith, Bethlehem.
Lancaster Covenant Church Home Schoolers.
Lansdale Area Home Schoolers.
Lehigh County Home Educators.
Leola Area Home Schoolers.
Lititz Area Home Schoolers.
Lycoming County Home School Support Group.
Mason-Dixon Home Schoolers, Greencastle.
McKean County Homeschoolers.
McKeesport Area Home Schoolers.
Moon Valley Home Educators.
Mountain Area Home Educators, S.W.
Mount Joy Elizabethtown Home School Support Group.
Paradise Home Schooling Group.
Parent Educators of Adams Group.
Parent Educators of Adams County.
Pennsylvania Homeschoolers.
Pennsylvania State Catholic Home School Group.
Pittsburgh Airport Area Home Schoolers, Sewickley.
Pittsburgh Area Homeschoolers.
Pittsburgh Suburban Homeschool Association.
SALT Support Group, Perkasie.
S.C.H.E.W.L.
Southern Chester County Homeschoolers.
South Hills Council of Parent Educators.
South Hills Home Educators.
TEEN Connect Support Group, Hilltown.
The Endless Mountains Area Christian Homeschoolers.
Thursday Homeschooling Support Group, Hershey.
Tri-State Home School Network.
Upper Bucks Secondary Homeschoolers, Bethlehem.
Upper Lehigh, Carbon & Schuylkill Counties Home Educators.
Venango County Home Schoolers.
Washington Support Group.
West Lancaster Homeschool Support Group.

PUERTO RICO

Christian Home Educations of the Caribbean.

RHODE ISLAND

R.I.G.H.T.*

SOUTH CAROLINA

South Carolina Home Educators Association.*
Aiken Area Home Schoolers.
Anderson Home School Association.
Carolina Superschoolers.
Christian Home Educators of Laurens County.
Coastal Christian Home Educators Association.
Cooperation of Domestic Educators.
Easley Home Educators.
East Columbia Home Educators.
GRACE at Home.
Grand Stand Heritage Fellowship.
Home Educators of Richland/Lexington District 5.
Homeschoolers Association of the low Country.
Home Organization of Parent Educators.
Lexington Instructors Giving Hope to Tomorrow.
Lowcountry Christian Home Educators Association.

Newberry County Home Educators.
North Midlands Family Education.
Orangeburg Christian Home Educators Association.
PeeDee Christian Home Educators Association.
Piedmont Home Educators Association.
South Carolina Association of Independent Home Schools.
Spartanburg Parent Association of Christian Educators.
Sumter Area Family Educators.
Tri-County Home Educators.
West Columbia/Lexington Area Home Educators.
York Educators at Home.

SOUTH DAKOTA

Western Dakota Christian Home Schoolers.*

TENNESSEE

Tennessee Home Education Association.*
Bristol TN/VA Area Support Group.
Chattanooga/Southeast Tennessee Home Education Association.
North East Tennessee Home Education Association.

TEXAS

Home Oriented Private Education.*
Texas Home School Coalition.
American Family Association of Texas.
Arlington Association of Home Educators.
Association of Brookshire Christian Home Schoolers.
Baytown Area Home Education Association.
Believers Fellowship Home School Support Group.
Bellaire Southwest Homeschool Association.
Benton County Home School Association.
Big Country Home Educators, Abilene.
Boham Home School Association.
Brownsville HOPE.
Casa View Baptist Home School Group.
Catholic Home School Group.
Catholic Home Schoolers of the Greater Houston Area.
Central Christian School of Marble Falls.
CHEFOI.
Christian Home Educators Association, Arlington.
Christian Home Educators Association, Austin.
Christian Home Educators Fellowship.
Christian Home Educators of Mt. Pleasant.
Church on the Rock of Quitman.
Cleveland Area Report to Home Educators.
Coastal Bend Home Educators.
Columbia Christian Home Education Association.
Countryside Christian Academy.
Custer City Home School Association.
Eagles of Grand Prairie.
Eastpark Home School Group, Arlington.
Ennis Home School Association.
Families Advocating Instruction in the Texas Home.
Fellowship of Christian Home Schools.
Fort Bend Christian Home Schoolers.
Glen Rose Association of Home Educators.
Grace Academy.
H.E.A.D.
H.O.M.E.
Home Education Resources.
Homeschool Association of Palestine.
Homeschool Parents as Educators.
Homeschooling Organization of South Texas.
Homeschoolers of Spring Tabernacle.
Hunt County Christian Home Schoolers.
Johnson County Learning In Family Education.
Johnson County Parent Educators.
Lake Highlands Christian Home School Association.
Lakewood Presbyterian School.
Metrocrest Home School Support Group.
Mineola Area Home Educators.
Nacogdoches Area Home Schoolers Association.
North East Dallas Home School Group.
North East Tarrant County Association of Christian Home Ed.
North Texas Home Educator's Association.
North Texas Home Educator's Network.
Northeast Tarrant County Home School Educators.
Northwest Christian Schools.
Old Baptist Church of New Boston.
Palo Pinto Christian Home Educators.
Richardson Home School Association.
Sugar Creek Christian Home Educators.
Sulphur Springs Christian Home Educators.
TEACH, Texarkana.
Texas Home Educators Convention.
Texoma Home School Association.
Titus Homeschool Support Group.
Travis Peak Home Schoolers.
TORCHE of Oak Cliff.
Washington County Private School Association.
West Houston Home Educators.
Westside Association of Christian Home Educators.
Wood County Home Educators.
Wylie Home Education Cooperation.

UTAH

Utah Christian Home Schoolers.*

VERMONT

Christian Home Educators of Vermont.*
North Shore Home Schoolers Association.
Vermont Home Schoolers Association.

VIRGINIA

Home Educators Association of Virginia (HEAV).*
Alfa Co-op.
Altavista Home Schoolers.
Amelia County Home Schoolers.
Amherst/Nelson Home Schoolers.
Beach Educators Association of Creative Homeschools (BEACH).
BRANCH.
Calvary Chapel Support Group.
Central Virginia Christian Home Educators Association.
Charlottesville Area Home Educators.
CHEAF.
Chester Home Schools.
Christian Heritage Home Schools.
Concord Home Education Association.
Culpeper Home School Group.
Danville Area Home Educators.
DOVE.
Family Schools of Gloucester.
Farmville Area Home School Support Group.
Gladys Home Schoolers.
Gloucester Home Educators.
Gloucester Home Schoolers.
Goochland County Home Schoolers.
Goochland Home Schoolers.
GRACE.
Grace Covenant Home Educators.
Greater Bedford Christian Home Educators.
Greater Bristol Home Schoolers.
Greater Roanoke Home Educators.
Harvest.
Henrico Home Schoolers.
Highland Spring Home Educators.
Home Education Association for Restoration and Teaching.
Home Educators Association Residing in the Highlands.
Home Educators of the Appalachians.
Home Educators of Spout Springs.
Home Educators Resource Organization.
Home Instructed Students (HIS).
Home Scholastic Network.
Home Schoolers of Colonial Heights.
Homeschoolers of Goochland, Powhatan and Louisa Counties.
HOPE.
Hopkins Road Home Schoolers.
Keysville Home School Support Group.
LAMB.
LEAH of New River Valley.
Lighthouse Home Educators.
Louisa Home Schoolers.
Luray Home Educators.
Mattaponi Region Home Schoolers.
Mechanicsville Home Educators.
Mecklenburg Christian Home Educators.
Nelson/Amherst Christian Homeschool Organization.
Oakley Home Schoolers Network.
Patrick Henry Home Educators.
Peninsula Family Schools.
Powhatan Home Schoolers.
Pulaski Home Educators.
Rainbow Forest Home Schoolers.
Richmond Regional Home Educators.
Salt and Light.
Southside.
Southside Church Home Schoolers.
Seton Home Study.
Tabernacle Baptist Homeschool Support Group.
TEACH.
Teaching Our Own.
TREASURE.
Tri-City Home Schoolers.
Twin County Home Educators.
United Home Schooling Group.
Valley Home Educators (Shenandoah Valley).
Valley Home Educators (Weyers Cave).
Virgilina Home Schoolers.
Williamsburg Area Home Educators.

WASHINGTON

Washington Association of Teaching Christian Homes.*
Broad Ripple Home Schooling Group.
C.H.I.L.D., Seattle.
Charity Home School Group, Spokane.
Clark County Home Educators.
Family Advocates in Teaching Homes (FAITH), Yacolt.
Graham Home School Support Association.
KONOS Around Pudget Sound.
Lake City Christian Home Educators.
North Takoma Home School Group.
Northview Homeschool Group.
P.A.T.H.
Schooling Partners in Christ in Spanaway.
Tacoma Homeschoolers.

WASHINGTON, D.C.

Bolling Area Home Schoolers of D.C.

WEST VIRGINIA

Christian Home Educators of West Virginia.*
Homeschoolers Under God, Bridgeport.
Jefferson County HomeSchoolers.
Kanawh-Putnam Home Educators in Charleston.
Morgan County Homeschoolers.
Panhandle Family Schools.
SCHOLARS, Mt. Nebo.
Southern West Virginia Christian Home Educators, Beckley.
Upper Pocahontas County Home School Support Group.
WCACHE of Parkersburg.

WISCONSIN

Wisconsin Christian Home Educators Association.*
Cedarburg Home School Group.

Christian Home School Education Network (CHOSEN).
Families Responsible for Excellence in Education.
Greater Milwaukee Home Schoolers.
Hearts At Home.
Kettle Moraine Christian Home Schools.
Lake Country Home Educators.
Milwaukee Area Christian Home Educators.
New Holsein Home School Association.
Oshkosh Area Home Educators.
Parents Educating God's Gifts.
Price County Home Educators.
Racine Area Home Schoolers.
Regime Area Home Schoolers Incorporated.
Richland Center Home Educators.
Three Rivers Home School Group.
Valley Homeschoolers.
Western Kenosha County Home Schoolers.

WYOMING

Home Schoolers of Wyoming.*
Big Horn Basin Homeschoolers.
Christian Home School Association, Laramie.
Fremont County Christian Home Schoolers Association.
Home Schools In Touch.
Westbend/Hartford, Ouzaukee Area Homeschoolers.

*Statewide Organization

ASSOCIATION OF CHRISTIAN SCHOOLS INTERNATIONAL,
Washington, DC., February 23, 1994.

Re H.R. 6—Armey amendment.

U.S. HOUSE OF REPRESENTATIVES,
Washington, DC.

DEAR REPRESENTATIVE: The Association of Christian Schools International (ACSI) is the largest association of Protestant Christian Schools in the world. In the United States, we have over 2,907 member schools, from preschool through college, with 554,600 students. We join with the home schoolers in urging you to recognize the basic rights of religious schools—Catholic, Protestant, Jewish, or Muslim—to operate without federal intrusion. The "assurance provision" [section 2124(e)] of H.R. 6, as operate without federal intrusion. The "assurance provision" [section 2124(e)] of H.R. 6, as reported out of Committee, threatens this right. Combined with other provisions, it could be read to require state regulation of certification of teachers in religious and home schools.

The Association of Christian Schools International therefore urges support of Congressman Dick Armey's amendment which deletes subsection 2124(e) of H.R. 6.

The Armey amendment also adds a provision to make clear that the Act does not intend to assert federal control over regulation of private, religious, or home schools that do not receive funds under the Act. Many such schools do have students who receive benefits and participate in programs and services under the Act. The amendment affirms that such schools may continue to participate cooperatively without added regulation. Benefits are ordinarily delivered through government employees and the schools, as such, do not receive funds under the Act.

While religious and home schools seek freedom from federal intrusion as a Constitutional right, they are proud to have contributed richly to the heritage of the Nation. They also have private programs of certification and accreditation and are by no means unaccountable. Many have been doing an excellent job in the inner-cities and other challenging circumstances. We plead that the Congress will allow them to continue without federal intervention the successful job they have been doing.

Respectfully yours,

JOHN C. HOLMES, ED.D.,
Director.

FAMILY RESEARCH COUNCIL,
Washington, DC, February 22, 1994.

DEAR MEMBER OF CONGRESS: Please support the "Home School/Private Education Amendment" to H.R. 6, to be offered by Congressman Dick Armey and accept no alternative.

The Armey amendment is needed because of the provision added at the last minute to H.R. 6 by Congressman George Miller which can be interpreted to force private, religious and home schools to hire only certified teachers. This could eventually eliminate 99 percent of home schoolers in America and deal a grievous blow to private schools. Mr. Miller's amendment is nothing short of a power grab by the federal government to gain control over private schools and home schools.

Mr. Armey's amendment essentially states the following:

Federal involvement of control over private schools, home schools, and/or religious schools is expressly prohibited.

No federal funds shall be used for monitoring, regulating or supervising private schools, home schools, and/or religious schools.

The use of the term "school" anywhere in H.R. 6 shall mean public school and shall not include private schools, home schools, and/or religious schools.

The issues stressed above are critical to our constituency. Please support the amendment and accept no compromises or alternatives to Mr. Armey's language.

In addition to Mr. Armey's amendment, we ask your support for amendments to be offered by Mr. Goodling and Mr. Boehner. Mr. Goodling's amendment will prevent federally funded school-based health clinics from providing family planning or reproductive health services. Mr. Boehner will offer an amendment to permit school choice.

The Family Research Council strongly opposes H.R. 6 and ask that you vote against the bill but would appreciate your support of the above mentioned amendments during the deliberation of the bill.

Sincerely,

GARY L. BAUER,
President.
MEGHAM R. FLAHERTY,
Deputy Director, Government Relations.

TRADITIONAL VALUES COALITION,
Washington, DC, February 23, 1994.

DEAR MEMBER OF CONGRESS: Soon the House will consider H.R. 6, the Elementary & Secondary Schools Act. Traditional Values Coalition has many problems with this legislation, including the Miller Amendment which requires certification for teachers of home and private schools.

Traditional Values Coalition (TVC) is pleased to support the Armey Amendment to H.R. 6 which exempts all non-public schools from the Miller Amendment.

The very reason for home and private education is to provide top quality instruction within the framework of the values and beliefs of the children being taught. More government regulation of these non-profit educational institutions is unnecessary and infringes on the freedom of parents to teach their children as they wish. Under H.R. 6, as it now reads, home schooling parents must be certified teachers, in every grade level and every subject in which they plan to teach. Not only would this eliminate all home schooling as we know it, but it would even preclude professional teachers who are currently certified from home schooling their own children.

Traditional Values Coalition applauds the efforts of Congressman Dick Armey to protect the autonomy of home schools and private schools from increased government intervention and encourage all Members to support the Armey Amendment to H.R. 6.

Traditional Values Coalition considers support for the Armey Amendment a key pro-family vote. As as result, your position will be reported to TVC's 31,000 member churches, many of which are located in your district.

Sincerely,

LOUIS P. SHELDON,
Chairman.

Mr. Chairman, I yield 1 minute to the distinguished gentleman from Florida [Mr. STEARNS].

Mr. STEARNS. Mr. Chairman, I rise today in the strongest support of the Armey amendment to H.R. 6, the Elementary and Secondary Education Act.

As I believe every member of this House knows by now, the Miller amendment, as it came out of committee, would affect the right of parents and children around this country to choose private, religious or home schooling. Parents who choose these options, and I have many in my district, have seen outstanding results from these nonpublic schools.

While virtually every member of this House is supportive of the public school system, we should not turn this support into an attempt to coerce parents who have chosen private, religious or home schooling out of these choices. It is a fundamental right for parents to choose the education for their children that best suits their family's needs.

Whether or not the actions we take in Congress are intended to affect these schools, we must be aware that they can be interpreted to do so. That is exactly why so many people were alarmed by the teacher certification language that was in this bill as it emerged from committee.

That is also why the Armey amendment is the best way to improve this bill. The Armey amendment makes explicit what I believe is the intention of the vast majority of this House—that the Federal Government not begin telling private educational institutions how to do their job.

Private schools have shown their effectiveness in providing education to millions of American children. The flexibility they demonstrate is to be admired. If we do not adopt the Armey amendment, the possibility exists that provisions similar to the Miller amendment may be found in this 900 page bill and be interpreted so as to interfere with the operations of our private schools.

Not only would that have a negative impact on elementary and secondary

education, but it would also open the bill to interpretations contrary to what the majority in Congress intends. For those who claim that the Armey amendment will be redundant, I would say that redundancy in the pursuit of clarity can be a virtue. And as the Courts grow evermore aggressive in reinterpreting the laws we write, clarity becomes more of a necessity.

I stand here today as someone who also supports public education. My wife is a former public school teacher, and I have one child in the public schools. But I also believe that we need to preserve the rights of parents to choose private, religious, or home schools. If you share that belief, I urge you to vote for the clearest statement of that principle—the Armey amendment. I wish to congratulate the Dobson Radio station, Christian Broadcasting Network, Concerned Women of America and others who made the public aware of this important issue.

Mr. ARMEY. Mr. Chairman, I yield such time as he may consume to the gentleman from Illinois [Mr. EWING].

Mr. EWING. Mr. Chairman, I rise in strong support of the amendment.

Mr. Chairman, I rise in support of the Armey amendment to exempt all nonpublic school teachers from the certification requirement included in H.R. 6, the reauthorization of the Elementary and Secondary Education Act.

Congress is at it again—placing more Federal mandates on schools which do not even receive Federal funding. One of the major problems faced by our public schools is meeting the multitude of unfunded mandates imposed on them by the Government. Now we want to do to our private and home schools what we have done to the public schools.

Teacher certification, besides creating a bureaucratic nightmare, tests the skills of parents, not students. If the Armey amendment fails, 99 percent of home schoolers may not be able to teach their own children. Because this provision requires that secondary teachers are certified in every subject they teach, even certified parents would not be allowed to teach their own children in a variety of subjects.

The Federal Government must reverse this trend of intruding on local school districts, and learn that the bureaucrats in Washington, DC do not help our children learn how to read and write. I encourage all of my colleagues to join me in supporting the Armey amendment.

Mr. ARMEY. Mr. Chairman, I yield 1 minute to my colleague the distinguished gentleman from Texas [Mr. BARTON].

Mr. BARTON of Texas. Mr. Chairman, I rise in strong support of the Armey amendment.

Mr. Chairman, I want to very quickly tell where we come from. We come from last weekend where there was a section of this bill that could be interpreted to require certification for home schoolers. Thanks to the outcry of the country and all of the people calling in, we have now seen the distinguished chairman of the committee of jurisdiction offer an amendment that passed, with the exception of one vote, that struck the entire section.

The gentleman from Texas [Mr. ARMEY] now wants to offer an amendment that makes explicit the rights of home schoolers and private schoolers.

Now, there can be a gentleman's disagreement about the technical nature of the amendment, and I would stipulate that is what the conference committee is all about is to work out some of those technical amendments.

If you are for the principle of allowing home schoolers and their parents, to be taught at home, and private schools and parochial schools, vote for the Armey amendment. If we have got technical problems, we can work those problems out in the conference committee, and we should commend the gentleman from Texas [Mr. ARMEY] for offering this amendment. When he started the flight, it was not clear that we were going to be all as supportive as we are now.

PARLIAMENTARY INQUIRY

Mr. KILDEE. Mr. Chairman, I have a parliamentary inquiry.

The CHAIRMAN. The gentleman will state his parliamentary inquiry.

Mr. KILDEE. Mr. Chairman, are we going to be going back and forth in recognition?

The CHAIRMAN. Yes, we will be going back and forth. But the gentleman from Texas has more time remaining, and so we were going to take a few speakers on that side.

Mr. ARMEY. Mr. Chairman, I yield 1 minute to the distinguished gentleman from Minnesota [Mr. RAMSTAD].

□ 1430

Mr. RAMSTAD. Mr. Chairman, today, with over 3,000 of my constituents who have called on this issue since last Friday, I rise in strong support of the Armey amendment to H.R. 6. These lists represent only calls, and each sheet contains 8 to 10 calls; the single largest outpouring on any issue I have received since I came to Congress in 1991. In all these calls, not a single person expressed support for imposing teacher certification on home or private schools. The Armey amendment will protect, fully, private, religious, and home schools from Federal interference. Not one State in this country requires that home schoolers be certified, yet unless we pass the Armey amendment there is a real danger that Congress will tell families, State governments, and local school districts that it knows better how to manage their affairs. I urge my colleagues to support the Armey amendment to protect home school, private schools and parochial schools from the Federal Government's attempt to take away their economy.

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

I think all of us would agree the number of calls we have received is a great tribute to the democracy we have in this country. I look upon those calls as an opportunity to listen to people. I think this has been a great outpouring of democracy, and I think we all welcome that.

Mr. Chairman, I yield 2 minutes to the gentleman from Kansas [Mr. SLATTERY].

Mr. SLATTERY. I thank the gentleman from Michigan for yielding this time to me.

Mr. Chairman, I want to commend the gentleman from Michigan, Mr. KILDEE, Chairman FORD, the ranking minority member, Mr. ARMEY, for bringing this matter to our attention. I am very pleased that we have reconciled this question of whether the Federal Government was going to get into the business of attempting to certify teachers in private and parochial schools, and home schooling across the country. I hope everybody across America who is concerned with this issue should note the vote, because there was only one person in this body who was against the amendment, which I hope makes one point crystal-clear. That is that no one, perhaps with the exception of one Member of this body, had any intention of the Federal Government reaching out and trying to certify teachers in home schooling operations and in private schools in this country. I want that point clearly understood.

Mr. Chairman, I am pleased also that we are dealing with a modified Armey amendment. This is not the amendment that we were dealing with earlier today. I commend the gentleman from Texas for straightening it up. It appears to me that some additional improvement will be needed as we move forward in the process.

With that in mind, I have no big problem with the Armey amendment. But this morning's Armey amendment was apparently opposed by the Catholic Conference, so I was advised. Now I am told that there is some question as to whether the Catholic Conference, which happens to be involved in the operation of many schools in this country, is sort of neutral on the gentleman's amendment. Whatever concern they have I am confident can be addressed as we move forward in the process.

My friends, the bottom line is this: No one in the House of Representatives, with the possible exception of one person, apparently had any desire to get the Federal Government into the business of certifying teachers in private schools, parochial schools, or home schooling operations in this country.

I happen to appreciate the contact we have all received from our constituents across the country. I appreciate the work of the gentleman from Michigan, the chairman of the committee, and ranking minority members also for

helping us to clarify this issue and put to rest the concern that many Americans had about this issue.

Mr. ARMEY. Mr. Chairman, I yield such time as he may consume to the gentleman from California [Mr. GALLEGLY].

Mr. GALLEGLY. I thank the gentleman for yielding this time to me. I stand in strong support of the Armey amendment.

Mr. Chairman, I rise today in strong support of the Armey amendment to H.R. 6. Millions of American children are schooled at home by parents who are deeply committed to their education, and I believe it is absolutely essential that Congress respect these parents' right to do so.

The Armey amendment will ensure that the Federal Government does not interfere with private, religious, or home schools that do not choose to accept Federal assistance. It also ensures that private and religious schools that do choose to participate in Federal programs may continue doing so.

Private, religious, and home schooling provides important alternatives for American families. The Armey amendment ensures that our families continue to have the choices they need to meet their children's educational needs, and I urge its support.

Mr. ARMEY. Mr. Chairman, I yield such time as he may consume to the gentleman from North Carolina [Mr. BALLENGER].

Mr. BALLENGER. I thank the gentleman for yielding this time to me. I would like to speak in strong support of the Armey amendment.

Mr. Chairman, as we all know from the thousands of phone calls that have monopolized the Capitol switchboard, H.R. 6 contains a provision that could be interpreted in such a way that parents, teaching their children at home, would have to be certified in every academic subject they teach.

This mess all began when an amendment was added to require the certification of all teachers in the academic subjects they are assigned to teach. The amendment was meant to disallow alternative certification. Alternative certification is based on the principle that certification, in and of itself, is not the best indication of an individual's ability to teach. Without alternative certification, even the president of Duke Power Co., who is probably the expert in the Nation on nuclear engineering, would not be permitted to teach even general science unless he first goes back to college for a teaching degree. This is ludicrous.

In the process of outlawing alternative certification, home-schoolers were inadvertently harmed and that is why we are debating the Armey amendment. This amendment is absolutely necessary. The Ford/Kildee amendment may not go far enough in protecting the rights of parents to educate their children and does not protect private and religious schools.

I urge my colleagues to vote for the Armey amendment.

Mr. ARMEY. Mr. Chairman, I yield 2 minutes to the distinguished gentleman from Michigan [Mr. HOEKSTRA], a member of the committee.

Mr. HOEKSTRA. I thank the gentleman for yielding this time to me.

Mr. Chairman, I rise today in support of the home school-private school freedom amendment.

As I listen to the debate on H.R. 6 I hear much debate about how to make the schools better, most of that information coming from the people and the institutions running today's educational system.

If we were really interested in improving our schools we should be listening and talking to those who have opted out of the current educational system. Let's talk to the 51 percent of the people in Minnesota who said that if they could move their children at no cost, they would opt out of the public school system.

If we were really interested in improving our schools we wouldn't be stifling creativity and new learning approaches, we would be encouraging them. Contrary to what our committee believes, one size does not fit all. One of the most effective teachers that I have met in the last 2 years is a former Marine sergeant, who is not certified. He takes kids who have failed in the traditional school system, surrounds them with the latest in technology and strict discipline. In 7 weeks they progress the equivalent of 2 years of traditional learning in reading, writing, and math.

Education needs creativity, it needs experimentation, it needs the spirit of free enterprise, and it needs a healthy dose of parental, community, and individual accountability and involvement. It does not need the Federal Government coming in propping up certain elements which preserve the status quo.

Isn't it interesting that the Federal Government steps in to prop up old systems as people at the local level are opting out and experimenting. The Federal Government is about 20 years behind in the educational reform effort. Let us not lock the rest of the country into this old paradigm, and let's not permit the Government to take one more step in taking over the parenting of our children.

The Armey amendment protects the rights of a core group of this country, home schoolers, private and religious schools. People making a valuable contribution to education in this country.

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

Mr. Chairman, the original letter from the Catholic conference went through an elaborate process. They are very careful. They have their own attorneys poring over the language. To my understanding, they have had no opportunity to pore over the new language of the gentleman from Texas [Mr. ARMEY]. So I would not characterize them as neutral; I would say they have just not had a chance to study the language yet.

Mr. Chairman, I yield 5 minutes to the gentlewoman from Washington [Mrs. UNSOELD].

Mrs. UNSOELD. I thank the gentleman for yielding this time to me.

Mr. Chairman, I would hope to address my remarks to the gentleman from Texas' amendment because it appears that the gentleman from Texas, although we would like to assume we do have the same objective, it appears that the gentleman from Texas is unwilling to accept the good intentions of the Education Committee pertaining to home schools by the amendment that has just been adopted by this entire body, overwhelmingly supported by members of the committee. It appears that the gentleman from Texas is scrambling for an Armey amendment. Having triggered phone banks all over the country, it appears that the gentleman cannot accept the goodwill of the committee that home school was never intended to be included.

I watch—not only has there been an amendment, there has been an amendment to the amendment and an amendment to the amendment to the amendment, scrabbled on the floor, and I watched attorneys on the other side hovering—and perhaps the amendment is still in the process——

Mr. ARMEY. Mr. Chairman, if I may, I believe the gentlewoman from Washington should be advised by the Chair that she is bordering on a breach of collegiality by assaults on my motives. I do not think that is appropriate as an exchange for floor debate.

The CHAIRMAN. The gentleman's point is heard.

The gentlewoman will proceed.

Mrs. UNSOELD. Mr. Chairman, the gentleman from Texas has claimed the endorsement of a number of organizations. However, I would submit to the chairman that those organizations and their attorneys have not had the opportunity to study the language that has been drafted and redrafted on the floor here today. As was pointed out by the gentlewoman from Hawaii, when we tinker with extremely complicated matters that have been court-tested and we begin to pluck away at them in a setting of haste, we often err. And I would submit to you, Mr. Chairman, that the gentleman from Texas would be well served by recognizing the value of the Ford amendment, the Ford-Kildee amendment that was adopted, and saying let us now proceed with the bill and not try to make further amendments here on the floor, drafting as we move forward.

□ 1440

I would like to point out that home schooling in the State of Washington was subjected to considerable effort in 1985 to come up with standards, a procedure, that was totally acceptable to home school people and totally acceptable to the State. That is the kind of procedure that we should have, and we should not be tinkering with this further on the floor here.

Mr. Chairman, I have risen in opposition to the Armey amendment.

Mr. ARMEY. Mr. Chairman, I also thank the gentlewoman from Washington [Mrs. UNSOELD] for her kind remarks.

Mr. Chairman, I yield 1 minute to the gentleman from Idaho [Mr. CRAPO].

Mr. CRAPO. Mr. Chairman, I rise in strong support of the Armey amendment.

Mr. Chairman, we have already amended the bill by taking out the language which caused significant problems. Now in this day and age of increasing Federal intrusion and encroachment into many other aspects of our lives we have a followup amendment which was to restate and reaffirm the right of Americans to be protected in their rights to educate their children at home or in private or parochial schools. It has been clarified by dialogue on this floor and by speaker after speaker that there is no intent to undercut any previously existing protections in the law. Yet this is an opportunity for the House of Representatives to reaffirm, in the context of the existing question, whether we have an absolute commitment to protecting the rights of our home-schoolers and those who educate their children in parochial and private schools to be free from Government management and intervention.

Mr. Chairman, a good vote on this amendment is a yes vote.

Mr. ARMEY. Mr. Chairman, I yield such time as he may consume to the gentleman from California [Mr. CALVERT].

Mr. CALVERT. Mr. Chairman, I attended public schools throughout elementary and high school.

I care deeply about our public schools, and I strongly support some of the provision of H.R. 6.

But, we should not pass this legislation to help public schools, if by doing so, we will violate the rights of those who wish to attend private or home schools.

Mr. Chairman, it is a fundamental right of Americans to choose the type of education they want for themselves or their children—and we in this Congress have a sacred duty to protect this right.

Our public schools are among the finest in the world—but, they have no monopoly on educational wisdom.

Abraham Lincoln was a home schooler.

John Kennedy attended private schools.

So does Chelsea Clinton.

Millions and millions of prominent and not-so-prominent Americans are being educated today at no cost to the taxpayers by parents who choose alternatives to the public schools.

We ought to be doing everything we can to support these parents—not interfering with them.

I urge my colleagues to support the Armey amendment to H.R. 6.

Mr. ARMEY. Mr. Chairman, I yield such time as he may consume to the gentleman from California [Mr. DORNAN].

Mr. DORNAN. Mr. Chairman, I rise in strong opposition to H.R. 6, the reauthorization of the Elementary and Secondary Education Act. This legislation will dramatically increase Federal control over education and stifle any attempts by local communities to achieve real education reform.

As recent international comparisons illustrate, Americans are falling far behind the rest of the world in education. In a 1982 report published in Public Interest on how American students compared with those in other nations,

> The results for the U.S. were these: Out of nineteen tests, we were never ranked first or second; we came in dead last three times, and, if comparisons are limited to other developed nations only, the U.S. ranked at the bottom seven times.

And things are getting worse. Indeed, the International Association for the Evaluation of Educational Achievement found that "there is evidence of a sizable drop in level of achievement (in the United States)." With this in mind, there is no disagreement that America's schools are in desperate need of reform.

Real reform, however, will not be possible with the passage of H.R. 6. This ill-conceived bill is a heavy-handed attempt by liberals to give the Federal Government the authority to micromanage every single aspect of our education system. It relies heavily on the Federal bureaucracy by having the Department of Education dictate to every school in America—public or private—a rigid set of requirements and standards to be adhered to. Should this legislation pass, the Federal bureaucrats will ultimately have the power to control a school's learning standards and even their curriculum. All this despite the fact that a Federal presence in education has done nothing but hinder public education. Indeed, since the Elementary and Secondary Education Act was originally passed in 1965, the Federal Government has precipitated a sharp decline in education achievement among our Nation's schoolchildren.

The public schools are already overburdened with unfunded mandates, unnecessary regulations, too much paperwork, and a Federal Government resistant to innovative reform. With H.R. 6, money that could be spent on academic basics will now be spent on hiring more administrators to monitor and enforce the mindboggling set of new regulations imposed by this legislation.

The fact remains that education reform is best made at the local level. That is because education depends on committed communities and teachers who are determined to see real improvement in our education system. Additionally, a successful education system depends on parents who are determined to participate in the education process as well as students who are enthusiastic about learning. H.R. 6 does nothing to foster these proven approaches to improving education.

If America is to excel in education, we will need to: Return discipline to the classroom; establish a core curriculum that emphasizes science, math, history, geography, and English; give kids more homework; remove bad teachers and reward good ones; and allow alternative teacher certification for those who have particular expertise.

But we will not be able to implement these or other policies as long as the Federal Government, and not the parents and local communities, retain so much control over education. That is the key, transferring power from the bureaucracy to the parents and local school districts, where it belongs. This means giving parents—especially poor parents—a choice as to where they can send their kids. Such a voucher program would create competition between schools and improve education across the board. Choice in education is the linchpin to education reform. Yet H.R. 6 does not permit local school districts to even experiment with either public or private school choice programs.

Moreover, I am particularly concerned about a provision in this legislation that imposes State certification requirements on teachers and parents in private and home schools whether or not they receive Federal or State funds. This is an intrusive mandate that would threaten private schools and effectively end home schooling as an option currently exercised by thousands of American families.

Having said this, I ask my colleagues to join me in opposition of H.R. 6 as it does not provide local school districts with the ability to enact radical reforms aimed at providing America's students with the quality schooling they so desperately need and deserve.

Mr. ARMEY. Mr. Chairman, I yield such time as he may consume to the gentleman from Texas [Mr. SAM JOHNSON].

Mr. SAM JOHNSON of Texas. Mr. Chairman, I rise in support of the Armey amendment and the future of home schools and private schools in this country.

It's important that we clarify the language in this bill so that the Federal Government cannot tighten its grip in its quest for control.

You know, during the last week I have received over 1,000 phone calls in support of the Armey amendment, and none against it. I would like to commend the citizens who took the time to call in and raise awareness of this important issue.

We must protect our children's education and parents' God-given rights here in America.

Let's ensure the rightful independence of home schools and private schools by passing the Armey amendment.

Mr. ARMEY. Mr. Chairman, I yield 1 minute to the distinguished gentleman from Kentucky [Mr. BUNNING].

Mr. BUNNING. Mr. Chairman, I rise in strong support of the Armey amendment.

The Federal Government has done enough damage to public education. It really should keep the big old Federal, bureaucratic nose out of private schools and particularly home schools.

Parents who care enough to pay the extra expense of private schools and parents who care enough to invest their time and efforts and resources to provide home schooling, care too much to let their children get a shoddy education.

They don't need the Federal Government looking over their shoulders, second guessing them with any more rules and regulations.

Regulations are already in place on the State and local level for private schools and home schools.

State and local school boards are perfectly capable of providing any safeguards that are needed without any more guidance from this puzzle palace on the Potomac.

The Ford amendment may help this situation but it doesn't resolve the problem. We still need the Armey amendment for clarification—to make it crystal clear that private schools that don't receive Federal funds and home schools are protected from unnecessary Federal regulations.

Two of my daughters educate their children at home. I have seen the quality of education they receive and it surpasses anything that my other grandchildren in public school receive.

The Federal Government needs to keep its hands off.

The only way to guarantee protection of private, religious, and home school is the Armey amendment and I urge my colleagues to vote "yes."

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

Mr. Chairman, let me state at this time that, as my colleagues know, there are good-willed people on both sides of the aisle debating language, not really debating philosophy, here. We are debating language, and we are debating it only because I am very cautious in putting into law language that might enable certain groups to drag certain schools into court. That is my only concern.

So, Mr. Chairman, many of us are going to sing in the same song. Maybe we have some concern as to the text. But I will have a vote on this, and if Mr. ARMEY's amendment prevails, it is really a modification of our 9508 with some other things. I will work with him in the conference to make sure that all the groups involved, and all attorneys, make sure that the language is exact. That is my only concern.

Mr. Chairman, I do not think we have any really deep philosophical differences in this area. We will probably have some other philosophical differences in other areas, but in this area I think we are trying to achieve the same purpose. We do not want the long arm of the Federal Government to be reaching into home schools. We do not want the long arm of the Federal Government reaching into the private or parochial schools. In any case the Federal Government really should be a helping hand to those who choose to seek the help.

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

Mr. Chairman, I certainly thank the gentleman from Michigan [Mr. FORD] for his kind remarks, and I, too, look forward to working with him. I do not share his concern about the language, but we will have an open mind to it, and we will consider any questions that are raised in conference and work with him.

Mr. Chairman, I yield such time as he may consume to the gentleman from Illinois [Mr. FAWELL].

Mr. FAWELL. Mr. Chairman, I rise in support of the Armey amendment to H.R. 6. This amendment represents an attempt to correct a drafting error in the bill which could have inadvertently required teacher certification of private, parochial, and home school teachers. I believe Congressman GEORGE MILLER when he says that it was his intention to only require teacher certification of public school teachers, however, clearly a correction in the bill is necessary.

I have received hundreds of calls from parents who have opted to teach their children at home, because of concerns they have regarding the quality of public schools or subject matter taught at public schools. Home schoolers and many private and parochial schools receive no Federal funding. The Federal Government has no basis for regulating these parent-educators and schools. Requiring that home schoolers be certified in every subject that they teach would effectively eliminate the ability of parents to teach their students at home. During the Education and Labor Committee consideration of H.R. 6, Congressman ARMEY offered an amendment which I supported which simply stated that nothing in this act would require or encourage regulation of private, religious, or home schools. Although we were not aware of the drafting error in the Miller amendment at the time, adoption of this amendment would have provided the necessary exemption for private schools and home schools. Unfortunately this amendment was defeated on a party-line vote.

In addition, I am pleased that the Miller amendment in its entirety has been eliminated. While it is especially unfair to regulate schools which do not receive any funding under this act, I don't believe that the Federal Government has any role in teacher certification. All 50 States already require public school teachers to be certified. Any additional certification requirements are best left to States and localities to decide upon.

Mr. Chairman, I am supporting the Armey amendment because I believe that he provides the most protection for home-schoolers. Unlike the Ford amendment, the Armey amendment clarifies in the law that home schools in the 17 States, including my State of Illinois, where home schools are defined as "private schools" are not subject to regulation. It has recently come to my attention, however, that some have raised concerns that the Armey amendment could result in regulation of private schools which do receive funding under the act. I would be concerned if this is the case, and would hope that this could be addressed in conference.

Mr. ARMEY. Mr. Chairman, I yield 2 minutes to the distinguished gentleman from Illinois [Mr. MANZULLO].

Mr. MANZULLO. Mr. Chairman, today's vote on the Armey amendment will determine the extent to which the U.S. Congress becomes involved in controlling all nonpublic schools, including Roman Catholic, Protestant, Jewish, and Moslem parochial schools, nonprofit secular schools, and home schools in 17 States.

I was pleased to support the Ford amendment that struck the most offensive language wherein a State would have required the certification of all teachers, including home schoolers, in subject areas. I was also pleased that the gentleman from Michigan accepted by definition of his amendment in our colloquy that home school means whether or not a home school is treated as a private school or home school under State law. It solved most of the problems that are of great concern to the hundreds of constituents that have contacted my office.

The problem remains, however, in the definition of what is a school. In 17 States, including my home State of Illinois, a home school is defined as a private school. The Armey amendment takes the Ford amendment one step further in that it codifies our colloquy into law.

Mr. Chairman, we are witnessing something extraordinary taking place in the U.S. Congress. All but one Member of Congress, within the past hour, have voted to recognize that home educators and private schools—Roman Catholic, Protestant, Moslem, Jewish, nondenominational, and secular—have intrinsic value. Americans today are looking for quality in education. The right to chose the form of education for one's children and be free of Government interference is at the core of our liberties in this Nation. Many of Members of Congress have gone on record to praise the efforts of home schools and private schools. When inappropriate language showed up in the original draft of the bill, tens of thousands of people called and jammed the lines in our office. These were Roman Catholic Protestants, many home-schoolers, and public school teachers, calling our office and saying with one voice one thing: It is not the province of the Federal Government to become involved in any manner whatsoever in controlling private and home schools.

Mr. ARMEY. Mr. Chairman, I yield such time as he may consume to the gentleman from Arizona [Mr. STUMP].

Mr. STUMP. Mr. Chairman, I have long believed that education is handled best at the local level with the support of parents and the community. States, parents, and the local community know what is best for their students. Repeatedly, this body has considered legislation which attempts to extend the Federal control of education, and today we are debating legislation that is extending that authority to private, parochial, and home schools.

Requiring certification of the teachers of those schools infringes upon the autonomy of their institutions. Education is constitutionally reserved to the States and is not an area within Federal jurisdiction. We have no right to mandate that States require the certification of schools not within the public system. States have recognized that fact and not one State requires that home school teachers be certified.

While it may not have been the committee's intention to include home-

schoolers in the certification requirements, it is necessary that the language contained in the Armey amendment be adopted so that it will be made very clear that the Federal Government will not intervene in, or have control over private, parochial, and home schools. Their independence must be preserved and it is incumbent upon my colleagues to support the Armey amendment and guarantee that the long arm of the Federal Government will not reach into the non-public school systems.

I urge my colleagues to vote for the Armey amendment to clarify the intentions of this body.

Mr. ARMEY. Mr. Chairman, I yield 1 minute to the distinguished gentleman from Maryland [Mr. BARTLETT].

Mr. BARTLETT of Maryland. Mr. Chairman, I rise in strong support of the Armey amendment. This amendment makes explicit, has language which makes explicit, what some may feel is implicit in the amendment on which we previously voted. The hundreds of thousands of constituents who called our offices demand explicit language that will prevent the Federal Government from ever reaching into private schools and home schools to wreak on them the damage that it has done to education in the public schools.

As a matter of fact, Mr. Chairman, in the Constitution, which I read, I can find no justification for Federal Government meddling, even in public schools.

Please, Mr. Chairman, let us vote for the Armey amendment to make sure that the damage the Federal Government does to education is not pushed down into private schools and home schools.

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Mr. KILDEE. Mr. Chairman, I reserve the balance of my time.

Mr. ARMEY. Mr. Chairman, I yield 2 minutes to the distinguished gentleman from California [Mr. BAKER].

Mr. BAKER of California. Mr. Chairman, I was heartened by the remarks of the chairman of the subcommittee, the gentleman from Michigan, when he said that we are all trying to struggle to find language that is acceptable to put off those confrontations that inherently occurred because of language inserted in the act. Most of us did not know that language was going into the act, and the author of the language said he had no intention of doing what most people out in the real world felt we were doing, and that is intruding on home schools and private education.

Let us look at the Armey language. Let us not debate the notion of whether the Federal Government belongs in the school business; let us look at the language:

> Nothing in this Act shall be construed to permit, allow, encourage or authorize any Federal control over any aspect of private, religious, or home school.

This is a restatement of current law. That is section 432. People say, well, that will get you into a lawsuit. We are adding 900 pages, including the Ford amendment, that will get us into a lawsuit, too, if that is somebody's intention, but this language will not. This makes reference to the colloquy between the chairman, the gentleman from Michigan, and the gentleman from Illinois [Mr. MANZULLO]. I refer to this line: "Whether or not a home school is treated as a private school or home school under State law."

We need that definition that excludes them from the act, and it was needed in the Ford amendment. This is not going to get us into court. This is a restatement of what a home school is.

Last, in the Armey amendment we see this:

> This section shall not be construed to bar private, religious, or home schools from participation in programs or services under this Act.

Somebody says that sets up two categories, one that receives money and one that does not. That is not what this language does. It says you cannot bar someone just because they are excluded from Government regulation as in the current code, section 432. We need this language to take it to conference. The author has agreed to work with the Catholic School Conference, the home-schoolers, the private education folks, the Christian school folks, and the Democrat majority to make sure the final language is perfect and acceptable to everyone.

The author has done a good job of crafting this language. We need it in the conference.

Mr. Chairman, I ask the Members to please read the language and vote "yes." I support the Armey language, and I thank the gentleman from Texas [Mr. ARMEY] for yielding me this time.

The CHAIRMAN. The Chair wishes to announce that the gentleman from Texas [Mr. ARMEY] has 9½ minutes remaining, and the gentleman from Michigan [Mr. KILDEE] has 9 minutes remaining.

Mr. ARMEY. Mr. Chairman, I yield 1 minute to the distinguished gentleman from Missouri [Mr. EMERSON].

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

Mr. Chairman, the gentleman from Kansas made the point that the entire House, save one, had supported the Ford-Kildee amendment, seeing the merit of the argument about the home school issue. I believe that.

I also believe that my colleagues heard their telephones ringing. So we may be reinforcing what we have already done, and if we are, so be it.

The object of the Armey amendment is worthy of reinforcement. When we go to conference, there should be no disagreement about what is intended. Once started, Federal intrusion and regulation are like toothpaste out of the tube, they cannot go back. We have all seen this and know it to be true.

For this reason, I believe this is a real issue worthy of a real solution, and that solution is the Armey amendment. Home schools, parochial schools, and private schools are well regulated on the State level.

We need to make it exceedingly clear that the Federal Government will not put its heavy hand where it does not belong.

Mr. Chairman, I rise today in strong support of the Armey amendment to H.R. 6. Some of my colleagues have said that this amendment is an unnecessary solution to an unnecessary problem. I completely disagree.

My staff and I have answered many phone calls from worried and concerned parents in the eighth district of Missouri about H.R. 6. These parents have made individual, reasoned choices about the education of their children and genuinely fear Federal Government intrusion into their decision.

One lady, in particular, told me how her son has severe learning disabilities. In the public school, he wasn't doing well. She decided to home school him and now her son is achieving far beyond what was expected. This is not a condemnation of public schools—in fact all four of my daughters have attended public schools. Rather, it is an acknowledgement that public schools aren't the answer for everyone.

Once started, Federal intrusion and regulation is like toothpaste out of the tube—you can't go back. We have all seen this and know it to be true. For this reason, I believe this is a real issue worthy of a real solution. That solution is the Armey amendment. Home schools, parochial schools, and private schools are well-regulated on the State level. We need to make it exceedingly clear that the Federal Government will not put its heavy hand where it does not belong.

The Capitol switchboard has been jammed with calls from people who are tired of a Federal Government that just doesn't get it—these phone calls are a slap on the hand for a Federal Government always reaching for more control. Listen to those calls and support the Armey amendment.

Mr. ARMEY. Mr. Chairman, I yield 2 minutes to the newest Member of our body, the distinguished gentleman from Michigan [Mr. EHLERS].

Mr. EHLERS. Mr. Chairman, I want to thank the gentleman from Texas [Mr. ARMEY] and I rise to support his amendment. I'm perhaps uniquely qualified to speak on this issue since, I believe, I'm the only member of this Chamber who was home schooled—not by choice, but because of a childhood illness. I seem to have survived since I received a Ph.D. in nuclear physics from the University of California at Berkeley and also ended up in elective

office. But, in addition to that, I served as a teacher for 22 years.

I want to make it clear that I am a strong supporter of education, a strong supporter of good schools, and a strong supporter of teacher certification. However, I'm an even stronger supporter of not having the Federal Government intrude into the area of private schools and home schools. And I arise with some experience in this because my constituents in Michigan have experienced not only attempts at regulation, but also harassment from the State Department of Education in the past. This was eventually resolved when one of the individuals from my area ended up in the supreme court of the State of Michigan, which ruled against the Michigan Department of Education for their attempts to overregulate home schools.

I believe it is essential to adopt the Armey amendment. The Ford amendment I appreciate. It clarified the intent. The Armey amendment makes it ironclad. We have no intent to intrude upon or regulate the activities of home schools or private nonprofit schools through the action of the Federal Government. It is extremely important for us to go on record and make it crystal clear that we have no intent to regulate them. For that reason, I support the Armey amendment and ask my colleagues to support it also.

Mr. KILDEE. Mr. Chairman, I reserve the balance of my time at this point. I have no Members asking for time.

Mr. ARMEY. Mr. Chairman, I yield 1 minute to the distinguished gentleman from Illinois [Mr. CRANE].

Mr. CRANE. Mr. Chairman, I want to commend my colleague, the gentleman from Texas [Mr. ARMEY] for the introduction of this amendment to begin with, and second, and perhaps more importantly, I want to commend all those people from around this country who have communicated to the Members of this body.

The fact of the matter is that it is evident that the people are interested, they are concerned, and they are registering very properly their concerns. Home schooling is one of those affected areas, and in my home State of Illinois, we are 1 of the 17 States where home schools are classified as private schools, and we in Illinois, most assuredly—and I am confident this applies to all the other States—do not want Federal interference. The fact of the matter is that when we have a piece of legislation like this before us today, inevitably there is going to be escalating interference in this most precious area where parents feel most profoundly about the welfare of their children and guaranteeing that we inculcate the proper values.

Mr. Chairman, this amendment is in order. I urge my colleagues to support it wholeheartedly.

Mr. Chairman, as I was leaving home last weekend to return to Washington, I attempted to call my Washington office and was surprised to find the line busy. I tried again, and again, and again to no avail. When I finally got through, I was told that hundreds of angry parents had tied up the phone lines, all concerned about the detrimental effects H.R. 6 would have on the education of their children.

The outpouring of public opposition seemed to me to be an appropriate refutation of the basic tenets of the bill: H.R. 6 assumes that Washington bureaucrats make better decisions than parents and local officials, but hundreds of parents in my district were concerned and actively involved enough to take the time to call and express their opinions. Parents are not and should not be passive participants. They have dedicated their lives to educating, nurturing, and caring for their children, and I do not believe that government should intrude on that relationship or interrupt that dedication.

The target of most of this opposition has been the Miller amendment, which could have forced States to regulate private and home schools. I believe this to be an absolutely unconscionable intrusion into parental rights. The basic message was that parents who enroll their children in these types of schools are not knowledgeable enough, not involved enough, or not concerned enough to know if their child is receiving a solid education. I am here to tell this body that those parents are knowledgeable, are involved, and are concerned. I believe it much more likely that a parent lacking those attributes would simply send their child to a public school, rather than endure the hardships of home schooling or the financial commitment of a private school.

I strongly support the Armey amendment, as I believe it is the only way to ensure the significant investment made by parents who enroll their children in nonpublic schools from the devastating risks of H.R. 6. The end result of the ideals supported in H.R. 6 is a system where all schools follow one set of federally imposed guidelines, providing a monolithic, probably mediocre, education to all our children. The Armey amendment would seal off government intervention into nonpublic schools, and encourage a healthy diversity among schools.

We must recognize that a given educational program may be extraordinarily successful for one child, and a just as spectacular failure for another. I cannot decide for any child but my own which one is best. In fact, no one in this Chamber can make that decision for any child but his own. The Armey amendment gives discretion to the only person who can make that decision—each and every parent in America.

I applaud this body for its decision to strike the Miller language and avoid the preemption of parental rights. As of Thursday afternoon, my office had received nearly 700 calls from parents concerned about those rights. I hope we can now take the next step and approve the Armey amendment to protect parents and their rights.

Mr. ARMEY. Mr. Chairman, I yield such time as she may consume to the gentlewoman from Ohio [Ms. PRYCE].

Ms. PRYCE of Ohio. Mr. Chairman, today I rise in strong support of Mr. ARMEY's amendment, and urge my colleagues to vote in favor of his amendment. Like many other offices, I have received well over 1,000 calls and letters this week from citizens who are concerned that their rights to teach their children at home may be in jeopardy. These people are concerned with the education of their children, and work hard to ensure that their children receive quality instruction and moral guidance by teaching their children at home or sending them to private schools.

Mr. ARMEY's amendment is needed because of the provision which could be interpreted to adversely affect private schools and home schoolers. Certification requirements for teachers should be a State government issue. This amendment is necessary in order to clarify any ambiguity in the bill which would suggest that the Federal Government is exerting excessive control over nonpublic schools.

My constituents often express their anger over the amount of Federal control they encounter in their daily lives. This issue has many of my constituents scared. The passage of this amendment will alleviate the fear that many have expressed that the important educational choices they make for their children may be hampered. I urge my colleagues to support the Armey amendment.

Mr. ARMEY. Mr. Chairman, I yield 1 minute to the distinguished gentleman from Alabama [Mr. BACHUS].

Mr. BACHUS of Alabama. Mr. Chairman, I rise today to express my strong support for the Armey amendment.

Since the birth of our great Nation, many parents have made the choice to home school their children. The record clearly demonstrates that the children of these parents have been successful. In 1986 I was elected by the people of Alabama to serve on the State Board of Education. There I learned and I know firsthand that home schooling is successful in my home State of Alabama and must be allowed to continue.

The amendment by the gentleman from Texas [Mr. ARMEY], would allow parents who wish to home school their children to continue to do so. Their parental rights must not be sacrificed. Conversely, there is absolutely no need nor justification for greater Federal Government intrusion into the home. Instead, we should respect the traditional rights of parents to choose, and empower parents with more, not fewer, reasonable and rational choices. Home schooling is such a choice.

I urge my colleagues to support parental rights and the Armey amendment to H.R. 6.

Mr. ARMEY. Mr. Chairman, I yield 1 minute to the distinguished gentleman from Minnesota [Mr. GRAMS].

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Mr. GRAMS. Mr. Chairman, I rise in strong support of the Armey amendment. Once again the Federal Government is trying to take greater control of the private lives of citizens in Minnesota and around the country. H.R. 6 is another big government knows best bill that restricts what only families and localities are best suited to do: Educate our children and grandchildren.

The Ford amendment, while protecting homeschoolers, does not protect private and parochial teachers. We must preserve their rights as well.

In the past week my office has received thousands of calls and letters from very concerned moms and dads in Minnesota. They all oppose H.R. 6 and are rightfully worried that the arm of government is about to extend into all classrooms, including private and parochial, and that means losing the ability to provide the education for their children the way they see fit.

Representative DICK ARMEY's amendment keeps parents in charge of the education of their children, not the Government. The Armey amendment fully corrects the committee's mistake.

Freedom from excessive Government intrusion is a hallmark of our great Nation. Private, parochial, and home schools are a natural outgrowth of that freedom, I strongly urge my colleagues to support the Armey amendment and preserve our right to educate our children and grandchildren in an environment of our choosing.

Mr. ARMEY. Mr. Chairman, I yield 1 minute to the distinguished gentlewoman from Florida [Mrs. FOWLER].

Mrs. FOWLER. Mr. Chairman, I rise in support of Representative ARMEY's amendment to H.R. 6. I was pleased to support the Ford amendment which was a step in the right direction.

Improving our education system should be a national priority, and I strongly support efforts to assist localities in providing the best possible education for their children. However, I am opposed to increasing Federal control of our school systems and adding another layer of bureaucracy.

In its current form, H.R. 6 not only threatens the independence of private education, but poses a potential blow to those who choose to educate their children at home. Mr. ARMEY's amendment would do away with this threat by specifying that the bill not impose additional constraints on home, private, or religious schools that do not receive funds under the act.

As a former board member of the Duval Public Education Foundation, I know first-hand that bureaucrats make poor teachers. The Federal Government's role in education should be one of setting standards and providing resources, not dictating details which are better decided at the most immediate level—in communities, in classrooms and—especially—by parents.

Mr. ARMEY. Mr. Chairman, I reserve the balance of my time.

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

Mr. Chairman, I think this has been a very good debate on both amendments. I think the number of calls that we have received, as I said before, has been a great demonstration of democracy. This House does listen to the people.

We did respond, and I think the Ford-Kildee amendment responded well. I am not sure the language of the gentleman is good or bad at this point, but I am concerned when we write language in such a very delicate area here on the floor. But I will work with the gentleman.

Mr. Chairman, I think we do agree that we both seek to achieve the same purpose. Neither one of us wants to see the long arm of the Federal Government reaching into our home schools, and we will work together to make sure that whatever we do in conference will assure that.

Mr. Chairman, I enjoyed working with the gentleman. He has been candid with me. We disagree on certain things, but the gentleman has always shared whatever information he had with me.

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

Mr. ARMEY. Mr. Chairman, I yield myself such time as I might consume.

Mr. Chairman, let me thank Chairman FORD, Chairman GOODLING, the gentleman from Pennsylvania [Mr. GOODLING], the ranking member of the committee and the next chairman of the committee, all the Members of Congress for their patience.

Mr. Chairman, I think I can say that if we have a vote for Armey at this time and we pass Armey, we will leave private schools protected, home schoolers protected, and in fact that is what we seek to do. I can understand that there may be still some concern of some vestige of language trailing behind us, and in the conference, as I said before, I will seek to be there, and, if I may dare, to be the champion for the home schoolers and private schoolers.

Mr. KILDEE, who is himself the product of the fine work of the Jesuits in his early childhood education, I am sure will champion the cause of the Catholic schools. And I have no doubt whatsoever that by the time we come back from conference, we can all rest assured that absolutely no vestige of concern will be left, that everybody will understand their freedoms are protected, and I have no doubt there is goodwill on the part of all of us here in that regard.

Mr. Chairman, I would recommend a vote on the Armey amendment because, as the gentleman from Florida [Mr. BACCHUS] said, it must be passed if it is to be conferenceable in the first place. I think it is at the point now where we can proceed with that outcome.

Mr. DE LA GARZA. Mr. Chairman, will the gentleman yield?

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

Mr. DE LA GARZA. I thank my colleague for yielding, to express my concerns. I understand the home school has been taken care of.

Mr. ARMEY. If I can reclaim my time, the gentleman has made that point before. Mr. Chairman, the home schoolers have been taken care of to the satisfaction of the chairman of the committee. They have not, with the passage of his amendment, been taken care of to my satisfaction. I will only be satisfied that there is full and complete protection for the rights of the home schools with the passage of my own amendment, and there is a difference.

Mr. DE LA GARZA. If the gentleman will yield further, that is the question I was getting to. The gentleman keeps insisting that he will correct in conference, that something will be done in conference, that he will be there fighting for everyone in conference. We have got to vote now, here. How can I be satisfied that the issue is settled by the gentleman's amendment, besides him telling me that it is?

Mr. ARMEY. I have just been passed a note, Mr. Chairman, from the Catholic Conference that the revised amendment seems to address their concerns. Still, nevertheless, let me say, I am confident, this note here from the Catholic Conference reaffirms my confidence. Mr. KILDEE will be in conference to look after that concern. I will be in conference to look after the concerns of the other private schools and the home schoolers. I don't believe there is a reason for us to be concerned. Pass the Armey amendment now and we can go home and rest easily tonight that the freedoms of all of these children, home schoolers, private schoolers, Catholic schoolers, will all be protected. Vote yes. A vote yes today is a vote that allows us all to sleep with the good confidence we have done our duty and protected the rights of free people.

Let me say, Mr. Chairman, from all the cards, letters, flowers and phone calls I have had from these school children, I can tell you the face of freedom has a happy smile on it. Let us keep that smile glowing in America today.

Mr. Chairman, I yield such time as he may consume to the gentleman from Florida [Mr. HUTTO].

Mr. HUTTO. Mr. Chairman, I rise today in support of the Armey amendment. I have heard from many of my constituents in the Florida Panhandle who adamantly oppose the vague language in H.R. 6 that could put home and private schools in jeopardy. A clarifying amendment is vitally necessary in order to codify what we as the Congress of the United States believe; that the home and private schools of our Nation must be left well alone, as they receive no funding from the Federal Government.

As a former educator, it is one of my strongest beliefs that parents should be involved in the education of their children. It has been found that a lack of parental involvement is at the root of the problems presently occurring in our Nation's schools. Why should those who choose to take an active role in their child's development be penalized? These parents have the constitutional right as Americans to

educate their children in the manner they so choose. Congress should not stand in the way of teaching America's youth, particularly when prayer in schools has been eradicated and many parents home school their children for religious reasons.

I do agree that it is preferable to have public school educators teach in the subject area for which they are certified. However, not at the expense of home and private schools. It is common sense to exempt these schools from certification and Government regulation.

Mr. DOOLITTLE. Mr. Chairman, I rise today in strong support of the Armey amendment to H.R. 6—the Elementary and Secondary Education Act. The purpose of this important amendment is to explicitly state that the Federal Government has no control over any aspect of any private, religious, or home school that does not receive funds under the act. This amendment is needed in order to protect the rights of private, religious, and home schools.

First of all, I would like to express my appreciation for the hundreds of calls my office received on behalf of home schoolers, and parents who choose the form of education best suited for their children. This is a freedom that must be protected. The Federal Government must realize that it is the parents who know what's best for their children. Also, local school districts should be trusted to make decisions regarding education reforms. They know to base these reforms on the desires and special needs of the individual community.

Although I supported the Ford amendment to H.R. 6 which concisely states that "nothing in this act shall be construed to affect home schools," It does not go far enough. It does not even mention private schools, and it does not cover all home schools. In 16 States, including my home State of California, home schools are defined as private schools. That is why we desperately need the Armey amendment—to make it crystal clear that the long arm of the Federal Government should not reach into the affairs of private, religious, or home schools.

A vote in support of the Armey amendment, will be a vote for freedom. A yes vote will reaffirm what the American people already know—that the needs of our children will be best served when parents are free to make choices for them without the interference of the Federal Government.

Mr. KYL. Mr. Chairman, H.R. 6, as currently drafted, will severely limit local control of and parental choice in education. I rise specifically in support of two amendments—one by Representative ARMEY to strike the provisions of the bill that would effectively require State certification of home schoolers and one by Representative GOODLING to strike the "opportunity to learn standards" from H.R. 6.

H.R. 6 will effectively eliminate the rights of parents to home school their children. My office has received over 1,500 phone calls and faxes from parents who want H.R. 6 changed so they can continue to school their children in the manner that is best for their children. H.R. 6 will impose Government control over the rights of parents unless we pass the Armey amendment to strike the provision of H.R. 6 that will require State certification of home schoolteachers. The Federal Government should get out of the way and allow parents more flexibility in the education of their children.

H.R. 6 will also expand Federal micromanagement of public education and place tremendous financial burdens on school districts throughout Arizona and the Nation. To be eligible for most Federal education dollars, school districts will have to adhere to curriculum quality and resource allocation opportunity-to-learn standards set by the U.S. Department of Education. However, the bill does not provide any funding to develop these standards.

These opportunity-to-learn standards will also increase bureaucracy in public schools by requiring annual reports and other paperwork burdens on our schools. Again, H.R. 6 does not provide any funding to develop these reports.

As a result of these unfunded Federal mandates, tax policy at the State and local level will be greatly negatively impacted. Congressman Goodling's amendment will strike the mandatory opportunity-to-learn standards provision of the bill.

A vote for the Armey amendment and the Goodling amendment are both opportunities to acknowledge that our Nation's parents and local governments, not the Federal bureaucracy, know best the education needs of our Nation's young people. I urge my colleagues to vote for the Armey and the Goodling amendment.

Mr. DELAY. Mr. Chairman, I rise today in support of Mr. Armey's amendment to H.R. 6.

My fellow colleagues: Do not be deceived. Mr. Armey's amendment is the only amendment that will truly protect the right of private, parochial, and home schools to provide education for their children without the threat of Government intrusion.

The reason that most parents elect for alternatives to public education is to provide their children with an environment which espouses a framework of values and beliefs which they choose. In the past few days, I have received over 630 calls from my district opposing the proposed regulation on private, parochial, and home schools whose very existence is threatened by H.R. 6.

It is my belief that State and local governments know the needs of our schools and are best able to improve them. Excessive Federal Government regulation only adds to the problems our schools are facing. Mr. Miller's amendment, however, puts all schools—public, parochial, and home—under the jurisdiction of a local education agency, regardless of State laws. Mr. Miller's amendment requires that by July 1, 1998, all schools would be required to certify their teachers through their respective local educational agencies.

Mr. MILLER says he did not intend for his amendment to apply to home schools. If this is true, then I have two questions to ask. First, why was Mr. ARMEY's original amendment to protect home schooling rejected in committee? And second, why was the teacher certification provision included in the bill when it is already a requirement for public school teachers to be certified in all 50 States?

Clearly, there is more at hand here than just concurring with a provision that is already law—this whole bill amounts to an unprecedented attempt by the Federal Government to control the entire educational arena.

Mr. Armey's amendment, unlike Mr. FORD's, is the only amendment sufficient to protect home, private, and parochial schools from Government regulations regarding the certification of teachers, while at the same time, does nothing to prevent schools from participation in Federal programs. Mr. Ford's amendment is sufficient on two counts. First, it does not exempt private or parochial schools. In addition, it does not protect all home schools, because in 16 States, including my State of Texas, home schools are defined as private schools—Alaska, Alabama, California, Delaware, Illinois, Indiana, Kansas, Kentucky, Michigan, Nebraska, Louisiana, Texas, Colorado, Florida, Maine, and Utah.

We have an opportunity today to vote on an amendment that will either protect or threaten parents' rights to educate their children according to their own best judgment. I urge my colleagues to vote for the real amendment—the Armey amendment—which will truly protect the private, parochial, and home schools of America from big brother, Fed.

Ms. SNOWE. Mr. Chairman, I rise today to comment on H.R. 6, the Improving America's Schools Act. There are many programs incorporated in this bill which I support, but there also are some provisions which need revision.

I support the Armey amendment which clarifies that the Federal Government in no way requires certification or regulation of teachers in any private, religious, or home school.

I applaud the fair and equitable revision of the chapter I formula that has emerged from the Education and Labor Committee. I am pleased to see the inclusion of a new chapter 2 that will permit State and local education agencies to create innovative programs, providing them the freedom to experiment within broad guidelines.

I also am glad to see the inclusion of many portions of the Gender Equity in Education Act. These provisions address the current deficiencies in girl's education and the need for the elimination of sexual harassment in the schools. According to a recent survey by the American Association of University Women, nearly one in four students who have been sexually harassed say that this results in their not wanting to attend school. Nearly one in four girls say that harassment has caused them to stay home from school or cut a class. At a time when we are raising educational standards, we must heed these signals. We must eliminate hostile hallways and provide for safe and equitable treatment for all students.

I am opposed to opportunity-to-learn standards being imposed on schools. I view them as an unfunded Federal mandate because the Federal Government fails to provide funding for the numerous provisions with which this legislation would have the local schools comply. Provisions of this bill would increase the bureaucracy and paperwork for schools and decrease their flexibility. Opportunity-to-learn standards concentrate on inputs rather than outcomes. I hope we can reach an agreement on focusing on raising student achievement and leaving the means to State and local education agencies.

Mr. DREIER. Mr. Chairman, today I rise in support of the Armey amendments to H.R. 6, the Improving America's Schools Act of 1994. During the markup of H.R. 6, the Committee

on Education and Labor adopted a provision that requires all school teachers to be publicly certified. This certification requirement could easily be interpreted to apply to private school teachers and home school teachers, imposing an onerous burden on these valuable institutions.

Parents are demanding reforms in our system of education. They are rightly demanding more choice, more local control, better schools, and freedom from Federal mandates and regulations. Unfortunately, the teacher certification requirement in H.R. 6 is just one more Federal mandate which would reduce choice and local control, while effectively eliminating most of our private and home schools.

Under the current system of mandatory certification for teachers in public schools, Albert Einstein would not be allowed to teach high school physics; Martin Feldstein would not be allowed to teach junior high economics. The best and the brightest can still teach in our private schools, but are often not allowed to work in a public school. And now, the supporters of H.R. 6 and the teacher certification requirements would prohibit private schools from hiring on merit, and would effectively preclude home schooling, except where a home school teacher has the time and the resources to take a multiyear public teaching course.

Mr. Chairman, I support the Armey amendments as an effort to preserve the freedoms and diversity of American private education.

Mr. BOEHLERT. Mr. Chairman, I rise today in strong support of the Armey amendment. During the past week, there has been an outpouring of concern from across the Nation that H.R. 6 will adversely impact parents who choose to teach their children at home. Those concerns must be addressed and the amendment before us does just that.

The United States is entering an era of global change—political, economic, and scientific. We need to ensure that our children have the skills to interact, compete, and lead in those developing international community. Why in the world would we want to advocate a bill that even remotely threatens innovative education programs that have proven successful? And home schooling has proven to be successful.

Despite the good intentions behind the teacher certification provision in H.R. 6, interpretation is everything. A family's decision to teach their kids at home could become a logistical nightmare if local education agencies choose to apply teacher certification requirements to nonpublic schools.

Let's not encourage yet another situation where the Government tries to impose itself on a system that is meeting the needs of millions of Americans. Home schooling is a unique approach to education that has demonstrated positive results for those who chose it. To the best of my thinking, there has not been, nor is there now, an organized attempt to undermine the home schooling system. But where concern is registered and where ambiguity exists, we must address those concerns and clear up that ambiguity.

Support the Armey amendment to H.R. 6.

Ms. FURSE. Mr. Chairman, I rise today in support of the Armey amendment. There has been a concern among many in my district that certain provisions in H.R. 6, the Improving America's Schools Act of 1994, could be interpreted to require the certification of private and home school instructors. Clearly some clarification of this matter is needed to alleviate the real concerns and fears of private and home school parents across the Nation caused by the language in the bill.

I support the Armey amendment which removes the teacher certification requirements from the bill and, further, will clarify that nothing in this act shall be construed to permit, allow, encourage, or authorize any Federal control over any aspect of any private, religious, or home school.

I fully support the right of parents to choose the best schooling option for their children—whether that choice be private, religious, home, or public school. Further, I strongly believe that parents should be the one to make this decision, not the Government. I encourage parents to become more involved is making decisions about the education of their children. By passing this amendment, we will specifically preserve that important right. I am proud to support it, and urge my colleagues to vote in its favor.

Mr. ARMEY. Mr. Chairman, I am submitting for the RECORD the legislative interpretation of the private school and home school freedom amendment.

LEGISLATIVE INTERPRETATION OF THE PRIVATE SCHOOL AND HOME SCHOOL FREEDOM AMENDMENT

I. General introduction.

H.R. 6 came from committee with language in Section 2124(e) which raised very serious concerns. This section required schools "under the jurisdiction" of a local education agency to require that all full-time teachers be certified in the specific subject matter of every course taught. Concerns were raised as to the wisdom of this section vis-a-vis public schools. Very serious concerns were raised as a result of the potential application of this section to home schools and private schools.

Congress recognizes that home schools and private schools constitute an important part of the educational opportunities for children in this country. Scores of studies confirm home schooled students on the average, score above average on standardized achievement tests. The Home School-Private School Freedom Amendment was adopted to further recognize the general principle that home schools and private schools should not be regulated by Congress. Generally speaking, any necessary and constitutional academic regulation of such schools is a responsibility of state government (and local government to the extent delegated by the state).

II. Deletion of section 2124(e).

Section 2124(e), which contained the course-specific teacher certification requirement, has been eliminated from this Act by the Ford-Kildee amendment. In repealing section 2124(e), Congress has made clear that it has no intention of imposing such a requirement vis-a-vis private and home schools. Moreover, serious doubt is raised about the constitutionality of such an application since in 1993 the Supreme Court of Michigan ruled that it was a violation of the First Amendment to require religious home school parents to be certified teachers. People of the State of Michigan v. DeJonge, 501 N. W.2d 127 (Mich. 1993). A similar principle applies to any corresponding requirement upon religious schools. Furthermore, hundreds of studies confirm there is no positive correlation between teacher qualifications and student performance. Teacher certification is not necessary for children to be educated.

The wisdom of this certification provision vis-a-vis public schools was also seriously questioned. State governments have the jurisdiction to require certification of all public school teachers. All states exercise this jurisdiction with a comprehensive scheme of teacher certification regulations. The course-specific provision of 2124(e) would have had serious consequences for public schools. For example, a teacher certified to teach secondary science who happened to have been a champion debater in college, would not have been allowed to teach a debate class under this section. To teach such a class the teacher would have had to obtain substantial additional course work to be certified in the language arts area. Such a rule may have resulted in reduced opportunities for students in specialized electives—especially in rural and smaller public high schools. It may have also imposed substantial hardships on classroom teachers. By rejecting this section Congress leaves the issue of the qualification of teachers to state governments and local school boards whose interest is primary and which more directly encounter the varying specific circumstances.

III. Change in the definition of "elementary school" and "secondary school."

H.R. 6 raised substantial concerns among home schooling parents. The word "nonprofit" had been added to the definitions of "elementary school" and "secondary school" to assure the exclusion from participation under the Act of for-profit schools.

However Congress recognizes that home schools are a unique approach to education that requires special consideration. Home schools should not be accidently lumped into legislative provisions aimed at institutional schools. The addition of the word "institutional" to the definition of "elementary school" and "secondary school" insures that home schools are not unintentionally subjected to laws which use the general term "school". Congress recognizes that any provision aimed at home schools should address them specifically by designation. While many states have laws which specifically address home schools, Congress recognizes that in at least seventeen states (AK, AL, CA, CO, DE, FL, IL, IN, KS, KY, LA, ME, MI, NE, SC, TX, UT) home schools operate as "private schools" as a primary or alternative mode of complying with state public education law. By adding the term "institutional" Congress intends to categorically exclude home schools, including those which have the status of private schools, from the federal definition of "elementary school" and "secondary school" regardless of the definitional term employed for home schools under state law.

IV. Section 9508 is added to provide a general exclusion under the Act of the regulation of home schools and private schools.

H.R. 6 is voluminous, with many sweeping provisions. In earlier versions the phrase "all children" was often used in a directive sense. Section 9508 makes it explicit that there is no intent under this Act to have federal control or a mandate for state regulation of private schools or home schools, which may participate in programs to facilitate the participation and receipt of services by students. Under operation of Title I or Title II such schools are not recipients of funds under the Act.

The second sentence makes it clear that this section is not intended to change the

rules so as to bar any continuance of participation by home schools or private schools, or their students or faculty, in federally funded programs. Those rules are set forth specifically in other provisions of this Act.

This section is not intended to alter in any way the constitutionally accepted practice of including private school students (including religious school students) in broad programs aimed at benefiting all children. See, e.g. Witters v. Washington Department of Services for the Blind, 471 U.S. 1002 (1986), Zobrest v. Catalina Foothills School District, 113 S. Ct. 2462 (1993).

Mr. ARMEY. Mr. Chairman, I yield back the balance of my time.

The CHAIRMAN. The question is on the amendments en bloc, as modified, offered by the gentleman from Texas [Mr. ARMEY].

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

RECORDED VOTE

Mr. ARMEY. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 374, noes 53, not voting 12, as follows:

[Roll No. 32]

AYES—374

Allard
Andrews (ME)
Andrews (NJ)
Applegate
Archer
Armey
Bacchus (FL)
Bachus (AL)
Baesler
Baker (CA)
Baker (LA)
Ballenger
Barca
Barcia
Barlow
Barrett (NE)
Barrett (WI)
Bartlett
Barton
Bateman
Beilenson
Bentley
Bereuter
Berman
Bevill
Bilbray
Bilirakis
Bishop
Bliley
Blute
Boehlert
Boehner
Bonilla
Bonior
Borski
Boucher
Brewster
Brooks
Browder
Brown (CA)
Brown (FL)
Brown (OH)
Bryant
Bunning
Burton
Buyer
Byrne
Callahan
Calvert
Camp
Canady
Cantwell
Cardin
Castle
Chapman
Clayton
Clement
Clinger
Clyburn
Coble
Coleman
Collins (GA)
Combest
Condit
Cooper
Coppersmith
Costello
Cox
Cramer
Crane
Crapo
Cunningham
Danner
Darden
de la Garza
Deal
DeFazio
DeLauro
DeLay
Derrick
Deutsch
Diaz-Balart
Dickey
Dicks
Dixon
Dooley
Doolittle
Dornan
Dreier
Duncan
Dunn
Durbin
Edwards (TX)
Ehlers
Emerson
Engel
English
Eshoo
Evans
Everett
Ewing
Faleomavaega (AS)
Farr
Fawell
Fazio
Fields (LA)
Fields (TX)
Filner
Fingerhut
Fish
Flake
Foley
Ford (TN)
Fowler
Franks (CT)
Franks (NJ)
Frost
Furse
Gallegly
Gallo
Gekas
Gephardt
Geren
Gibbons
Gilchrest
Gillmor
Gilman
Gingrich
Glickman
Goodlatte
Goodling
Gordon
Goss
Grams
Grandy
Greenwood
Gunderson
Gutierrez
Hall (OH)
Hall (TX)
Hamilton
Hancock
Hansen
Harman
Hastert
Hayes
Hefley
Hefner
Herger
Hinchey
Hoagland
Hobson
Hochbrueckner
Hoekstra
Hoke
Holden
Horn
Houghton
Hoyer
Huffington
Hughes
Hunter
Hutchinson
Hutto
Hyde
Inglis
Inhofe
Inslee
Istook
Jacobs
Jefferson
Johnson (CT)
Johnson (GA)
Johnson (SD)
Johnson, E. B.
Johnson, Sam
Kanjorski
Kaptur
Kasich
Kim
King
Kingston
Kleczka
Klein
Klink
Klug
Knollenberg
Kolbe
Kreidler
Kyl
LaFalce
Lambert
Lancaster
Lantos
LaRocco
Lazio
Leach
Lehman
Levin
Levy
Lewis (CA)
Lewis (FL)
Lightfoot
Linder
Lipinski
Livingston
Lloyd
Long
Lowey
Machtley
Maloney
Mann
Manton
Manzullo
Margolies-Mezvinsky
Markey
Martinez
Mazzoli
McCandless
McCloskey
McCollum
McCrery
McCurdy
McDade
McHale
McHugh
McInnis
McKeon
McKinney
McMillan
McNulty
Meehan
Menendez
Meyers
Mfume
Mica
Michel
Miller (FL)
Minge
Moakley
Molinari
Mollohan
Montgomery
Moorhead
Morella
Murphy
Myers
Neal (MA)
Neal (NC)
Nussle
Oberstar
Obey
Ortiz
Orton
Oxley
Packard
Pallone
Parker
Pastor
Paxon
Payne (VA)
Pelosi
Penny
Peterson (FL)
Peterson (MN)
Petri
Pickett
Pickle
Pombo
Pomeroy
Porter
Portman
Poshard
Price (NC)
Pryce (OH)
Quillen
Quinn
Rahall
Ramstad
Ravenel
Reed
Regula
Richardson
Ridge
Roberts
Roemer
Rogers
Rohrabacher
Ros-Lehtinen
Rose
Rostenkowski
Roth
Roukema
Rowland
Royce
Sabo
Sanders
Sangmeister
Santorum
Sarpalius
Saxton
Schaefer
Schenk
Schiff
Schroeder
Schumer
Scott
Sensenbrenner
Serrano
Sharp
Shaw
Shays
Shepherd
Shuster
Sisisky
Skaggs
Skeen
Skelton
Slattery
Slaughter
Smith (IA)
Smith (MI)
Smith (NJ)
Smith (OR)
Smith (TX)
Snowe
Solomon
Spence
Spratt
Stearns
Stenholm
Strickland
Studds
Stump
Stupak
Sundquist
Swett
Talent
Tanner
Tauzin
Taylor (MS)
Taylor (NC)
Tejeda
Thomas (CA)
Thomas (WY)
Thompson
Thornton
Thurman
Torkildsen
Torres
Torricelli
Traficant
Tucker
Underwood (GU)
Upton
Valentine
Volkmer
Vucanovich
Walker
Walsh
Waxman
Weldon
Wheat
Whitten
Williams
Wise
Wolf
Woolsey
Wyden
Wynn
Young (AK)
Young (FL)
Zeliff
Zimmer

NOES—53

Abercrombie
Ackerman
Becerra
Blackwell
Carr
Clay
Collins (IL)
Collins (MI)
Conyers
Coyne
de Lugo (VI)
Dellums
Dingell
Edwards (CA)
Foglietta
Ford (MI)
Frank (MA)
Gonzalez
Hamburg
Hilliard
Johnston
Kildee
Kopetski
Lewis (GA)
Matsui
McDermott
Meek
Miller (CA)
Mineta
Mink
Moran
Nadler
Natcher
Norton (DC)
Olver
Owens
Payne (NJ)
Rangel
Reynolds
Romero-Barceló (PR)
Roybal-Allard
Sawyer
Stark
Stokes
Swift
Towns
Unsoeld
Velázquez
Vento
Visclosky
Waters
Watt
Yates

NOT VOTING—12

Andrews (TX)
Gejdenson
Green
Hastings
Kennedy
Kennelly
Laughlin
Murtha
Rush
Synar
Washington
Wilson

□ 1528

The Clerk announced the following pair:

On this vote:

Mr. Wilson for, with Mr. Synar against.

Mr. McDERMOTT, Ms. NORTON, and Ms. ROYBAL-ALLARD changed their vote from "aye" to "no."

Mr. BERMAN and Ms. EDDIE BERNICE JOHNSON of Texas changed their vote from "no" to "aye."

So the amendments en bloc, as modified, were agreed to.

The result of the vote was announced as above recorded.

AMENDMENTS EN BLOC OFFERED BY MR. KILDEE

Mr. KILDEE. Mr. Chairman, pursuant to the rule, I offer a package of amendments en bloc.

The CHAIRMAN. The Clerk will designate the amendments en bloc.

The text of the amendments en bloc is as follows:

Amendments en bloc offered by Mr. KILDEE:

Page 5, amend the heading for part E of title II of the Elementary and Secondary Education Act of 1965 in the table of contents as follows:

"PART E—INNOVATIVE EDUCATION PROGRAM STRATEGIES".

Page 8, in the item relating to title V, strike:

"TITLE V—MAGNET SCHOOLS ASSISTANCE
"PART A—PROMOTING EQUITY"

and insert

"TITLE V—PROMOTING EQUITY
"PART A—MAGNET SCHOOLS ASSISTANCE"

Page 15, in the item relating to section 501, strike "study" and insert "evaluation".

Page 37, strike lines 8 through 11 (and redesignate any subsequent paragraphs accordingly).

Page 37, line 23, strike "and revision".

Page 37, after line 23, insert the following (and redesignate any subsequent paragraphs accordingly):

"(2) shall appoint individuals to the peer review process who shall be representative of State educational agencies, local educational agencies, teachers, and parents;".

Page 52, line 19, after "1117" insert "(c)(1) and (e)".

Page 52, line 20, after "system" insert ", together with other providers of assistance with which the State has made specific arrangements to assist schoolwide programs, such as comprehensive technical assistance centers, regional laboratories, and institutions of higher education,".

Page 52, line 22, strike ", including" and all that follows through "team" on line 24.

Page 56, line 18, after "local educational agency" insert "and its school support team or other technical assistance provider consistent with the provisions in subsections (c)(1) and (e) of section 1117".

Page 59, strike lines 8 through 14 and insert the following:

identification shall be subject to corrective actions by the local educational agency, as well as, where appropriate, termination of schoolwide program status.

"(3) A school that has forfeited its schoolwide status may not regain such sta-

tus until the local educational agency determines that the school has adequately reformed its schoolwide program plan to enable it to make adequate progress toward meeting the State's challenging performance standards.

Page 70, line 16, strike "; and" and insert a comma.

Page 70, line 18, before the period insert ", and in the case of schoolwide programs, terminating schoolwide status".

Page 72, line 20, strike "standards." and insert "standards, and submit such plan to the State educational agency for approval.".

Page 188, line 21, strike "and middle schools" and insert ", middle schools, and secondary schools".

Page 311, strike line 20 and insert the following:

"PART E—INNOVATIVE EDUCATION PROGRAM STRATEGIES".

Page 312, line 8, strike "Goals 2000" and insert "Goals 2000: Educate America Act".

Page 313, beginning on line 25, strike "the Trust Territory of the Pacific Islands".

Page 314, line 1, insert "and Palau (until the effective date of the Compact of Free Association with the Government of Palau)," after "the Northern Mariana Islands,".

Page 319, line 19, strike "chapter" and insert "part".

Page 322, line 15, after "local" insert "educational".

Page 445, strike lines 7 through 9 and insert the following:

"TITLE V—PROMOTING EQUITY

"PART A—MAGNET SCHOOLS ASSISTANCE".

Page 757, line 5, strike "and".

Page 757, line 6, insert the following (and redesignate any subsequent subparagraphs accordingly):

"(B) Subpart 1 of part B and part C of title II; and".

Page 802, strike lines 14 through 25.

Page 898, line 12, strike "Study" and insert "Evaluation".

Page 898, line 14, strike "In addition to" and insert "In collaboration with".

Page 898, line 17, strike "study" and insert "evaluation".

Page 898, line 21, strike "study" and insert "evaluation".

Page 898, line 25, strike "study" and insert "evaluation".

Page 899, line 2, after "Opportunities Act" insert "and shall be coordinated with evaluations of such acts".

Page 899, line 3, strike "study" and insert "evaluation".

Page 899, line 13, strike "study" and insert "evaluation".

Page 899, line 20, strike "to such" and insert "with such".

Page 900, line 3, strike "study" and insert "evaluation".

Page 900, line 11, strike "study" and insert "evaluation".

Page 900, line 17, strike "study" and insert "evaluation".

Page 900, line 19, after "report." insert "The panel shall not be subject to the Federal Advisory Committee Act.".

Page 901, strike lines 2 through 4 and insert the following: "Any authority or requirement to make funds available under this Act shall be effective only to the extent provided in appropriation Acts.

Strike out part G of title VI of the Elementary and Secondary Education Act of 1965, as proposed to be added by the amendment made by section 101 of the bill (page 519, line 8 through page 617, line 24).

Page 875, after line 20, insert the following:

PART F—AMENDMENTS TO STATUTES PERTAINING TO INDIAN EDUCATION

SEC. 351. BUREAU OF INDIAN AFFAIRS.

Part B of title XI of Public Law 95-561 (25 U.S.C. 2001 et seq.) is amended to read as follows:

Page 875, after line 20, insert the text set out in the bill as part G of title VI of the Elementary and Secondary Education Act of 1965 (page 519, line 8 through page 617, line 24) and redesignate that part as part B, redesignate the sections in that part so as to begin with section 1121, and revise cross references to those sections accordingly.

Page 875, after line 20, insert the following:

SEC. 352. APPLICATION WITH RESPECT TO INDIAN SELF-DETERMINATION AND EDUCATION ASSISTANCE ACT.

Section 5209(a) of the Tribally Controlled Schools Act of 1988 (25 U.S.C. 2508(a)) is amended to read as follows:

"(a) CERTAIN PROVISIONS TO APPLY TO GRANTS.—All provisions of section 5, 6, 7, 104, 105(f), 109, and 111 of the Indian Self-Determination and Education Assistance Act, except those provisions relating to indirect costs and length of contract, shall apply to grants provided under this part.".

SEC. 353. PAYMENTS.

Section 5209(e) of Public Law 100-297, the Tribally Controlled Schools Act of 1988, is amended—

(1) by striking "the amount of the grant under section 5205 (and the amount of funds referred to in that section), any payments to be made under section 5208 of this Act," and inserting in lieu thereof: "a grant authorized to be made pursuant to this part or any amendment to such grant";

(2) by striking "the amount of, or payment of, the administrative grant" and inserting in lieu thereof "an administrative cost grant"; and

(3) by adding at the end thereof "and the Equal Access to Justice Act shall apply to administrative appeals filed after January 1, 1994, by grantees regarding the Tribally Controlled Schools Grant and Administrative Cost Grants.".

SEC. 354. ENDOWMENT FUNDS.

Section 302 of Public Law 95-471, the Tribally Controlled Community Colleges Assistance Act of 1978, is amended—

(1) in subsection (a), by striking "section 333" and inserting in lieu thereof "section 331";

(2) in subsection (b), by deleting paragraph (1) and inserting in lieu thereof the following:

"(1) provides for the investment and maintenance of funds covered by such endowment account under the same conditions and limitations as are in section 331 of the Higher Education Act and the regulations implementing such provisions in effect at the time such funds are invested;

(3) in subsection (b)(3) by striking "same" the first time it appears.

SEC. 355. HIGHER EDUCATION AMENDMENTS OF 1992.

Section 1518 of title XV of the Higher Education Amendments of 1992 (relating to the Santa Fe Arts Institute) is amended—

(1) in subsection (b), by adding at the end the following new paragraph:

"(6) For the purpose of complying with the contribution requirement in this subsection, the Institute may use funds or in-kind contributions of real or personal property. For the purposes of this paragraph, all contributions, in-kind and real estate, which are on hand as of November 29, 1990, and which were received after June 2, 1988, but which have not been included in their entirety in computations under this section shall be eligible for matching with Federal funds appropriated in any year."; and

(2) in subsection (c), by striking paragraph (1) and inserting in lieu thereof the following:

"(1) Funds in the trust funds described in subsections (a) and (b) shall be invested under the same conditions and limitations as are in section 331 of the Higher Education Act, and the regulations implementing such provisions in effect at the time such funds are invested.".

Page 738, line 8, insert the following:

"SEC. 9104. APPLICABILITY TO BUREAU OF INDIAN AFFAIRS OPERATED SCHOOLS.

"For purposes of any competitive program under this Act, the Bureau of Indian Affairs may apply on behalf of the schools which it operates and it shall be subject to all program and application requirements of the program for which it applies.".

Page 486, strike line 24 and all that follows through page 487, line 21 and insert the following:

"(f)(1)(A) The Secretary shall conduct a monitoring and evaluation review of a sampling of the recipients of grants under this part each fiscal year, such sampling to take into account size of the recipient and geographic location. The purpose of the sampling shall be to provide the Secretary with such information as is necessary to assist the Secretary in carrying out his or her responsibility to provide technical assistance under this part.".

Page 491, strike line 13 and all that follows through page 500, line 2, and insert the following:

"SEC. 6201. IMPROVEMENT OF EDUCATIONAL OPPORTUNITIES FOR INDIAN CHILDREN.

"(a) PURPOSE; COORDINATION.—(1) It is the purpose of this section to support projects that are to develop, text, and demonstrate the effectiveness of services and programs to improve educational opportunities and achievement of Indian children.

"(2) The Secretary shall take such steps as are necessary to achieve coordination of projects funded under this part with other programs funded under this Act and with other Federal programs operated for the benefit of American Indian and Alaska Native children.

"(b) ELIGIBLE APPLICANTS.—State educational agencies, local educational agencies, Indian tribes, Indian organizations, federally supported elementary and secondary schools for Indian students, Indian institutions, including Indian institutions of higher education, and consortia thereof may apply for grants under this section.

"(c) AUTHORIZED PROJECTS AND ACTIVITIES.—Recipients of grants under this section shall use the grant funds to carry out projects and activities that meet the purpose of this section, such as—

"(1) innovative programs related to the educational needs of educationally deprived children;

"(2) educational services not available to such children in sufficient quantity or quality, including remedial instruction, to raise the achievement of Indian children in 1 or more of the core curriculum areas of English, mathematics, science, foreign languages, art, history, and geography;

"(3) bilingual and bicultural programs and projects;

"(4) special health and nutrition services, and other related activities, which meet the

special health, social, and psychological problems of Indian children;

"(5) special compensatory and other programs and projects designed to assist and encourage Indian children to enter, remain in, or reenter school and to increase the rate of high school graduation;

"(6) comprehensive guidance, counseling, and testing services;

"(7) early childhood and kindergarten programs, including family based preschool programs that emphasize school readiness and parental skills, and services to Indian children with disabilities;

"(8) partnership projects between local educational agencies and institutions of higher education that allow high school students to enroll in courses at the postsecondary level to aid them in the transition from high school to postsecondary education;

"(9) partnership projects between schools and local businesses for school-to-work transition programs designed to provide Indian youth with the knowledge and skills they need to make an effective transition from school to a first job in a high-skill, high-wage career;

"(10) programs designed to encourage and assist Indian student to work toward, and gain entrance into, institutions of higher education; and

"(11) other services which meet the needs of this section.

Preservice or in-service training of professional and paraprofessional personnel may be a part of any program authorized under this section.

"(d) GRANTS AND APPLICATIONS.—

"(1) GRANTS.—(A) The Secretary may make grants under this section for up to 5 years. Grants may be made for the planning, development, pilot operation, or demonstration of any activity authorized under this section, with priority given to those applications which present a plan for combining 2 or more of these operations over a multiyear period. The Secretary shall make such multiyear grants subject to the conditions included below and shall provide continuation funding for each fiscal year upon a positive determination that the applicant has made substantial progress in carrying out the operations covered under each grant period, as set forth in the initial grant and any subsequent modifications.'

"(B) The Secretary is also authorized to make dissemination grants. Prior to making any such dissemination grant, the Secretary shall make a finding that the material or program to be disseminated has been adequately reviewed and has shown (i) educational merit, and (ii) an ability to be replicated.

"(2) APPLICATIONS.—(A) Any eligible entity that desires to receive a grant under this section shall submit an application to the Secretary at such time and in such manner as the Secretary may require.

"(B) Each application shall contain—

"(i) a description of how parents of Indian children and representatives of Indian tribes have been, and will be, involved in developing and implementing the project for which assistance is sought;

"(ii) as assurance that the applicant will participate, at the request of the Secretary, in any national evaluation of projects under this section; and

"(iii) such other assurances and information as the Secretary may reasonably require.

"SEC. 6202. PROFESSIONAL DEVELOPMENT.

"(a) PURPOSE.—The purpose of this section is to increase the number of qualified Indian persons in professions serving Indian people, and to provide training as teachers, administrators, teacher aides, social workers, and ancillary educational personnel, and to improve the skills of those presently serving in these capacities.

"(b) ELIGIBLE APPLICANTS.—Eligible applicants under this section are—

"(1) institutions of higher education, including Indian institutions of higher education;

"(2) State and local educational agencies, in consortium with institutions of higher education; and

"(3) Indian tribes and organizations, in consortium with institutions of higher education.

"(c) AUTHORIZED PROJECTS AND ACTIVITIES.—(1) Each recipient of a grant under this section shall use the grant funds to provide support and training for Indian persons, consistent with the purposes of this section. Such activities may include, but are not limited to, a continuing program, symposia, workshops, conferences, and direct financial support.

"(2)(A) For education personnel, such training may be in-service or preservice.

"(B) For those being trained in other fields, such training shall be in programs that result in graduate degrees.

"(3) In programs funded under this section, preference shall be given to the training of Indians.

"(4) In making grants under this section, the Secretary shall consider prior performance and may not limit eligibility on the basis of the number of previous grants or the length of time for which the applicant has received grants.

"(d) PROJECT PERIOD.—The project period for each project approved under this section shall be up to 5 years.

"(e) SERVICE OBLIGATION.—The Secretary shall, by regulation, require that individuals who receive training under this section perform related work which benefits Indian people or repay all or a prorated part of the support received. The Secretary shall establish by regulation a mechanism for having the recipient provide information of compliance with this requirement beginning within 12 months of the completion of training received.".

Page 501, strike line 21 and all that follows through page 502, line 2 and insert the following:

"(e) SERVICE OBLIGATION.—The Secretary shall, by regulation, require that individuals who receive financial assistance under this section perform related work which benefits Indian people or repay all or a prorated part of the support received. The Secretary shall establish by regulation a mechanism for having the recipient provide information of compliance with this requirement beginning within 12 months of the completion of training received.".

Page 507, strike line 19 and all that follows through page 509, line 2.

Page 411, line 13, strike "5004(a)(1)" and insert "4004(a)(1)".

Page 412, line 2, strike "5202" and insert "4202".

Page 412, line 5, strike "5106(a)" and insert "4106(a)".

Page 413, line 11, strike "5101" and insert "4101".

Page 413, line 17, strike "5101" and insert "4101".

Page 414, line 21, strike "5104" and insert "4104".

Page 414, line 25, strike "5106(a)" and insert "4106(a)".

Page 415, line 5, strike "5103(a)" and insert "4103(a)".

Page 415, line 16, strike "5105" and insert "4105".

Page 415, line 19, strike "5103(b)" and insert "4103(b)".

Page 416, line 2, strike "5103(d)(2)(A)(i)(II)" and insert "4103(d)(2)(A)(i)(II)".

Page 416, line 25, strike "5101" and insert "4101".

Page 417, line 6, strike "5121" and insert "4121".

Page 417, line 11, strike "5101" and insert "4101".

Page 417, line 19, strike "5122" and insert "4122".

Page 421, line 19, strike "5104" and insert "4104".

Page 422, line 24, strike "5103(d)" and insert "4103(d)".

Page 424, line 24, strike "5102" and insert "4102".

Page 425, line 15, strike "5103(d)(2)(A)(i)(I)" and insert "4103(d)(2)(A)(i)(I)".

Page 425, line 16, strike "5103(d)(2)(A)(i)(II)" and insert "4103(d)(2)(A)(i)(II)".

Page 426, line 12, strike "5102" and insert "4102".

Page 432, line 5, strike "5122" and insert "4122".

Page 434, line 10, strike "5103(b)" and insert "4103(b)".

Page 434, line 11, strike "5103(d)" and insert "4103(d)".

Page 435, line 9, strike "5004(a)(2)" and insert "4004(a)(2)".

Page 437, line 2, strike "5106(a)" and insert "4106(a)".

Page 438, line 9, strike "5101(a)(3)" and insert "4101(a)(3)".

Page 311, strike line 20 and insert the following:

PART E—INNOVATIVE EDUCATION PROGRAM STRATEGIES

Page 313, after line 19, insert the following:

SEC. 2403. DEFINITION.

For the purposes of this part the term "effective schools programs" means school-based programs that may encompass preschool through secondary school levels and that have the objectives of (1) promoting school-level planning, instructional improvement, and staff development, (2) increasing the academic achievement levels of all children and particularly educationally deprived children, and (3) achieving as ongoing conditions in the school the following factors identified through effective schools research as distinguishing effective from ineffective schools:

(1) strong and effective administrative and instructional leadership that creates consensus on instructional goals and organizational capacity for instructional problem solving;

(2) emphasis on the acquisition of basic and higher order skills;

(3) a safe and orderly school environment that allows teachers and pupils to focus their energies on academic achievement;

(4) a climate of expectation that virtually all children can learn under appropriate conditions; and

(5) continuous assessment of students and programs to evaluate the effects of instruction.

Page 318, line 11, after "activities" insert "including effective schools programs".

Page 319, after line 5, insert the following (and redesignate any subsequent paragraphs accordingly):

"(3) sets forth the allocation of such funds required to implement section 2252.

Page 320, line 24, insert "effective schools and" after "including".

Page 321, line 19, insert "(A)" after "(1)".

Page 321, after line 25, insert the following:

"(B) sets forth the allocation of such funds required to implement section 2252;

Page 322, after line 4, insert the following (and redesignate any subsequent paragraphs accordingly):

"(3) provides assurances of compliance with the provisions of this part, including the participation of children enrolled in private, nonprofit schools in accordance with section 2252;

Page 327, after line 14, insert the following:

"Subpart 5—General Administrative Provisions

"SEC. 2451. MAINTENANCE OF EFFORT; FEDERAL FUNDS SUPPLEMENTARY.

"(a) MAINTENANCE OF EFFORT.—(1) Except as provided in paragraph (2), a State is entitled to receive its full allocation of funds under this part for any fiscal year if the Secretary finds that either the combined fiscal effort per student or the aggregate expenditures within the State with respect to the provision of free public education for the preceding fiscal year was not less than 90 percent of such combined fiscal effort or aggregate expenditures for the second preceding fiscal year.

"(2) The Secretary shall reduce the amount of the allocation of funds under this part in any fiscal year in the exact proportion to which the State fails to meet the requirements of paragraph (1) by falling below 90 percent of both the fiscal effort per student and aggregate expenditures (using the measure most favorable to the State), and no such lesser amount shall be used for computing the effort required under paragraph (1) for subsequent years.

"(3) The Secretary may waive, for 1 fiscal year only, the requirements of this subsection if the Secretary determines that such a waiver would be equitable due to exceptional or uncontrollable circumstances such as a natural disaster or a precipitous and unforeseen decline in the financial resources of the State.

"(b) FEDERAL FUNDS SUPPLEMENTARY.—A State or local educational agency may use and allocate funds received under this part only so as to supplement and, to the extent practical, increase the level of funds that would, in the absence of Federal funds made available under this part, be made available from non-Federal sources, and in no case may such funds be used so as to supplant funds from non-Federal sources.

"SEC. 2252. PARTICIPATION OF CHILDREN ENROLLED IN PRIVATE SCHOOLS.

"(a) PARTICIPATION ON EQUITABLE BASIS.—(1) To the extent consistent with the number of children in the school district of a local educational agency which is eligible to receive funds under this part or which serves the area in which a program or project assisted under this part is located who are enrolled in private nonprofit elementary and secondary schools, or with respect to instructional or personnel training programs funded by the State educational agency from funds reserved for State use, such agency, after consultation with appropriate private school officials, shall provide for the benefit of such children in such schools secular, neutral, and nonideological services, materials, and equipment, including the participation of the teachers of such children (and other educational personnel serving such children) in training programs, and the repair, minor remodeling, or construction of public facilities as may be necessary for their provision (consistent with subsection (c) of this section), or, if such services, materials, and equipment are not feasible or necessary in one or more such private schools as determined by the local educational agency after consultation with the appropriate private school officials, shall provide such other arrangements as will assure equitable participation of such children in the purposes and benefits of this part.

"(2) If no program or project is carried out under subsection (a)(1) of this section in the school district of a local educational agency, the State educational agency shall make arrangements, such as through contracts with nonprofit agencies or organizations, under which children in private schools in that district are provided with services and materials to the extent that would have occurred if the local educational agency had received funds under this part.

"(3) The requirements of this section relating to the participation of children, teachers, and other personnel serving such children shall apply to programs and projects carried out under this part by a State or local educational agency, whether directly or through grants to or contracts with other public or private agencies, institutions, or organizations.

"(b) EQUAL EXPENDITURES.—Expenditures for programs pursuant to subsection (a) shall be equal (consistent with the number of children to be served) to expenditures for programs under this part for children enrolled in the public schools of the local educational agency, taking into account the needs of the individual children and other factors which relate to such expenditures, and when funds available to a local educational agency under this part are used to concentrate programs or projects on a particular group, attendance area, or grade or age level, children enrolled in private schools who are included within the group, attendance area, or grade or age level selected for such concentration shall, after consultation with the appropriate private school officials, be assured equitable participation in the purposes and benefits of such programs or projects.

"(c) FUNDS.—(1) The control of funds provided under this part, and title to materials, equipment, and property repaired, remodeled, or constructed therewith, shall be in a public agency for the uses and purposes provided in this part, and a public agency shall administer such funds and property.

"(2) The provision of services pursuant to this section shall be provided by employees of a public agency or through contract by such public agency with a person, an association, agency, or corporation who or which, in the provision of such services, is independent of such private school and of any religious organizations, and such employment or contract shall be under the control and supervision of such public agency, and the funds provided under this part shall not be commingled with State or local funds.

"(d) STATE PROHIBITION WAIVER.—If by reason of any provision of law a State or local educational agency is prohibited from providing for the participation in programs of children enrolled in private elementary and secondary schools, as required by this section, the Secretary shall waive such requirements and shall arrange for the provision of services to such children through arrangements which shall be subject to the requirements of this section.

"(e) WAIVER AND PROVISION OF SERVICES.—(1) If the Secretary determines that a State or a local educational agency has substantially failed or is unwilling to provide for the participation on an equitable basis of children enrolled in private elementary and secondary schools as required by this section, the Secretary may waive such requirements and shall arrange for the provision of services to such children through arrangements which shall be subject to the requirements of this section.

"(2) Pending final resolution of any investigation or complaint that could result in a determination under this subsection or subsection (d), the Secretary may withhold from the allocation of the affected State or local educational agency the amount estimated by the Secretary to be necessary to pay the cost of those services.

"(f) DETERMINATION.—Any determination by the Secretary under this section shall continue in effect until the Secretary determines that there will no longer be any failure or inability on the part of the State or local educational agency to meet the requirements of subsections (a) and (b).

"(g) PAYMENT FROM STATE ALLOTMENT.—When the Secretary arranges for services pursuant to this section, the Secretary shall, after consultation with the appropriate public and private school officials, pay the cost of such services, including the administrative costs of arranging for those services, from the appropriate allotment of the State under this part.

"(h) REVIEW.—(1) The Secretary shall not take any final action under this section until the State educational agency and the local educational agency affected by such action have had an opportunity, for at least 45 days after receiving written notice thereof, to submit written objections and to appear before the Secretary or the Secretary's designee to show cause why that action should not be taken.

"(2) If a State or local educational agency is dissatisfied with the Secretary's final action after a proceeding under paragraph (1) of this subsection, it may, within 60 days after notice of such action, file with the United States court of appeals for the circuit in which such State is located a petition for review of that action. A copy of the petition shall be forthwith transmitted by the clerk of the court to the Secretary. The Secretary thereupon shall file in the court the record of the proceedings on which the Secretary based this action, as provided in section 2112 of title 28, United States Code.

"(3) The findings of fact by the Secretary, if supported by substantial evidence, shall be conclusive; but the court, for good cause shown, may remand the case to the Secretary to take further evidence and the Secretary may thereupon make new or modified findings of fact and may modify the Secretary's previous action, and shall file in the court the record of the further proceedings. Such new or modified findings of fact shall likewise be conclusive if supported by substantial evidence.

"(4) Upon the filing of such petition, the court shall have jurisdiction to affirm the action of the Secretary or to set it aside, in whole or in part. The judgment of the court shall be subject to review by the Supreme Court of the United States upon certiorari or certification as provided in section 1254 of title 28, United States Code.

"(i) PRIOR DETERMINATION.—Any bypass determination by the Secretary under chapter 2 of the Education Consolidation and Improvement Act of 1981 shall, to the extent consistent with the purposes of this chapter, apply to programs under this chapter.

"SEC. 2253. EVALUATIONS AND REPORTING.

"(a) LOCAL EDUCATIONAL AGENCIES.—A local educational agency which receives fi-

nancial assistance under this part shall report annually to the State educational agency on the use of funds under section 2431. Such reporting shall be carried out in a manner which minimizes the amount of paperwork required while providing the State educational agency with the necessary information under the preceding sentence. Such report shall be made available to the public.

"(b) STATE EDUCATIONAL AGENCIES.—A State educational agency which receives financial assistance under this part shall evaluate the effectiveness of State and local programs under this part in accordance with section 2423(a)(2)(B). That evaluation shall be submitted for review and comment by the State advisory committee and shall be made available to the public. The State educational agency shall submit to the Secretary a copy of the evaluation and a summary of the reports under subsection (a).

"(c) REPORTS.—(1) The Secretary, in consultation with State and local educational agency representatives, shall develop a model system which State educational agencies may use for data collection and reporting under this part.

"(2)(A) The Secretary shall submit annually a report to the Congress for the use of funds, the types of services furnished, and the students served under this part.

"(B) The Secretary shall not later than October 1, 1998, submit a report to the Congress summarizing evaluations under subsection (b) in order to provide a national overview of the uses of funds and effectiveness of programs under this part.

"SEC. 2254. FEDERAL ADMINISTRATION.

"(a) TECHNICAL ASSISTANCE.—The Secretary, upon request, shall provide technical assistance to State and local educational agencies under this part.

"(b) RULEMAKING.—The Secretary shall issue regulations under this part only to the extent that such regulations are necessary to ensure that there is compliance with the specific requirements and assurances required by this part.

"(c) AVAILABILITY OF APPROPRIATIONS.—Notwithstanding any other provision of law, unless expressly in limitation of this subsection, funds appropriated in any fiscal year to carry out activities under this part shall become available for obligation on July 1 of such fiscal year and shall remain available for obligation until the end of the subsequent fiscal year.

"SEC. 2255. APPLICATION OF GENERAL EDUCATION PROVISIONS ACT.

"(a) GENERAL RULE.—Except as otherwise specifically provided by this section, the General Education Provisions Act shall apply to the programs authorized by this part.

"(b) APPLICABILITY.—The following provisions of the General Education Provisions Act shall be superseded by the specified provisions of this part with respect to the programs authorized by this part:

"(1) Section 410(a)(1) of the General Education Provisions Act is superseded by section 2254(b) of this part.

"(2) Section 433(a) of such Act is superseded by section 2254(a) of this part.

"(3) Section 436 of such Act is superseded by sections 2223 and 2233 of this part.

"(c) SPECIAL RULE.—Sections 440, 441, and 442 of the General Education Provisions Act, except to the extent that such sections relate to fiscal control and fund accounting procedures, may not apply to the programs authorized by this part and shall not be construed to authorize the Secretary to require any reports or take any actions not specifically authorized by this part.".

Page 82, line 16—insert "basic" following instructional.

Page 82, Section 1122(c)(2) is amended by inserting after subparagraph (A) the following new subparagraph and redesignating the succeeding subparagraphs and paragraph (2) accordingly:

"(B) for the purpose of subparagraph (A), in the determination of expenditures per pupil from state and local funds or instructional salaries per pupil from state and local funds, staff salary differentials for years of employment shall not be included."

On page 855, after line 17, insert the following new paragraph:

"(9) A state and local educational agency shall coordinate with state and local housing agencies responsible for developing the comprehensive housing affordability strategy. Consideration shall be given to state and local housing and shelter policies described in the Comprehensive Housing Affordability Strategy to minimize educational disruption for children who become homeless."

Page 852, line 24, delete ", to the extent possible,".

Page 852, line 25, after "selection" add "unless there is a compelling reason for not complying with this request.".

Page 37, after line 19 insert the following new paragraph:

"(9) how the state will coordinate activities funded under this part with school-to-work and vocational education programs, as appropriate."

Page 56, line 4, after "development," insert "occupational information,".

Page 681, line 25, strike "$40,000,000" and insert in lieu thereof "$50,000,000".

Page 682, line 9, strike "shall" and insert in lieu thereof "may".

Page 683, line 6, strike "section" and insert in lieu thereof "sections".

Page 683, line 7, after "7601" insert "and 7607"

Page 683, line 14, insert a new paragraph (3) and redesignate accordingly:

"(3) provide an assurance that local educational agencies receiving funds under this part will coordinate the use of such funds with programs funded under other Parts of this title or title I of the Improving America's Schools Act of 1993;"

Page 685, line 17, insert:

"(b) APPLICATION REVIEW.—The Secretary shall review all applications submitted pursuant to this section by State educational agencies.

"(1) The Secretary shall approve any application submitted by a State educational agency that meets the requirements of this section.

"(2) The Secretary shall disapprove any application submitted by a State educational agency which does not meet the requirements of this section, but shall not finally disapprove an application except after reasonable notice, provision of technical assistance, and an opportunity for a hearing to the State."

Page 687, line 21, strike "TRIENNIAL" and insert in lieu thereof "BIENNIAL".

Page 687, line 23, strike "3" and insert in lieu thereof "2".

Page 688, line 4, strike "3" and insert in lieu thereof "2".

PROPOSED AMENDMENTS TO WEEA

Page 459, Line 14, strike "Special Assistant of the Office of Women's Equity" and insert in lieu thereof: "Secretary"

Page 465, Line 6, strike "no more than four"

Page 465, Line 11, strike "four"

Page 465, Line 12, insert before "The Secretary" "To the extent feasible"

Page 466, strike lines 6 through 9.

Page 466, Line 10, before "The Secretary" insert "To the extent feasible,"

Page 469, beginning on line 16, strike "the Secretary shall establish no more than 4 priorities" and on line 17, strike "of which"

Page 469, Line 21, before "The Secretary" insert "To the extent feasible,"

Page 829, line 2 after "technical assistance," insert "and" and on line 3 strike "and the administration of grant programs.

Page 829, beginning on line 5, after "shall" strike "report directly to the Secretary; and perform such additional functions as the Secretary shall prescribe" and insert in lieu thereof "advise the Secretary and Deputy Secretary on all matters relating to gender equity."

Page and line numbers refer to the Committee print of H.R. 6.

Page 439, line 5, strike, "the use of tobacco"

Page 439, line 9, insert the following paragraph and (redesignate succeeding paragraphs accordingly):

"(B) education with respect to the use of tobacco by elementary and secondary school students; and"

TITLE II, PART D

Page 297, line 4, strike "and schools" and insert "schools, and other appropriate educational entities"

Page 297, line 11, strike "comprehensive assistance centers" and insert "technical assistance system"

Page 298, line 24, strike "system of technical assistance centers" and insert "comprehensive assistance centers and the National Diffusion Network"

Page 299, line 3, strike "(c)" and insert "(d)"

Page 299, line 6, strike "2206(c)" and insert "2346(d)"

Page 301, line 12, after "centers," insert "state literacy centers,"

Page 302, line 4, strike "2303(a)" and insert "2343(a)"

Page 304, line 16, strike "Maintanence of Service" and insert "Service and Application Requirements"

Page 304, line 17, strike "Effort" and insert "Service"

Page 307, line 16, strike "Facilitator" and insert "Facilitators"

Page 307, line 20, strike "and schools" and insert "schools, family and adult literacy programs, and other appropriate educational entities"

Page 310, line 17, strike "projects, local educational agencies," and insert "projects and to local educational agencies".

Page 689, strike line 20 and all that follows through line 4 on page 729 and insert the following:

"SEC. 8003. PAYMENTS RELATING TO FEDERAL ACQUISITION OF REAL PROPERTY.

"(a) IN GENERAL.—Where the Secretary, after consultation with any local educational agency and with the appropriate State educational agency, determines for a fiscal year ending prior to October 1, 1999—

"(1) that the United States owns Federal property in the local educational agency, and that such property—

"(A) has been acquired by the United States since 1938;

"(B) was not acquired by exchange for other Federal property in the local educational agency which the United States owned before 1939; and

"(C) had an assessed value (determined as of the time or times when so acquired) aggregating 10 percent or more of the assessed value of all real property in the local educational agency (similarly determined as of the time or times when such Federal property was so acquired); and

"(2) that such agency is not being substantially compensated for the loss in revenue resulting from such ownership by increases in revenue accruing to the agency from the conduct of Federal activities with respect to such Federal property,

then such agency shall be paid the amount described in subsection (b).

"(b) AMOUNT.—

"(1) IN GENERAL.—(A) The amount that a local educational agency shall be paid under subsection (a) for a fiscal year shall be calculated in accordance with paragraph (2), except that such amount shall be reduced by the Secretary by an amount equal to the amount of revenue, if any, that such agency received from activities conducted on such property during the previous fiscal year.

"(B) If funds appropriated under section 8013(a) are insufficient to pay the amount determined under subparagraph (A), the Secretary shall ratably reduce the payment to each eligible local educational agency.

"(C) Notwithstanding any other provision of this subsection, a local educational agency may not be paid an amount under this section which exceeds the difference of—

"(i) the maximum amount that such agency is eligible to receive for such fiscal year under section 8004(b)(1)(C); and

"(ii) the amount that such agency receives in such fiscal year under section 8004(b)(2).

"(2) APPLICATION OF CURRENT LEVIED REAL PROPERTY TAX RATE.—In calculating the amount that a local educational agency shall be paid for a fiscal year, the Secretary shall apply the current levied real property tax rate for current expenditures levied by fiscally independent local educational agencies or imputed, for fiscally dependent local educational agencies, to the current annually determined aggregate assessed value of such acquired Federal property.

"(3) DETERMINATION OF AGGREGATE ASSESSED VALUE.—Such aggregate assessed value of such acquired Federal property shall be determined (on the basis of the highest and best use of property adjacent to such acquired Federal property as of the time such value is determined), and provided to the Secretary, by the local official responsible for assessing the value of real property located in the jurisdiction of such local educational agency for the purpose of levying a property tax.

"(c) APPLICABILITY TO TENNESSEE VALLEY AUTHORITY ACT.—For the purposes of this section, any real property with respect to which payments are being made under section 13 of the Tennessee Valley Authority Act of 1933 shall not be regarded as Federal property.

"(d) OWNERSHIP BY UNITED STATES.—The United States shall be deemed to own Federal property for the purposes of this Act, where—

"(1) prior to the transfer of Federal property, the United States owned Federal property meeting the requirements of subparagraphs (A), (B), and (C) of subsection (a)(1); and

"(2) the United States transfers a portion of the property referred to in paragraph (1) to another nontaxable entity, and the United States—

"(A) restricts some or any construction on such property;

"(B) requires that the property be used in perpetuity for the public purposes for which it was conveyed;

"(C) requires the grantee of the property to report to the Federal government (or its agent) containing information on the use of the property;

"(D) except with the approval of the Federal Government (or its agent), prohibits the sale, lease, assignment, or other disposal of the property unless such sale, lease, assignment, or other disposal is to another eligible government agency; and

"(E) reserves to the Federal Government a right of reversion at any time the Federal Government (or its agent) deems it necessary for the national defense.

"SEC. 8004. PAYMENTS FOR ELIGIBLE FEDERALLY-CONNECTED CHILDREN.

"(a) COMPUTATION OF PAYMENT.—

"(1) IN GENERAL.—For the purpose of computing the amount that a local educational agency is eligible to receive under subsection (b), (d), or (f) for any fiscal year, the Secretary shall determine the number of children who were in average daily attendance in the schools of such agency, and for whom such agency provided free public education, during the preceding school year and who, while in attendance at such schools—

"(A) resided on Federal property with a parent employed on Federal property situated in whole or in part within the boundaries of the school district of such agency;

"(B) resided on Federal property and had a parent on active duty in the uniformed services (as defined in section 101 of title 37, United States Code);

"(C) resided on Indian lands;

"(D) had a parent on active duty in the uniformed services (as defined by section 101 of title 37, United States Code) but did not reside on Federal property; or

"(E) resided in low-rent housing.

"(2) DETERMINATION OF WEIGHTED STUDENT UNITS.—For purposes of computing the basic support payment under subsection (b), the Secretary shall calculate the total number of weighted student units for a local educational agency by adding together the results obtained by the following computations:

"(A) Multiply the number of children described in subparagraphs (A) and (B) of paragraph (1) by a factor of 1.0.

"(B) Multiply the number of children described in paragraph (1)(C) by a factor of 1.25.

"(C) Multiply the number of children described in subparagraphs (A) and (B) of paragraph (1) by a factor of .35 if the local educational agency has—

"(i) a number of such children described in such subparagraphs which exceeds 6,500; and

"(ii) an average daily attendance for all children which exceeds 100,000.

"(D) Multiply the number of children described in subparagraphs (D) and (E) of paragraph (1) by a factor of .20.

"(b) BASIC SUPPORT PAYMENTS AND PAYMENTS WITH RESPECT TO FISCAL YEARS IN WHICH INSUFFICIENT FUNDS ARE APPROPRIATED.—

"(1) BASIC SUPPORT PAYMENTS.—

"(A) IN GENERAL.—From the amount appropriated under section 8013(b) for a fiscal year, the Secretary is authorized to make basic support payments to eligible local educational agencies with children described under subsection (a).

"(B) ELIGIBILITY.—A local educational agency shall be entitled to receive a basic support payment under subparagraph (A) for a fiscal year with respect to a number of children determined under subsection (a) only if the number of children so determined with respect to such agency amounts to the lesser of—

"(i) at least 400 such children, or

"(ii) a number of such children which equals at least 3 percent of the total number of children who were in average daily attendance, during such year, at the schools of such agency and for whom such agency provided free public education.

"(C) MAXIMUM AMOUNT.—The maximum amount that a local educational agency is eligible to receive under this subsection for any fiscal year is the sum of the total weighted student units, as computed under subsection (a)(2), multiplied by—

"(i) the greater of—

"(I) one-half of the average per pupil expenditure of the State in which the local educational agency is located for the 3d preceding fiscal year, or

"(II) one-half of the average per pupil expenditures of all of the States for the 3rd preceding fiscal year;

"(ii) the comparable local contribution rate certified by the State, as determined under regulations prescribed to carry out the Act of September 30, 1950 (Public Law 874, 81st Congress), as in effect on January 1, 1994; or

"(iii) the average per pupil expenditure of the State in which the local educational agency is located, multiplied by the local contribution percentage.

"(2) PAYMENTS WITH RESPECT TO FISCAL YEARS IN WHICH INSUFFICIENT FUNDS ARE APPROPRIATED.—

"(A) IN GENERAL.—For any fiscal year in which the sums appropriated under section 8013(b) are insufficient to pay to each local educational agency the full amount computed under paragraph (1), the Secretary shall make payments based upon the provisions of this paragraph.

"(B) LEARNING OPPORTUNITY THRESHOLD PAYMENTS.—(i) For fiscal years described in subparagraph (A), the Secretary shall compute a learning opportunity threshold payment (hereinafter 'threshold payment') by multiplying the amount obtained under paragraph (1)(C) by the total percentage obtained by adding—

"(I) the percentage of federally connected children for each local educational agency determined by calculating the fraction, the numerator of which is the total number of children described under subsection (a)(1) and the denominator of which is the total number of children in average daily attendance at the schools served by such agency; and

"(II) the percentage that funds under this paragraph represent of the total budget of the local educational agency, determined by calculating the fraction, the numerator of which is the total amount of funds calculated for each educational agency under this paragraph (not including amounts received under subsection (f)), and the denominator of which is the total current expenditures for such agency.

"(ii) Such total percentage used to calculate threshold payments under paragraph (1) shall not exceed 100.

"(C) RATABLE DISTRIBUTION.—For fiscal years described in subparagraph (A), the Secretary shall make payments as a ratable distribution based upon the computation made under subparagraph (B).

"(c) PRIOR YEAR DATA.—All calculations under this section shall be based upon data for each local educational agency from the fiscal year preceding the fiscal year for which the agency is making application for payment.

"(d) USE OF FUNDS FOR CHILDREN WITH DISABILITIES.—

"(1) IN GENERAL.—From the amount appropriated under section 8013(c) for a fiscal year, the Secretary shall pay to each eligible local educational agency, on a pro rata basis, the amounts determined by—

"(A) multiplying the number of children described in subparagraphs (B) and (C) of subsection (a)(1) who are eligible to receive services under the Individuals with Disabilities Education Act (20 U.S.C. 1400 et seq.) by a factor of 1.0; and

"(B) multiplying the number of children described in subparagraph (D) of subsection (a)(1) who are eligible to receive services under such Act by a factor of .5.

"(2) USE OF FUNDS.—A local educational agency that receives funds under paragraph (1) shall use such funds to provide a free appropriate public education to children described in paragraph (1) in accordance with the Individuals with Disabilities Education Act.

"(e) HOLD-HARMLESS AMOUNTS.—

"(1) IN GENERAL.—Notwithstanding any other provision of this section, the total amount that the Secretary shall pay to a local educational agency under subsections (b) and (f)—

"(A) for fiscal year 1995, shall not be less than 80 percent of the payment such agency received for fiscal year 1994 under section 3(a) of the Act of September 30 , 1950 (Public Law 81-874, 81st Congress), as in effect for fiscal year 1994;

"(B) for fiscal year 1996, shall not be less than 60 percent of such payment received for fiscal year 1994; and

"(C) for fiscal year 1997, shall not be less than 40 percent of such payment received for fiscal year 1994.

"(2) REDUCTION IN PAYMENTS.—In order to make payments to local educational agencies in accordance with paragraph (1), the Secretary shall reduce payments to other local educational agencies determined under subsection (b).

"(f) ADDITIONAL ASSISTANCE FOR HEAVILY IMPACTED LOCAL EDUCATIONAL AGENCIES.—

"(1) IN GENERAL.—From amounts appropriated under section 8013(d) for a fiscal year, the Secretary shall provide additional assistance to meet special circumstances relating to the provision of education in local educational agencies eligible to receive assistance under this section.

"(2) ELIGIBILITY.—A local educational agency shall be eligible to receive additional assistance under this subsection only if such agency—

"(A)(i) has an enrollment of federally connected children described in subsection (a)(1) which constitutes at least 40 percent of the total student enrollment of such agency; and

"(ii) has a tax rate for general fund purposes which is at least 95 percent of the average tax rate for general fund purposes of comparable local educational agencies in the State;

"(B)(i) has an enrollment of federally connected children described in subsection (a)(1) which constitutes at least 35 percent of the total student enrollment of such agency; and

"(ii) has a tax rate for general fund purposes which is at least 125 percent of the average tax rate for general fund purposes of comparable local educational agencies in the State; or

"(C) is a local education agency whose boundaries are the same as a Federal military installation or includes Federal property under exclusive Federal jurisdiction.

"(3) MAXIMUM PAYMENTS.—

"(A) IN GENERAL.—Subject to subparagraph (B), the Secretary shall determine the maximum amount that a local educational agency may receive under this subsection in accordance with the following computations:

"(i) The Secretary shall first determine the greater of—

"(I) the average per pupil expenditure of the State in which the local educational agency is located or the average per pupil expenditure of all the States;

"(II) the average per pupil expenditure of generally comparable school districts located in the State of the local educational agency, as defined by the Secretary in regulations; or

"(III) the average per pupil expenditure of three generally comparable school districts located in the State of the local educational agency, as defined by the Secretary in regulations.

"(ii) The Secretary shall next subtract from the amount determined under clause (i) the average amount of State aid per pupil received by the local educational agency.

"(iii) The Secretary shall next multiply the amount determined under clause (ii) by the sum of the total weighted units of the local educational agency, as computed under subsection (a)(2).

"(iv) If the tax rate of the local educational agency is greater than 94 percent, but less than 100 percent, of the tax rate of comparable school districts, the Secretary shall next multiply the amount determined under clause (iii) by the percentage that the tax rate of the local educational agency is of—

"(I) the average tax rate of its generally comparable school districts; or

"(II) the average tax rate of all the school districts in the State in which the local educational agency is located.

"(v) The Secretary shall next subtract the total amount of payments received by a local educational agency under subsections (b) and (d) for a fiscal year from the amount determined under clause (iii) or clause (iv), as the case may be.

"(B) SPECIAL RULE.—With respect to payments to local educational agencies described in subparagraphs (B) and (C) of paragraph (2), the maximum amount of such payments shall be equal to the product of the average per pupil expenditure of all the States multiplied by .7, except that such amount may not exceed 125 percent of the average per pupil expenditure of all local educational agencies in the State.

"(4) CURRENT YEAR DATA.—The Secretary shall, for purposes of providing assistance under this subsection, use—

"(A) data from the fiscal year in which the local educational agency is applying for assistance under this subsection; or

"(B) the most recent data available which is adjusted to such fiscal year.

"(5) REDUCTION IN PAYMENTS.—If funds appropriated to carry out this subsection are insufficient to pay in full the amounts determined under paragraph (3), the Secretary shall ratably reduce the payment to each eligible local educational agency.

"SEC. 8005. POLICIES AND PROCEDURES RELATING TO CHILDREN RESIDING ON INDIAN LANDS.

"(a) IN GENERAL.—A local educational agency that claims children residing on Indian lands for the purpose of receiving funds under section 8004 shall establish policies and procedures to ensure that—

"(1) such children participate in programs and activities supported by such funds on an equal basis with all other children;

"(2) parents of such children and Indian tribes are afforded an opportunity to present their views on such programs and activities, including an opportunity to make recommendations on the needs of those children and how they may help those children realize the benefits of those programs and activities;

"(3) parents and Indian tribes are consulted and involved in planning and developing such programs and activities;

"(4) relevant applications, evaluations, and program plans are disseminated to the parents and Indian tribes; and

"(5) parents and Indian tribes are afforded an opportunity to present their views on the agency's general educational program to such agency.

"(b) RECORDS.—A local educational agency that claims children residing on Indian lands for the purpose of receiving funds under section 8004 shall maintain records demonstrating its compliance with requirements contained in subsection (a).

"(c) WAIVER.—A local educational agency that claims children residing on Indian lands for the purpose of receiving funds under section 8004 is excused from the requirements contained in subsections (a) and (b) for any year with respect to any Indian tribe from which it has received a written statement that the agency need not comply with those subsections because the tribe is satisfied with the provision of educational services by such agency to such children.

"(d) TECHNICAL ASSISTANCE AND ENFORCEMENT.—The Secretary shall—

"(1) provide technical assistance to local educational agencies, parents, and Indian tribes to enable them to carry out this section; and

"(2) enforce this section through such actions, which may include the withholding of funds, as the Secretary determines to be appropriate, after affording the affected local educational agency, parents, and Indian tribe an opportunity to present their views.

"SEC. 8006. APPLICATION FOR PAYMENTS UNDER SECTIONS 8003 AND 8004.

"(a) IN GENERAL.—A local educational agency desiring to receive a payment under section 8003 or 8004 shall—

"(1) submit an application for such payment to the Secretary; and

"(2) provide a copy of such application to the State educational agency.

"(b) CONTENTS.—Each such application shall be submitted in such form and manner, and shall contain such information, as the Secretary may require, including—

"(1) information to determine the eligibility of the local educational agency for a payment and the amount of such payment; and

"(2) where applicable, an assurance that such agency is in compliance with section 8005 (relating to children residing on Indian lands).

"(c) DEADLINE FOR SUBMISSION.—The Secretary shall establish deadlines for the submission of applications under this section.

"(d) APPROVAL.—

"(1) IN GENERAL.—The Secretary shall approve an application submitted under this section that—

"(A) is filed by the deadline established under subsection (c); and

"(B) otherwise meets the requirements of this title.

"(2) REDUCTION IN PAYMENT.—The Secretary shall approve an application filed up to 60 days after a deadline established under subsection (c) that otherwise meets the requirements of this title, except that, notwithstanding section 8004(e), the Secretary

shall reduce the payment based on such late application by 10 percent of the amount that would otherwise be paid.

"(3) LATE APPLICATIONS.—The Secretary shall not accept or approve any application that is filed more than 60 days after a deadline established under subsection (c).

"SEC. 8007. PAYMENTS FOR SUDDEN AND SUBSTANTIAL INCREASES IN ATTENDANCE OF MILITARY DEPENDENTS.

"(a) ELIGIBILITY.—A local educational agency is eligible for a payment under this section if—

"(1) the number of children in average daily attendance during the current school year is at least ten percent or 100 more than the number of children in average daily attendance in the preceding school year; and

"(2) the number of children in average daily attendance with a parent on active duty (as defined in section 101(18) of title 37, United States Code) in the Armed Forces who are in attendance at such agency because of the assignment of their parent to a new duty station between July 1 and September 30, inclusive, of the current year, as certified by an appropriate local official of the Department of Defense, is at least ten percent or 100 more than the number of children in average daily attendance in the preceding school year.

"(b) APPLICATION.—A local educational agency that wishes to receive a payment under this section shall file an application with the Secretary by October 15 of the current school year, in such manner and containing such information as the Secretary may prescribe, including information demonstrating that it is eligible for such a payment.

"(c) CHILDREN TO BE COUNTED.—For each eligible local educational agency that applies for a payment under this section, the Secretary shall determine the lesser of—

"(1) the increase in the number of children in average daily attendance from the preceding year; and

"(2) the number of children described in subsection (a)(2).

"(d) PAYMENTS.—From the amount appropriated for a fiscal year under section 8013(c), the Secretary shall pay each local educational agency with an approved application an amount, not to exceed $200 per eligible child, equal to—

"(1) the amount available to carry out this section, including any funds carried over from prior years, divided by the number of children determined under subsection (c) for all such local educational agencies; multiplied by

"(2) the number of such children determined for that local educational agency.

"(e) NOTIFICATION PROCESS.—

"(1) ESTABLISHMENT.—The Secretary shall endeavor to establish, with the Secretary of Defense, a notification process relating to the closure of Department of Defense facilities, or the adjustment of personnel levels assigned to such facilities, which may substantially affect the student enrollment levels of local educational agencies which receive or may receive payments under this title.

"(2) INFORMATION.—Such process shall provide timely information regarding such closures and such adjustments—

"(A) by the Secretary of Defense to the Secretary; and

"(B) by the Secretary to the affected local educational agencies.

"SEC. 8008. FACILITIES.

"(a) CURRENT FACILITIES.—From the amount appropriated for any fiscal year under section 8013(e), the Secretary may continue to provide assistance for school facilities that were supported by the Secretary under section 10 of the Act of September 23, 1950 (Public Law 815, 81st Congress; 20 U.S.C. 640) as in effect prior to the date of the enactment of the Improving America's Schools Act of 1994.

"(b) TRANSFER OF FACILITIES.—

"(1) IN GENERAL.—The Secretary shall, as soon as practicable, transfer to the appropriate local educational agency or another appropriate entity all the right, title, and interest of the United States in and to each facility provided under section 10 of the Act of September 23, 1950 (Public Law 815, 81st Congress; 20 U.S.C. 640), or under section 204 or 310 of the Act of September 30, 1950 (Public Law 874, 81st Congress), as in effect on January 1, 1958.

"(2) OTHER REQUIREMENTS.—Any such transfer shall be without charge to such agency or entity, and prior to such transfer, the transfer must be consented to by the local education agency or other appropriate entity, and may be made on such terms and conditions as the Secretary deems appropriate to carry out the purposes of this Act.

"SEC. 8009. STATE CONSIDERATION OF PAYMENTS IN PROVIDING STATE AID.

"(a) GENERAL PROHIBITION.—Except as provided in subsection (b), a State may not—

"(1) consider payments under this title or under the Act of September 30, 1950 (Public Law 874, 81st Congress) in determining for any fiscal year—

"(A) the eligibility of a local educational agency for State aid for free public education; or

"(B) the amount of such aid; or

"(2) make such aid available to local educational agencies in a manner that results in less State aid to any local educational agency that is eligible for such payment than it would receive if it were not so eligible.

"(b) STATE EQUALIZATION PLANS.—

"(1) IN GENERAL.—A State may reduce State aid to a local educational agency that receives a payment under sections 8003 and 8004(b) (except the amount calculated in excess of 1.0 under subparagraph (B) of subsection (a)(2)) or under the Act of September 30, 1950 (Public Law 874, 81st Congress) as such Act existed prior to the enactment of the Improving America's Schools Act of 1994 (other than an increase in payments described in paragraphs (2)(B), (2)(C), (2)(D), or (3)(B)(ii) of section 3(d) of such Act of September 30, 1950) for any fiscal year if the Secretary determines, and certifies under subsection (c)(3)(A), that such State has in effect a program of State aid that equalizes expenditures for free public education among local educational agencies in such State.

"(2) COMPUTATION.—

"(A) IN GENERAL.—For purposes of paragraph (1), a program of State aid equalizes expenditures among local educational agencies if, in the second preceding fiscal year, the amount of per-pupil expenditures made by, or per-pupil revenues available to, the local educational agency in the State with the highest such per-pupil expenditures or revenues did not exceed the amount of such per-pupil expenditures made by, or per-pupil revenues available to, the local educational agency in the State with the lowest such expenditures or revenues by more than 10 percent.

"(B) OTHER FACTORS.—In making a determination under this subsection, the Secretary shall—

"(i) disregard local educational agencies with per-pupil expenditures or revenues above the 95th percentile or below the 5th percentile of such expenditures or revenues in the State; and

"(ii) take into account the extent to which a program of State aid reflects the additional cost of providing free public education in particular types of local educational agencies, such as those that are geographically isolated, or to particular types of students, such as children with disabilities.

"(3) EXCEPTION.—Notwithstanding paragraph (2), if the Secretary determines that the State has substantially revised its program of State aid, the Secretary may certify such program for any fiscal year only if—

"(A) the Secretary determines, on the basis of projected data, that the State's program will meet the 10 percent disparity standard described in paragraph (2) in that fiscal year; and

"(B) the State provides an assurance to the Secretary that, if final data do not demonstrate that the State's program met such standard for that year (or that it met such standard with a greater percentage of disparity than anticipated), the State will pay to each affected local educational agency the amount by which it reduced State aid to the local educational agency on the basis of such certification, or a proportionate share thereof, as the case may be.

"(c) PROCEDURES FOR REVIEW OF STATE EQUALIZATION PLANS.—

"(1) WRITTEN NOTICE.—

"(A) IN GENERAL.—Any State that wishes to consider payments described in subsection (b)(1) in providing State aid to local educational agencies shall submit to the Secretary, not later than 120 days before the beginning of the State's fiscal year, a written notice of its intention to do so.

"(B) CONTENTS.—Such notice shall be in the form and contain the information the Secretary requires, including evidence that the State has notified each local educational agency in the State of its intention to consider such payments in providing State aid.

"(2) OPPORTUNITY TO PRESENT VIEWS.—Before making a determination under subsection (b), the Secretary shall afford the State, and local educational agencies in the State, an opportunity to present their views.

"(3) QUALIFICATION PROCEDURES.—If the Secretary determines that a program of State aid qualifies under subsection (b), the Secretary shall—

"(A) certify the program and so notify the State; and

"(B) afford an opportunity for a hearing, in accordance with section 8011(a), to any local educational agency adversely affected by such certification.

"(4) NON-QUALIFICATION PROCEDURES.—If the Secretary determines that a program of State aid does not qualify under subsection (b), the Secretary shall—

"(A) so notify the State; and

"(B) afford an opportunity for a hearing, in accordance with section 8011(a), to the State, and to any local educational agency adversely affected by such determination.

"(d) REDUCTIONS OF STATE AID.—

"(1) IN GENERAL.—A State whose program of State aid has been certified by the Secretary under subsection (c)(3) may reduce the amount of such aid provided to a local educational agency that receives a payment under section 8003 and section 8004(b) by any amount up to—

"(A) the amount of such payment (excluding amounts provided under subsections (d) and (f) of section 8004 and the amount calculated in excess of 1.0 under section 8004(a)(2)); multiplied by

"(B) 100 percent minus the percentage of disparity determined under subsection (b).

"(2) PROHIBITION.—A State may not make a reduction described in paragraph (1) before its program of State aid has been certified by the Secretary under subsection (c)(3).

"(e) REMEDIES FOR STATE VIOLATIONS.—

"(1) IN GENERAL.—The Secretary or any aggrieved local educational agency may, without exhausting administrative remedies, bring an action in a United States district court against any State that violates subsection (a) or subsection (d)(2) or fails to carry out an assurance provided under subsection (b)(3)(B).

"(2) IMMUNITY.—A State shall not be immune under the eleventh amendment to the Constitution of the United States from an action described in paragraph (1).

"(3) RELIEF.—The court shall grant such relief as it determines is appropriate, which may include attorney's fees to a prevailing local educational agency.

"SEC. 8010. FEDERAL ADMINISTRATION.

"(a) PAYMENTS IN WHOLE DOLLAR AMOUNTS—The Secretary shall round any payments under this title to the nearest whole dollar amount.

"(b) OTHER AGENCIES.—Each Federal agency administering Federal property on which children reside, and each agency principally responsible for an activity that may occasion assistance under this title, shall, to the maximum extent practicable, comply with requests of the Secretary for information the Secretary may require to carry out this title.

"SEC. 8011. ADMINISTRATIVE HEARINGS AND JUDICIAL REVIEW.

"(a) ADMINISTRATIVE HEARINGS.—A local educational agency and a State that is adversely affected by any action of the Secretary under this title shall be entitled to a hearing on such action in the same manner as if such agency were a person under chapter 5 of title 5, United States Code.

"(b) JUDICIAL REVIEW OF SECRETARIAL ACTION.—

"(1) IN GENERAL.—A local educational agency or a State aggrieved by the Secretary's final decision following an agency proceeding under subsection (a) may, within 60 days after receiving notice of such decision, file with the United States court of appeals for the circuit in which such agency or State is located a petition for review of that action. The clerk of the court shall promptly transmit a copy of the petition to the Secretary. The Secretary shall then file in the court the record of the proceedings on which the Secretary's action was based, as provided in section 2112 of title 28, United States Code.

"(2) FINDINGS OF FACT.—The findings of fact by the Secretary, if supported by substantial evidence, shall be conclusive, but the court, for good cause shown, may remand the case to the Secretary to take further evidence. The Secretary may thereupon make new or modified findings of fact and may modify the Secretary's previous action, and shall file in the court the record of the further proceedings. Such new or modified findings of fact shall likewise be conclusive if supported by substantial evidence.

"(3) REVIEW.—The court shall have exclusive jurisdiction to affirm the action of the Secretary or to set it aside, in whole or in part. The judgment of the court shall be subject to review by the Supreme Court of the United States upon certiorari or certification as provided in section 1254 of title 28, United States Code.

"SEC. 8012. DEFINITIONS.

"For purposes of this title, the following definitions apply:

"(1) ARMED FORCES.—The term 'Armed Forces' means the Army, Navy, Air Force, and Marine Corps.

"(2) AVERAGE PER-PUPIL EXPENDITURE.—The term 'average per-pupil expenditure' means—

"(A) the aggregate current expenditures of all local educational agencies in the State; divided by

"(B) the total number of children in average daily attendance for whom such agencies provided free public education.

"(3) CONSTRUCTION.—The term 'construction' means—

"(A) the preparation of drawings and specifications for school facilities;

"(B) erecting, building, acquiring, altering, remodeling, repairing, or extending school facilities;

"(C) inspecting and supervising the construction of school facilities; and

"(D) debt service for such activities.

"(4) FEDERAL PROPERTY.—

"(A) IN GENERAL.—Except as provided in subparagraphs (B) through (F), the term 'Federal property' means real property that is not subject to taxation by any State or any political subdivision of a State due to Federal agreement, law, or policy, and that is—

"(i) owned by the United States or leased by the United States from another entity;

"(ii)(I) held in trust by the United States for individual Indians or Indian tribes;

"(II) held by individual Indians or Indian tribes subject to restrictions on alienation imposed by the United States;

"(III) conveyed at any time under the Alaska Native Claims Settlement Act (Public Law 92-203, 43 U.S.C. 1601 et seq.) to a Native individual, Native group, or Village or Regional corporation;

"(IV) public land owned by the United States that is designated for the sole use and benefit of individual Indians or Indian tribes; or

"(V) used for low-rent housing, as otherwise described in this paragraph, that is located on land described in subclause (I), (II), (III), or (IV) of this clause or on land that met one of those descriptions immediately before its use for such housing;

"(iii)(I) part of a low-rent housing project assisted under the United States Housing Act of 1937; or

"(II) used to provide housing for homeless children at closed military installations pursuant to section 501 of the Stewart B. McKinney Homeless Assistance Act (42 U.S.C. 11411); or

"(iv) owned by a foreign government or by an international organization.

"(B) SCHOOLS PROVIDING FLIGHT TRAINING TO MEMBERS OF AIR FORCE.—The term 'Federal property' includes, so long as not subject to taxation by any State or any political subdivision of a State, and whether or not that tax exemption is due to Federal agreement, law, or policy, any school providing flight training to members of the Air Force under contract with the Air Force at an airport owned by a State or political subdivision of a State.

"(C) NON-FEDERAL EASEMENTS, LEASES, LICENSES, PERMITS, IMPROVEMENTS, AND CERTAIN OTHER REAL PROPERTY.—The term 'Federal property' includes, whether or not subject to taxation by a State or a political subdivision of a State—

"(i) any non-Federal easement, lease, license, permit, or other such interest in Federal property as otherwise described in this paragraph, but not including any non-Federal fee-simple interest;

"(ii) any improvement on Federal property as otherwise described in this paragraph; and

"(iii) real property that, immediately before its sale or transfer to a non-Federal party, was owned by the United States and otherwise qualified as Federal property described in this paragraph, but only for one year beyond the end of the fiscal year of such sale or transfer.

"(D) CERTAIN POSTAL SERVICE PROPERTY AND PIPELINES AND UTILITY LINES.—Notwithstanding any other provision of this paragraph, the term 'Federal property' does not include—

"(i) any real property under the jurisdiction of the United States Postal Service that is used primarily for the provision of postal services; or

"(ii) pipelines and utility lines.

"(E) PROPERTY WITH RESPECT TO WHICH STATE OR LOCAL TAX REVENUES MAY NOT BE EXPENDED, ALLOCATED, OR AVAILABLE FOR FREE PUBLIC EDUCATION.—Notwithstanding any other provision of this paragraph, 'Federal property' does not include any property on which children reside that is otherwise described in this paragraph if—

"(i) no tax revenues of the State or of any political subdivision of the State may be expended for the free public education of children who reside on that Federal property; or

"(ii) no tax revenues of the State are allocated or available for the free public education of such children.

"(F) CERTAIN PROPERTY LOCATED IN STATE OF OKLAHOMA OWNED BY INDIAN HOUSING AUTHORITY FOR LOW-INCOME HOUSING.—The term 'Federal property' includes any real property located in the State of Oklahoma that—

"(i) is owned by an Indian housing authority and used for low-income housing (including housing assisted under the mutual help ownership opportunity program under section 202 of the United States Housing Act of 1937); and

"(ii) at any time—

"(I) was designated by treaty as tribal land; or

"(II) satisfied the definition of Federal property under section 403(1)(A) of the Act of September 30, 1950 (Public Law 874, 81st Congress).

"(5) FREE PUBLIC EDUCATION.—The term 'free public education' means education that is provided—

"(A) at public expense, under public supervision and direction, and without tuition charge; and

"(B) as elementary or secondary education, as determined under State law, except that, notwithstanding State law, such term—

"(i) includes preschool education; and

"(ii) does not include any education provided beyond grade 12.

"(6) INDIAN LANDS.—The term 'Indian lands' means any Federal property described in paragraph (4)(A)(ii) or (4)(F).

"(7) LOCAL CONTRIBUTION PERCENTAGE.—

"(A) IN GENERAL.—The term 'local contribution percentage' means the percentage of current expenditures in the State derived from local and intermediate sources, as reported to and verified by the National Center for Education Statistics.

"(B) HAWAII AND DISTRICT OF COLUMBIA.—Notwithstanding subparagraph (A), the local contribution percentage for Hawaii and for the District of Columbia shall be the local contribution percentage computed for the Nation as a whole.

"(8) LOCAL EDUCATIONAL AGENCY.—

"(A) IN GENERAL.—Except as provided in subparagraph (B), the term 'local educational agency'—

"(i) means a board of education or other legally constituted local school authority having administrative control and direction of free public education in a county, township, independent school district, or other school district; and

"(ii) includes any State agency that directly operates and maintains facilities for providing free public education.

"(B) EXCEPTION.—The term 'local educational agency' does not include any agency or school authority that the Secretary determines on a case-by-case basis—

"(i) was constituted or reconstituted primarily for the purpose of receiving assistance under this title or the Act of September 30, 1950 (Public Law 874, 81st Congress) or increasing the amount of such assistance; or

"(ii) is not constituted or reconstituted for legitimate educational purposes.

"(9) LOW-RENT HOUSING.—The term 'low-rent housing' means housing located on property that is described in paragraph (4)(A)(iii).

"(10) REVENUE DERIVED FROM LOCAL SOURCES.—The term 'revenue derived from local sources' means—

"(A) revenue produced within the boundaries of a local educational agency and available to such agency for its use; or

"(B) funds collected by another governmental unit, but distributed back to a local educational agency in the same proportion as it was collected as a local revenue source.

"(11) SCHOOL FACILITIES.—The term 'school facilities' includes—

"(A) classrooms and related facilities; and

"(B) equipment, machinery, and utilities necessary or appropriate for school purposes.

"SEC. 8013. AUTHORIZATION OF APPROPRIATIONS.

"(a) PAYMENTS FOR FEDERAL ACQUISITION OF REAL PROPERTY.—For the purpose of making payments under section 8003, there are authorized to be appropriated $16,750,000 for fiscal year 1995 and such sums as may be necessary for each of the fiscal years 1996, 1997, 1998, and 1999.

"(b) BASIC PAYMENTS.—For the purpose of making payments under section 8004(a), there are authorized to be appropriated $775,500,000 for fiscal year 1995 and such sums as may be necessary for each of the fiscal years 1996, 1997, 1998, and 1999.

"(c) PAYMENTS FOR CHILDREN WITH DISABILITIES.—For the purpose of making payments under section 8004(d), there are authorized to be appropriated $45,000,000 for fiscal year 1995 and such sums as may be necessary for each of the fiscal years 1996, 1997, 1998, and 1999.

"(d) PAYMENTS FOR HEAVILY IMPACTED LOCAL EDUCATIONAL AGENCIES.—

"(1) IN GENERAL.—For the purpose of making payments under section 8004(f), there are authorized to be appropriated $42,000,000 for fiscal year 1995 and such sums as may be necessary for each of the fiscal years 1996, 1997, 1998, and 1999.

"(2) AVAILABILITY.—Amounts appropriated pursuant to the authorization of appropriations under paragraph (1) are authorized to remain available until expended.

Page 864, after line 4, insert the following:

(a) SECTION 1.—Section 1 of the Act of September 23, 1950 (Public Law 815, 81st Congress; 20 U.S.C. 631) is amended—

(1) by striking the 2nd sentence of subsection (a); and

(2) by amending subsection (b) to read as follows:

"(b) There are authorized to be appropriated to carry out this Act $12,500,000 for fiscal year 1995 and such sums as may be necessary for each of the fiscal years 1996, 1997, 1998, and 1999.".

Page 864, strike line 5 and all that follows through line 7 and insert the following:

(b) SECTION 2.—Section 2 of such Act is amended to read as follows:

Page 864, line 19, strike "(b)" and insert "(c)".

Page 866, line 3, strike "(c)" and insert "(d)".

Page 869, line 10, strike "(d)" and insert "(e)".

TITLE V TECHNICAL AMENDMENT

Page 901, strike lines 2 through 4 and insert the following:

Any authority or requirement to make funds available under this Act shall be effective only to the extent provided in appropriations acts.

MODIFICATION TO AMENDMENTS EN BLOC OFFERED BY MR. KILDEE

Mr. KILDEE. Mr. Chairman, I ask unanimous consent to modify my en bloc amendments with an amendment at the desk.

The CHAIRMAN. The Clerk will report the modification.

The Clerk read as follows:

Modification to amendments en bloc offered by Mr. KILDEE:

At the end of the en bloc amendments add the following:

Beginning on page 28, strike line 12 and all that follows through page 30, line 2, and insert in lieu thereof the following:

"(iii) model opportunity to learn standards for schools which receive assistance under this title that address—

(I) the alignment of curricula, instructional materials, and other school resources with the content and performance standards adopted by the State;

(II) the capability of teachers to provide high quality instruction within each subject area for which the State has adopted content and performance standards;

(III) such other factors that the State deems appropriate to ensure that students served under this title receive a fair opportunity to achieve the knowledge and skills described in content and performance standards adopted by the State."

Page 34, strike lines 7 through 11 (and redesignate any subsequent paragraphs accordingly)

Page 36, line 18 after "agencies" insert "and the public of the standards and assessments developed under this section, and"

Page 39, after line 12, insert the following new paragraph (and redesignate accordingly):

"(g) Notwithstanding any other provision of this Act, the implementation of model opportunity to learn standards shall be voluntary on the part of the States, local educational agencies, and schools."

Page 39, after line 17, insert the following new paragraphs (and redesignate accordingly):

"(i) Nothing in this section shall be construed to create a legally enforceable right for any person against a State, local educational agency, or school based on opportunity to learn standards.

(j) Nothing in this section shall be construed to mandate equalized spending per pupil for a State, local educational agency, or school.

(k) Nothing in this section shall be construed to mandate national school building standards for a State, local educational agency, or school."

Page 42, strike lines 19 through 22

Page 67, strike lines 7 through 9

Page 69, line 3, after "standards" insert "including reviewing the school's plan in the context of the State's model opportunity to learn standards"

Page 70, line 13 after "include" insert "implementing the State's model opportunity to learn standards,"

Page 72, line 20, after "standards" insert "including reviewing the local educational agency's plan in the context of the State's model opportunity to learn standards"

Page 74, line 1, after "include" insert "implementing the State's model opportunity to learn standards,"

Page 75, line 12, strike "and opportunity to learn standards"

Page 91, line 19, strike "opportunity to learn standards"

Page 183, after line 16 insert the following (and redesignate accordingly):

"(v) are using any of the voluntary model State opportunity to learn standards that may have been implemented and whether they are useful in improving learning."

Mr. KILDEE (during the reading). Mr. Chairman, I ask unanimous consent that the modification be considered as read and printed in the RECORD.

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

There was no objection.

The CHAIRMAN. Without objection, the modification is agreed to.

There was no objection.

MODIFICATION OFFERED BY MS. LONG TO AMENDMENTS EN BLOC, AS MODIFIED, OFFERED BY MR. KILDEE

Ms. LONG. Mr. Chairman, I ask unanimous consent that the amendment I had intended to offer at a later time be included also in the en bloc amendments offered by the gentleman from Michigan [Mr. KILDEE].

The CHAIRMAN. The Clerk will report the modification.

The Clerk read as follows:

Modification offered by Ms. LONG to amendments en bloc, as modified, offered by Mr. KILDEE:

Page 330, line 6, strike "and".

Page 330, line 7, insert the following (and redesignate any subsequent subparagraphs accordingly):

"(M) The development and expansion of public-private partnership programs which extend the learning experience, via computers, beyond the classroom environment into student homes.

The CHAIRMAN. Is there objection to the modification offered by the gentlewoman from Indiana?

There was no objection.

Mr. KILDEE. Mr. Chairman, this amendment, which I offer for myself and Mr. GOODLING, represents a bipartisan agreement on the bill's opportunity-to-learn provisions.

This amendment: Clearly provides that the implementation of model opportunity-to-learn standards by States, local educational agencies, and schools is voluntary and not mandated;

Simplifies the definition of opportunity-to-learn standards;

Limits the paperwork burden on local educational agencies and schools;

Clarifies that model opportunity-to-learn standards cannot be enforced through litigation; and

Recognizes that model opportunity-to-learn standards can be a useful resource for school improvement.

Mr. Chairman, this is a compromise in the best sense of the word.

It successfully addresses the concerns of many of my Republican colleagues while preserving the original purpose of the Owens amendment.

Mr. Chairman, I urge the adoption of the amendment.

Mr. Chairman, I would like to include in the RECORD several letters from the private and home school community in support of the Ford-Kildee amendment.

COUNCIL FOR
AMERICAN PRIVATE EDUCATION,
Washington, DC, February 22, 1994.

Hon. DALE KILDEE,
Chairman, Subcommittee on Elementary, Secondary and Vocational Education, Rayburn House Office Bldg., Washington, DC.

DEAR REPRESENTATIVE KILDEE: As I am sure you are aware, there has been a great deal of misinformation and concern raised in recent days about an amendment which was added to H.R. 6, the Elementary and Secondary Education Act (ESEA), by Representative George Miller. The amendment would require that states assure the Department of Education that local education agencies (LEAs) "certify that each full time teacher in schools under the jurisdiction of the agency is certified to teach" in his or her subject area.

The Council for American Private Education, like several House offices, has been inundated with questions to clarify whether this amendment would affect private schools. Since private schools are not "under the jurisdiction" of LEAs, we understand that this amendment would have no affect on private schools. Further, we know that requiring states to mandate teacher certification for private schools was not the intent of Representative Miller's amendment, nor would it be the effect.

On behalf of CAPE, I want to assure you of our continued support for reauthorization of the ESEA. We in no way want the input of other groups, that do not represent the 14 national elementary and secondary private school associations in CAPE, to be confused for our position on this important legislation.

Thank you for the opportunity to clarify this issue. We appreciate your leadership on the Committee and concern for educating all the nation's children.

Sincerely,

JOYCE G. MCCRAY,
Executive Director.

DEPARTMENT OF EDUCATION,
Washington, DC, February 24, 1994.

Hon. WILLIAM D. FORD,
Chairman, Committee on Education and Labor, House of Representatives, Washington, DC.

DEAR MR. CHAIRMAN: On behalf of the United States Catholic Conference ("USCC") I am writing to you concerning two pending amendments to H.R. 6, Improving America's Schools Act of 1994.

It is our understanding that an amendment cosponsored by you and Congressmen Kildee, Goodling and Gunderson ("Ford/Kildee Amendment") will be offered today when the House considers H.R. 6. The Ford/Kildee Amendment will, in part, delete from H.R. 6 section 2124(e) which has generated much confusion and controversy regarding the possibility of a federal mandate for local educational agencies to certify teachers in Catholic and other private schools. By deleting section 2124(e) the Ford/Kildee Amendment will eliminate this confusion and make clear that H.R. 6 does not require certification of private school teachers. For this reason the Conference supports passage of the Ford/Kildee Amendment.

It has also come to our attention that Congressman Armey will offer an amendment to H.R. 6 which, in part, would add the following new provision to H.R. 6.

Sec. 9508. General Provision Regarding Nonrecipient Nonpublic Schools

"Nothing in this Act shall be construed to permit, allow, encourage, or authorize any federal control over any aspect of any private, religious, or home school that does not receive funds or does not participate in programs or services under the Act."

We oppose this provision in the Armey Amendment for two reasons.

First, while the Armey Amendment explicitly states that private schools that do not participate in programs under H.R. 6 are not subject to federal control, the Amendment implies that private schools who themselves or whose students and teachers do participate in H.R. 6's programs are subject to broad federal control. Students in Catholic schools have participated in the Elementary and Secondary Education Act of 1965 ("ESEA") programs since its passage in 1965 without federal control over Catholic schools. To interject into the statute in 1994 the concept that private schools whose students participate in federal programs are subject to broad federal control can only invite government administrators to attempt to exert control over Catholic schools. This has not been the experience under ESEA and it would be a mistake to facilitate such a disastrous result by adding this provision to H.R. 6. The provision establishes a dangerous precedent in ESEA and for future federal education programs, with great potential for harm to private schools.

In addition, in our view there has been no demonstrated need for this new provision. We are unaware of any provision in H.R. 6 that gives the federal government control over private schools that do not participate in programs under H.R. 6. In addition, H.R. 6 leaves in place section 432 (redesignated section 438) of the General Education Provisions Act ("GEPA"), which applies to H.R. 6, that expressly prohibits the federal government from exercising "any direction, supervision, or control over the curriculum, program of instruction, administration, or personnel of any educational institution, school, or school system, or over the selection of library resources, textbooks, or other printed or published instructional materials by *any* educational institution school system." (Emphasis added.) We are not aware of any provision in H.R. 6 that renders void this broad proscription against federal control over education.

It has also been suggested that the following sentence could be added at some time to the language quoted above:

"This section shall not be construed to bar private, religious or home schools from participation in programs or services under this Act." This sentence states a truism which only serves to underscore our concern that this provision in the Armey Amendment separates private schools into two groups, schools that do or do not participate in federal education programs under H.R. 6, with the former group being susceptible to broad government control. Highlighting the distinction exacerbates rather than alleviates the concern.

To summarize, USCC opposes the above cited provision in the Armey Amendment because it is potentially harmful to Catholic schools, creates a dangerous precedent, and is unnecessary. Unfortunately, it is our understanding that under the House rules the Armey Amendment cannot be further amended at this time. This leaves us no choice but to oppose the Armey Amendment in toto, even though other parts of it are not objectionable to USCC.

Thank you for this opportunity to comment on the Ford/Kildee and Armey Amendment.

Sincerely,

REV. WILLIAM F. DAVIS, OSFS,
Representative for Catholic Schools and Federal Assistance.

To All House Members.

From Coalition of National Homeschooling Organizations.

Re Endorsement of the Ford-Kildee Amendment.

There is no group that can speak for all home schoolers. However, the following homeschool organizations on the national level, each of whom provides a forum for the exchange of ideas among homeschoolers, have endorsed the Ford-Kildee Amendment to H.R. 6.

The Council of the National Home School Association, P.O. Box 290, Hartland, MI 48353-0290, 1-513-772-9580, Contact: Sydney Mathis.

Alliance for Parental Involvement in Education, P.O. Box 59, East Chatham, NY 12060-0059, 1-518-392-6900, Contact: Seth Rockmuller.

America, 14995 SE 122, Clakamas, OR 97015, 1-503-698-4746, Contact: Halimah Moustafia.

Clonlara School Home Based Education Program, 1289 Jewett, Ann Arbor, MI 48104, 1-313-769-4515, Contact: Pat Montgomery.

Drinking Gourd/Multicultural Home Education Magazine, P.O. Box 2557, Redmond, WA 98073, 1-206-836-0336, Contact: Donna Nichols-White.

Holt Associates/Growing Without Schooling, 2269 Massachusetts Avenue, Cambridge, MA 02140, 1-617-864-3100, Contact: Pat Farenga.

Home Education League of Parents, 3208 Cahuenga Blvd. West, Suite 31, Los Angeles, CA 90068, 1-213-874-8007, Contact: Terri Endsley.

Home Education Press/Home Education Magazine, P.O. Box 1083, Tonasket, WA 98855, 1-509-486-1351, Contact: Helen & Mark Hegener.

Jewish Home Educators' Network, 2 Webb Rd., Sharon, MA 02067, 1-617-784-9091, Contact: Pam Glasser Ernstoff.

Latter Day Saints, 2770 South 1000 West, Perry, UT, 1-800-723-5355, Contact: Joyce Kinmont.

Moore Foundation, Box 1, Camus, WA 98607, 1-206-835-5500, Contact: Dorothy & Raymond Moore.

National Association for the Legal Support of Alternative Schools, P.O. Box 2823, Santa Fe, NM 87504-2823, Contact: Lucia Vorys.

National Challenged Home-Schoolers Associated Network, 5383 Alpine Rd. SE, Olala, WA 98359, 1-206-857-4257, Contact: Thomas Bushnell.

National Coalition of Alternative Community Schools, P.O. Box 15036, Santa Fe, NM 87506, 1-505-474-4312, Contact: Ed Nagel.

Santa Fe Community School, P.O. Box 2241, Santa Fe, NM 87504, Contact: Ed Nagel.

Unschoolers Network, 2 Smith St., Farmingdale, NJ 07727, 1-908-938-2473, Contact: Nancy Plent.

COUNCIL OF CHIEF
STATE SCHOOL OFFICERS,
Washington, DC, February 24, 1994.

DEAR REPRESENTATIVE: I write on behalf of the chief state school officers to urge your support for H.R. 6, the Improving America's Schools Act (IASA), when it comes before the House of Representatives on Thursday, February 24. The bill restructures the major federal elementary and secondary education programs. It makes important connections between federal support for high poverty schools under Title I, school improvement activities under Title II, and state and local plans under Goals 2000: the Educate America Act. State and local education agencies are provided new flexibility and accountability under the Act to use resources from related federal programs, in conjunction with state and local programs, to achieve the National Education Goals.

We commend particularly the bipartisan agreements reached in Committee on the Title I targeting formula and the provisions of Title II for professional development and school improvement. Title II of H.R. 6 now authorizes substantial new support for professional development and expansion of learning technologies, while continuing authority for federal funds to support a wide range of innovations and reform strategies at the state and local level. The bill makes significant and beneficial changes in the provisions of a number of other elementary and secondary programs as well, including the Drug-Free Schools and Communities Act, Even Start, and bilingual education.

As the House takes action on H.R. 6, we urge agreement to revise the overall provisions for standards and the provisions for opportunity to learn standards added to Section 1112, Section 1116, and Section 1117 at the Committee level. Our Council strongly supports the provisions for state standards in the Goals 2000: Educate America Act, including content, student performance and opportunity to learn standards. Under that proposed Act, each state establishes standards for all children. The state standards are used to set expectations and to guide improvement of student and school performance to satisfactory levels in a comprehensive plan which covers state and federal programs and funding.

In H.R. 6 we urge the House members to include only such provisions for opportunity to learn standards as will provide states with the flexibility and discretion to use them in accordance with their Goals 2000 plans and strategies and to focus the application of these standards on schools identified under Title I of IASA as "in need of improvement."

It is our understanding that the leadership of the Committee is developing a bipartisan agreement to revise the provisions for opportunity to learn standards under Section 1112, 1116, and 1117. We have not reviewed the agreement but urge support of it, if it is in accord with the principles stated above.

Once again, we urge you to vote in favor of H.R. 6. Thank you for your consideration of our recommendations.

Sincerely,

GORDON M. AMBACH.

GENERAL CONFERENCE OF
SEVENTH-DAY ADVENTISTS,
February 24, 1994.

TO WHOM IT MAY CONCERN: We endorse the amendment to H.R. 6 as proposed by Mr. Ford and Mr. Kildee with the understanding that parochial schools in general, and not just homes schools, would be exempted from application of the certification requirements and all other aspects of the bill.

ROBERT L. DALE,
Vice President, North American Division.
B.B. BEACH,
Director, General Conference Public Affairs & Religious Liberty Department.
GILBERT L. PLUBELL,
Education Department, North American Division.
G.M. ROSS,
Congressional Liaison.

Ms. SLAUGHTER. Mr. Chairman, I rise in support of this en bloc amendment offered by my colleague from Michigan, Mr. KILDEE.

Among the provisions included in the amendment is one which will help homeless children to receive the high quality education they need to escape their impoverished circumstances. School is often the only stable element in the lives of these young people, and it is critical for us to support that stability.

H.R. 6 reauthorizes programs which I originally sponsored in legislation passed in 1990. Our efforts have borne fruit—while reports in 1990 indicated that half of homeless children did not attend school regularly, current estimates indicate that the figure has dropped to a third or less. One Department of Education study showed the number as low as 18 percent. We in this House should be proud of that success.

The legislation before us improves the program in a number of important ways. H.R. 6 clarifies enforcement and accountability, and promotes greater flexibility for States and local educational agencies in carrying out the goal of helping homeless youngsters realize their potential. In addition to Chairman KILDEE, my colleague from Washington State, Mrs. UNSOELD, was instrumental in adding several excellent provisions at the committee level.

This en bloc makes two more small but important changes. It helps State educational agencies to coordinate their plans and services with housing authorities. The bill also restores language requested by the Clinton administration, which assures that children can stay in the same school when they become homeless in the middle of the academic year.

Educating our homeless children is a priority which transcends mere partisanship. I have been pleased with the collegiality which has surrounded our work on reauthorizing and improving homeless education programs. I urge all of my colleagues on both sides of the aisle to support this amendment and, when it comes up for a vote, the bill.

Mr. GOODLING. Mr. Chairman, I move to strike the last word.

Mr. Chairman, in the spirit of cooperation, because I have been trying very hard to have a bipartisan bill, I accept the opportunity to learn standards as we have finalized them, and want to make sure that we understand it makes clear that the implementation of the model opportunity to learn standards is voluntary and not mandated, narrows down the original list of 8 to 2. It allows the State to develop model opportunity to learn standards that the State deems appropriate to ensure that students served under this title receive a fair opportunity to achieve the knowledge and skills described in the content and performance standards adopted by the State. It only requires the State to develop opportunity to learn standards for children served under title I. It greatly limits the paperwork burden on schools and local education agencies, retains the provisions in the bill saying that the Secretary may not deny title I funds to a State based on the specific content of its opportunity to learn standards.

It clarifies that model opportunity to learn standards cannot be enforced through litigation, cannot be used to mandate equalized spending in States or national school building standards.

So I continue to believe that we cannot mandate anything that we do not pay for, and I think by adopting this compromise we are making sure that we do not have unfunded mandates.

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

Mr. Chairman, I would like to make an inquiry of the gentleman from Michigan. If I might ask the gentleman from Michigan [Mr. KILDEE] does this en bloc amendment contain the language relative to education about the dangers of smoking that is to be part of our drug abuse curriculum?

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

Mr. DURBIN. I yield to the gentleman from Michigan.

Mr. KILDEE. Mr. Chairman, the gentleman is correct.

Mr. DURBIN. It is my understanding that the gentleman's en bloc amendment actually weakens the language which is in the committee version of the bill which is coming to the floor in that it limits the education standards relative to this danger.

Mr. KILDEE. It is the amendment that was agreed to in full committee and was inadvertently left out when it was printed. But I will be glad to work with the gentleman.

Mr. DURBIN. The gentleman is correct in his statement to the committee on this point. I would like to make the following point: I will not object today to this en bloc amendment. What the gentleman from Michigan is doing is correctly reflecting committee action, but I strongly disagree with that action. The action taken by the Committee on Education and Labor relative to this issue relating to tobacco and the danger of smoking I think is a serious mistake.

I will be offering an amendment next week to try to rectify this problem.

The CHAIRMAN. The question is on the amendments en bloc, as modified, offered by the gentleman from Michigan [Mr. KILDEE].

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

RECORDED VOTE

Mr. GOODLING. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device and there were—ayes 422, noes 1, not voting 15, as follows:

[Roll No. 33]

AYES—422

Abercrombie
Ackerman
Allard
Andrews (ME)
Andrews (NJ)
Applegate
Archer
Armey
Bacchus (FL)
Bachus (AL)
Baesler
Baker (CA)
Baker (LA)
Ballenger
Barca
Barcia
Barlow
Barrett (NE)
Barrett (WI)
Bartlett
Barton
Bateman
Becerra
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
Bunning
Burton
Buyer
Byrne
Callahan
Calvert
Camp
Canady
Cantwell
Cardin
Carr
Castle
Chapman
Clayton
Clement
Clinger
Clyburn
Coble
Coleman
Collins (GA)
Collins (IL)
Collins (MI)
Combest
Condit
Conyers
Cooper
Coppersmith
Costello
Cox
Coyne
Cramer
Crane
Crapo
Cunningham
Danner
Darden
de la Garza
de Lugo (VI)
Deal
DeFazio
DeLauro
DeLay
Dellums
Derrick
Deutsch
Diaz-Balart
Dickey
Dicks
Dingell
Dixon
Dooley
Doolittle
Dornan
Dreier
Duncan
Dunn
Edwards (CA)
Edwards (TX)
Ehlers
Emerson
Engel
English
Eshoo
Evans
Everett
Ewing
Faleomavaega (AS)
Farr
Fawell
Fazio
Fields (LA)
Fields (TX)
Filner
Fingerhut
Fish
Flake
Foglietta
Ford (MI)
Ford (TN)
Fowler
Frank (MA)
Franks (CT)
Franks (NJ)
Frost
Furse
Gallegly
Gallo
Gekas
Gephardt
Geren
Gibbons
Gilchrest
Gillmor
Gilman
Gingrich
Glickman
Gonzalez
Goodlatte
Goodling
Gordon
Goss
Grams
Grandy
Greenwood
Gunderson
Gutierrez
Hall (OH)
Hall (TX)
Hamburg
Hamilton
Hancock
Hansen
Harman
Hastert
Hayes
Hefley
Hefner
Herger
Hilliard
Hinchey
Hoagland
Hobson
Hochbrueckner
Hoekstra
Hoke
Holden
Horn
Houghton
Hoyer
Huffington
Hughes
Hunter
Hutchinson
Hutto
Inglis
Inhofe
Inslee
Istook
Jacobs
Jefferson
Johnson (CT)
Johnson (GA)
Johnson (SD)
Johnson, E. B.
Johnson, Sam
Johnston
Kanjorski
Kaptur
Kasich
Kildee
Kim
King
Kingston
Kleczka
Klein
Klink
Klug
Knollenberg
Kolbe
Kopetski
Kreidler
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LaFalce
Lambert
Lancaster
Lantos
LaRocco
Lazio
Leach
Lehman
Levin
Levy
Lewis (CA)
Lewis (FL)
Lewis (GA)
Lightfoot
Linder
Lipinski
Livingston
Lloyd
Long
Lowey
Machtley
Maloney
Mann
Manton
Manzullo
Margolies-Mezvinsky
Martinez
Matsui
Mazzoli
McCandless
McCloskey
McCollum
McCrery
McCurdy
McDade
McDermott
McHale
McHugh
McInnis
McKeon
McKinney
McMillan
McNulty
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Menendez
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Mica
Michel
Miller (CA)
Miller (FL)
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Mollohan
Montgomery
Moorhead
Moran
Morella
Murphy
Myers
Nadler
Natcher
Neal (MA)
Neal (NC)
Norton (DC)
Nussle
Oberstar
Obey
Olver
Ortiz
Orton
Owens
Oxley
Packard
Pallone
Parker
Pastor
Paxon
Payne (NJ)
Payne (VA)
Pelosi
Penny
Peterson (FL)
Peterson (MN)
Petri
Pickett
Pickle
Pombo
Pomeroy
Porter
Portman
Poshard
Price (NC)
Pryce (OH)
Quillen
Quinn
Rahall
Ramstad
Rangel
Ravenel
Reed
Regula
Reynolds
Richardson
Ridge
Roberts
Roemer
Rogers
Rohrabacher
Romero-Barceló (PR)
Ros-Lehtinen
Rose
Rostenkowski
Roth
Roukema
Rowland
Roybal-Allard
Royce
Sabo
Sanders
Sangmeister
Santorum
Sarpalius
Sawyer
Saxton
Schaefer
Schenk
Schiff
Schroeder
Schumer
Scott
Sensenbrenner
Serrano
Sharp
Shaw
Shays
Shepherd
Shuster
Sisisky
Skaggs
Skeen
Skelton
Slattery
Slaughter
Smith (IA)
Smith (MI)
Smith (NJ)
Smith (OR)
Smith (TX)
Snowe
Solomon
Spence
Spratt
Stark
Stearns
Stenholm
Stokes
Strickland
Studds
Stump
Stupak
Sundquist
Swett
Swift
Talent
Tanner
Tauzin
Taylor (MS)
Taylor (NC)
Tejeda
Thomas (CA)
Thomas (WY)
Thompson
Thornton
Thurman
Torkildsen
Torres
Torricelli
Towns
Traficant
Tucker
Underwood (GU)
Unsoeld
Upton
Valentine
Velázquez
Vento
Visclosky
Volkmer
Vucanovich
Walker
Walsh
Waters
Watt
Waxman
Weldon
Wheat
Whitten
Williams
Wise
Wolf
Woolsey
Wyden
Wynn
Yates
Young (AK)
Young (FL)
Zeliff
Zimmer

NOES—1

Durbin

NOT VOTING—15

Andrews (TX)
Clay
Gejdenson
Green
Hastings
Hyde
Kennedy
Kennelly
Laughlin
Markey
Murtha
Rush
Synar
Washington
Wilson

□ 1557

So the amendments en bloc, as modified, were agreed to.

The result of the vote was announced as above recorded.

Mr. FORD of Michigan. Mr. Chairman, I move that the Committee do now rise.

The motion was agreed to.

Accordingly, the Committee rose; and the Speaker pro tempore (Mr. MEEHAN) having assumed the chair, Mr. PRICE of North Carolina, Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill (H.R. 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, had come to no resolution thereon.

PERSONAL EXPLANATION

Mr. GEJDENSON. Mr. Speaker, I hosted a visit by President Bill Clinton to my congressional district. I was therefore not present for votes on amendments to H.R. 6, the Improving America's Schools Act of 1994. Had I been present I would have voted:

"Yes" on Roll No. 31 (Ford-Kildee).

"Yes" on Roll No. 32 (Armey).

"Yes" on Roll No. 33 (Kildee en bloc).

PERSONAL EXPLANATION

Mr. GENE GREEN of Texas. Mr. Speaker, I was unable to cast my vote on rollcall vote Nos. 31 and 32. Had I been present, I would have voted "aye" on both of these amendments.

GENERAL LEAVE

Mr. FORD of Michigan. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks, and include extraneous matter, on the bill just considered.

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

There was no objection.

LEGISLATIVE CALENDAR

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

Mr. WALKER. Mr. Speaker, I have asked unanimous consent to proceed for 1 minute for the purpose of ascertaining the schedule for the upcoming week.

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

Mr. WALKER. I yield to the majority leader to advise us as to the upcoming schedule.

Mr. GEPHARDT. I thank the gentleman for yielding.

Obviously, votes are finished for today. There will not be votes on tomorrow and Monday, February 28. The House will meet at noon on Monday, February 28, but there will not be a morning hour, and there will not be legislative business.

Tuesday, March 1, Wednesday, March 2, and Thursday, March 3, the House will meet at 10:30 a.m. on Tuesday, for morning hour. The House will meet at noon on Tuesday for legislative business.

The House will meet at 2 p.m. on Wednesday, and the House will meet at 11 a.m. on Thursday to take up H.R. 6, the Elementary and Secondary Education Amendments of 1993, complete consideration and the possibility of

House Resolution 238, calling on the Committee on Standards of Official Conduct to conduct an investigation into activity at the House post office.

Friday, March 4, the House will meet at 11 a.m., but there will be no legislative business.

□ 1600

Mr. WALKER. Mr. Speaker, I thank the gentleman from Missouri [Mr. GEPHARDT], and I would like to clarify with him, with regard to the morning hour announcement, that it is my understanding that what we are going to do is listed on the schedule for Monday. If morning hours are not anticipated, that would involve an agreement between both leaderships that no one has asked for morning hour time and, therefore, the schedule announcement would be the notification of Members not to expect the morning hour on Monday.

Mr. GEPHARDT. The gentleman is correct. We will determine it on a case-by-case basis in consultation with the minority.

Mr. WALKER. But this will be a standard practice, as this schedule is done each week, to determine by the time the schedule is done whether or not there will be a Monday morning hour; is that correct?

Mr. GEPHARDT. The gentleman is correct.

Mr. WALKER. Then we do anticipate morning hours for Tuesday because Members will be coming back into town.

Mr. GEPHARDT. The gentleman is correct.

Mr. WALKER. Mr. Speaker, I thank the gentleman from Missouri.

And does the gentleman know of any conference reports that might be anticipated for next week?

Mr. GEPHARDT. We are not aware of any at this point. We will obviously notify the minority if we see one coming.

Mr. WALKER. Mr. Speaker, I thank the gentleman from Missouri [Mr. GEPHARDT].

ADJOURNMENT TO MONDAY, FEBRUARY 28, 1994

Mr. GEPHARDT. Mr. Speaker, I ask unanimous consent that when the House adjourns today it adjourn to meet at 12 noon on Monday, February 28, 1994.

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

There was no objection.

DISPENSING WITH CALENDAR WEDNESDAY BUSINESS ON WEDNESDAY NEXT

Mr. GEPHARDT. Mr. Speaker, I ask unanimous consent that the business in order under the Calendar Wednesday rule be dispensed with on Wednesday next.

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

There was no objection.

SPECIAL ORDERS

The SPEAKER pro tempore. Under the Speaker's announced policy of February 11, 1994, and under the order of the House today, the following Members are recognized for 5 minutes each:

ORDER OF BUSINESS

Mr. GONZALEZ. Mr. Speaker, I ask unanimous consent that my special order scheduled for this evening follow the special order of the gentleman from American Samoa [Mr. FALEOMAVAEGA].

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

There was no objection.

RECOGNITION OF YOUNG SAMOANS' CONTRIBUTIONS TO AMERICA'S FAVORITE PASTIME

Mr. FALEOMAVAEGA. Mr. Speaker, I rise this evening to recognize the exceptional contribution made by young Samoans currently playing professional football in the National Football League.

There are approximately 150,000 Samoans living in Samoa and throughout the United States. With 10 of its sons currently playing in the NFL, Samoa can rightfully claim that on a per capita basis, it has contributed more players to America's favorite pastime than any city or State in the Union.

Mr. Speaker, my colleagues and others struggle at times to pronounce my name, and I know many Samoan names are difficult for some people to pronounce—but so that others may not struggle as much, let me share with our fellow Americans the names and pronunciations of our young Samoans currently playing in the National Football League:

Esera Tuaolo—defensive end—Minnesota Vikings.

Al Noga—defensive end—Washington Redskins.

Richard "Ricky" Brown—linebacker—Cleveland Browns.

Pio Sagapolutele—defensive tackle—Cleveland Browns.

Lonnie Palelei—guard—Pittsburgh Steelers.

Natu Tuatagaloa—defensive end—Seattle Seahawks.

Junior Seau—linebacker—San Diego Chargers.

Jessie Sapolu—center—San Francisco 49'ers.

Dan Saleaumua—defensive tackle—Kansas City Chiefs.

Mark Tuinei—offensive tackle—Dallas Cowboys.

Mr. Speaker, I would also like to give special recognition to our fellow Polynesian brothers from the Pacific who also currently play in the NFL. From Tonga are: Siupeli Malamala of the New York Jets; Vai Sikahema of the Philadelphia Eagles; Peter Tuipulotu, and Alfred Pupunu of the San Diego Chargers. My native Hawaiian brothers include: Kani Kauahi of the Phoenix Cardinals; Kurt Gouveia of the Washington Redskins; Jeff Pahukoa and Leo Goeas of the Los Angeles Rams.

Mr. Speaker, I am especially proud of the fact that of the four teams that made it to the NFL playoffs in 1993, there were Samoan players on three of these teams. I am looking forward to the opportunity once again to greet Mark Tuinei, starting offensive tackle of the world champion Dallas Cowboys when he and other members of the team travel to Washington, DC, to meet with President Clinton. Others who played in the 1993 playoffs include: San Francisco 49'ers center, Jessie Sapolu; and Kansas City Chiefs nose tackle, Dan Saleaumua.

I would also like to pay a special tribute to two Samoan players who were chosen by their peers to play in last weekend's Pro Bowl in Honolulu, Hawaii. But, before I commend these two Samoan pro bowlers, I would like to make mention that for those who did not have an opportunity to watch the Pro Bowl game, I was pleasantly surprised to see that when the referees called for the customary coin toss to determine which team would kick-off, who came out but Sumo wrestler Akebond, a young native Hawaiian who has now become Yokohuna, or the highest rank in Sumo. For my colleagues, I also want to introduce a young Samoan American, Konishiki who stands at 6 foot 1 and weighs approximately 560 lbs, and also well noted in the Sumo world.

Returning now to the Pro Bowl, each year players and coaches select players from other teams in their conference who they believe are the best players at their respective positions. Coaches and players cannot pick a member from their own team. This year two Samoans were chosen to the Pro Bowl, one from the NFC and one from the AFC. Starting at offensive center for the National Football Conference was 6 foot 4, 280 pounder Jessie Sapolu of the San Francisco 49ers. On the other side of the ball, Jessie faced off against a Samoan brother, starting inside linebacker for the American Football Conference was 6 foot 3, 250 pounder, Junior Seau of the San Diego Chargers. Seau who played a whale of game, led both the AFC and NFC defenses with a game high nine tackles. My congratulations to these two gentlemen for being selected by their peers as the best players at their positions.

Mr. Speaker, I am extremely proud of the accomplishments of these young

Americans of Samoan ancestry and other parts of the Pacific. They provide a sense of inspiration not only to the young people of Samoa, but to all young people throughout this great Nation of ours. I congratulate them not only for their athletic abilities but for being outstanding role models for our young people.

THE ABSURDITY OF UNASSISTED INDIVIDUAL MANDATES

The SPEAKER pro tempore. Under previous order of the House, the gentleman from California [Mr. STARK] is recognized for 5 minutes.

Mr. STARK. Mr. Speaker, a number of Members are proposing that all individual Americans be mandated to purchase a basic health insurance policy, with no help from their employers and no clear, defined help from the Government.

I have a modest proposal to expand this great idea, because it is clear that with individual mandates, we can legislate all our troubles away.

The national median income of a family headed by a woman with no husband present is about $17,200, and for married couples it is about $42,000.

Members who would impose an individual health mandate are saying that these family units should buy a health policy that will cost somewhere between $2,000 and $3,000.

Obviously, if families obey this mandate, many of them—particularly households headed by a single woman—will have to cut back on some other spending. While most people in this country do operate under the theory of rugged individualism, it will probably not be enough to make any of these individual mandate plans work.

If they have to pay for health care, they won't be able to buy food for their children. That means more money for public assistance programs to help feed the hungry. Or, we can just mandate that every one feed their children.

If they have to pay for health insurance and food, they won't be able to pay the rent. That means an even greater homeless problem. But it can be fixed. We just mandate that everybody has to find a place to live and pay their rent. Maybe we even force them to clean their rooms.

If they have to pay for health insurance, food, and rent, they probably won't be able to afford nice clothing or a car payment. That means a slump in retail sales and the auto industry, causing the economy to slip into a recession, which means more unemployment. But this too can be fixed. We just mandate that everybody go out shopping. That's right, fill the malls.

If they have to pay all these bills, they're not going to be able to pay taxes. But that's illegal, so we'll have to mandate that everyone have a high-paying job. Or, that local banks grant people low-interest loans to help pay off their debt.

See, Mr. Speaker, this kind of legislating is easy. It is called the King Canute School of Legislative Drafting. If we just wave our magic wands, all the problems of our constituents will go away, and we can all be happy.

HOW THE FEDERAL RESERVE OPERATES

The SPEAKER pro tempore. Under previous order of the House, the gentleman from Texas, Mr. GONZALEZ, is recognized for 5 minutes.

Mr. GONZALEZ. Mr. Speaker, for several days I have taken advantage of this privilege and have addressed my colleagues for 5 minutes on the subject matter of the Federal Reserve Board and some of the current aspects of its activities that have become a little bit more than usually noticed and reported.

After doing this now for several weeks, these 5 minute addresses, I am reminded of the fact that very few of my colleagues seem to recognize the nature of this system that has grown and identified as the Federal Reserve System of our country.

For years, going back to long before anybody would make use of this privilege known as special orders, but which not always have been labeled as special orders, few members, unfortunately, and it shows today in the deliberations concerning this privilege, know the history of this.

When I came 32 years ago, 10 days after I was sworn in, I made use of this privilege, and have been doing so since then. Of course, at that time there was no thought of any kind of external coverage, such as television, such as we take for granted today, and the practice was that you weren't even supposed to come physically on the House floor and make the speech. You could write it out, submit it, and it would be printed as if you had uttered it on the House floor.

But I was conversant with the history of this. And I said no, I don't think that is the intention of this privilege. The idea is that in a numerous body such as this, a Member shall have an opportunity to expand and enlarge on a given subject matter that impresses him much, agitates him very much, and which during regular debate, the limitations of a numerous body prohibit, this is his opportunity.

But it was always intended that it was an address. And when I saw that they weren't doing that, I thought it was not in keeping and conformity with the intended purpose. So I would come physically, and some of the oldtimers thought I was quite a little bit rare in doing it.

Nevertheless, from the beginning in the sixties, I addressed this question of the Federal Reserve Board. What I want to do in just 1 minute is just say this: I don't thing the majority of my colleagues in the Congress or the citizens outside of the Congress really know. For instance, the question I get from almost every State, a citizen in every State that has corresponded with me or has called me on the phone is, is the Federal Reserve Board a federal governmental agency, or is it a private agency?

I will laugh and I will say, "This is an issue that has been discussed, and you have had about 50 percent of the Federal Reserve Chairmen and others and economists saying it is a political entity of the Government. And you have had others say, "No; it is a strictly private entity, a creature of the private commercial banking systems of the United States." My colleagues, unfortunately, that version is far more closer to the truth than the other.

In the first place, the banks constitute the constituency of the Federal Reserve Board. It is only bankers who are selected to govern. And that narrow view, naturally, sooner or later, is in conflict with that view that should be the national policy makers' view, that is, the Congress, from the standpoint of the greatest interest of the greatest number.

Now, does the President sit in on the deliberations of the board? Of course not. Does the Congress have anything to do with the deliberations, or is it privy to the deliberations? Of course not. Does the Congress or the President or the executive branch own stock in the Federal Reserve Board? Of course not. The commercial banks own it.

Now, If you have an issue and the bankers are making the decision, and this is an observation that was made in the very beginning of our nationhood when the First Continental Congress was formed and the need for a banker or physical agent was apparent, and the decision was made to charter the Bank of North America in Philadelphia, and Thomas Jefferson inveighed against the bankers, because, yes, they would be the bankers, but the Congress would have to pay a prohibitive usurious interest rate, and it was only because of men like Jefferson that that wasn't done.

So, I just want to say that I will try to explain a little bit more about what the Federal Reserve Board really is so that then perhaps I can be better understood where I am coming from.

HEALTH CARE IN AMERICA

The SPEAKER pro tempore. Under the Speaker's announced policy of February 11, 1994, there being no designee from the minority leader, the gentleman from Michigan [Mr. BONIOR] is recognized for 60 minutes as the majority whip.

Mr. BONIOR. Mr. Speaker, not long ago I received something in the mail that in a funny way, sums up this whole health care debate.

It was a résumé, a résumé that an enterprising young man had sent to my office. He was looking for a job.

And like most résumés, this young man had listed his education, his job experience, and all the other things you put on a résumé.

But at the bottom of this résumé, there was one line that caught my attention.

One line that made me stop and think.

Among his many qualifications, this young man wrote that he "spoke two foreign languages . . . managed competition and single payer."

Of course, managed competition and single payer aren't foreign languages, they're simply two different approaches to health care reform.

But to many people trying to follow this debate at home, and frankly, to many people right here in this Chamber, trying to wade through all the convoluted jargon of health care reform is like trying to learn another language.

It certainly sounds like a different language:

Preferred provider organizations or home maintenance organization?

Employer mandates or individual mandates?

Universal access or universal coverage?

It's enough to make you wish that C-SPAN ran subtitles.

Most people end up feeling like that guy who walked into the doctor's office.

The receptionist asked him what he had, and the man said "shingles."

So the receptionist had him fill out a form listing his name, address, and insurance number, and told him to have a seat.

Fifteen minutes later a nurse's aid came out and asked him what he had. He said, "shingles."

So the nurse's aid took down his height, weight, and a complete medical history, had him fill out an insurance form, and told him to wait in the examining room.

Thirty minutes later the nurse came in and asked him what he had. He said, "shingles."

So the nurse gave him a blood pressure test, took his pulse, filled out a form and asked him to take his clothes off and wait for the doctor.

An hour later the doctor came in and asked him what he had.

The man said, "shingles."

The doctor said, "where."

The man said, "Outside in the truck. Where do you want them?"

Like that truckdriver, most people have very simple questions about health reform:

Questions like, what is being proposed?

How will it work?

How will it affect me and my family?

They know that health care affects us all like no other issue.

They know that for health care reform to work, they must all play a part and take responsibility for this system.

They're asking honest questions. And I think they deserve simple, honest answers.

Because people have a right to know.

Over the coming months, I have reserved time on this floor to talk about health care reform, to talk about the issues that confront us, and to answer some of the questions I'm receiving from people back home.

As I've said before, I may not be Marcus Welby, I may not even be Doogie Howser, but I think I can give people some idea about how the President's health care plan might work, and how it compares to other plans.

And it's important to recognize from the beginning that we're talking about a moving target here. The President's plan is likely to change in the months to come.

It's got to go through the committees, and through both Houses of Congress, before it comes to a vote.

This is just the beginning of the process, not the end.

But that's what the democratic process is all about, taking the good ideas other people have and incorporating them to make a good plan even better.

In the end, we'll have a health care paln—and a health care system—that we can all be proud of.

That will save money and save lives.

And that will work for all of us.

But as we move toward that goal, I do get a lot of questions from back home.

One of the most common questions is simple: "Why do we need health care reform."

There are a million reasons why we need health care reform—and I would bet that any family in America can list at least a dozen reasons based on their own experiences.

But there are three basic reasons.

First, if health care costs continue to rise at the rate they're going, they'll probably drive us into bankruptcy.

In 1980, health care for the average American family cost $2,500 a year. This year it's about $6,500. If we don't do anything to reform the system, by the end of the decade, an average family will be spending $14,000 a year just for health care.

If we do nothing to stop this, American workers will continue to lose $655 in income each year by the end of the decade. Small businesses will continue to face skyrocketing premiums, and a full third say they will be forced to drop insurance. Large employers will have to pay as much as $20,000 a year for each employee.

And health care costs will devour more and more of the Federal budget.

The current health care system is undermining our economy, eroding our competitiveness, stifling our ability to invest, and lowering our living standards. We simply can't afford to continue down this road.

Second, even though we spend at least 35 percent more per person on health care than the next most expensive country, we're the only advanced country in the world that doesn't provide health security for all its citizens.

We spend 14.5 cents of every dollar on health care. Only Canada spends 10 cents; Germany and Japan are under 9. Yet we have to compete with them every day.

There's no reason why the country that beat polio, that pioneered prenatal care, and that has the best doctors and hospitals in the world, can't provide health security for all its citizens.

Third, because of these high costs, we're paying more and more money for less and less care. Every year fewer and fewer Americans get to choose their doctors. Every year doctors and nurses spend more time on paperwork and less on patients because of the bureaucratic nightmare the present system has become.

And worse of all, every month another 100,000 Americans lose their health care for good. We simply can't let this continue. We've got to reform our health care system now.

Another question I get asked a lot is, "David, how many different health care plans are currently before Congress?"

Mr. Speaker, the answer is six—there are at least six major health care plans before Congress right now.

Six major plans that are very thoughtful plans, proposed by very thoughtful people, and they all have some good qualities about them.

But the President's plan is the only plan that has one essential feature.

One essential feature that 79 percent of the American people said in a recent poll must be the cornerstone of health care reform.

One essential feature that 4 out of every 5 Americans believe must be part of any plan that passes Congress.

And that one essential feature is this: The President's plan is the only plan that provides all Americans with guaranteed private health insurance that can never be taken away.

Not if you change jobs.

Not if you lose your job.

Not if you move, start a small business, or retire.

No matter what happens, you can never lose your coverage.

And the President's plan is the only plan that makes that guarantee.

"So," you might ask. "What exactly is the President proposing?"

In a nutshell, the President is proposing a twofold solution.

First, to make sure everyone is covered, his plan builds upon what works today in the private sector, by expanding the employer-based system we have today.

His plan would require employers to help pay for coverage, it would subsidize insurance for small businesses, low-wage workers, and the jobless, and it would set up insurance-purchasing pools called health alliances to make policies cheaper.

He'd require that all people, at a minimum, be covered by a standard set of benefits as good as the benefits

packages offered by most Fortune 500 companies, and no matter what happens, those benefits can never be taken away.

Second, the President would also try to control health costs. He would cap the two big government health care programs so that they grew only about half as fast as inflation—and weed out much of the waste, fraud, abuse, and duplication in the system today.

His plan would also rewrite the rules for the health-care market, to force private insurance companies to compete on how well they can take care of people, not how many people they can drop from coverage when they get sick.

And, in case the competition of the free market doesn't do enough to restrain costs, the President's plan would impose strict limits on how fast insurance companies can jack up premiums.

Mr. Speaker, by far the most common question I get is the most personal: "How is all this going to affect me?"

Here's what that means in English: After reform, almost all of us will be able to sign up for a health plan where we work, just like we do today.

You'll get brochures that give you easy-to-understand information on the health plans in your area—including an evaluation of the quality of care and a consumer satisfaction survey. And you can choose the plan that's best for you and your family.

If you're self-employed or unemployed, you sign up at the health alliance in your area—which is made up of consumers and local business owners who bargain with insurance companies for affordable health care for you and your family.

Many people say to me, DAVID, I have a good plan through my employer now. Will I be able to keep the plan I have now?

The answer is yes—one of the features we are going to absolutely insist on during health care reform is that people don't lose the good benefits they may already have now.

If your employer is currently paying 100 percent of the cost of your plan, he or she can continue to pay 100 percent. We're trying to preserve what is right with our system just as much as we're trying to fix what is wrong.

Another common question is, "How good is the standard benefits the President is proposing?"

The standard package of benefits the President is proposing for all Americans is at least as good as the benefits offered by most Fortune 500 companies. And you can never lose it.

In fact, the President's plan is also the only private-based plan that specifies what benefits are covered.

The other plans leave that chore to a commission to decide benefits—only after the bill is signed into law.

Under the President's plan, you will be covered for hospital care, doctors visits, emergency and laboratory services, substance abuse, and mental health treatments.

And for the first time ever, prescription drugs will be covered.

In today's system, your insurance may cover you if you get sick—but it won't pay a penny to keep you healthy in the first place.

The President's plan will encourage prevention by paying 100 percent of the cost for regular check-ups, well-baby visits, mammogram, Pap smears, and other preventive care—to keep people healthy in the first place, so we can avoid more costly care down the road.

But many of the people back home also want to know: Will I still be able to choose my own plan and doctor?

The answer is yes—you'll always be able to choose your own plan and doctor. In fact, you'll probably have more choices than you have right now.

Under today's system, rising health care costs have forced many businesses to limit the health plans for their employees. Nearly three-quarters of small- and medium-sized businesses today offer just one plan—meaning you're stuck with that plan and the doctors it covers.

More than half of America doesn't really have any choice today at all.

Under the health security plan, no boss will be able to tell you which doctor to go to or which plan you can join.

Every American will have the choice among a number of high quality plans.

You can stay with your current doctor, join a network of doctors and hospitals, or join a health maintenance organization. Depending on the area you live in, you could be offered many choices within those three main areas. Your doctors can be part of any plan they want to.

Every year, you can switch plans. And if your doctor switches plans—you can move with him.

Mr. Speaker, many people also ask me if premiums and copayments will go up under the new system.

The answer is "no," premiums and copayments will be brought under control.

We aren't going through this long, painful process of reform just so that people end up paying more money for less care.

You know how the system works today—you may have a plan with a $250 premium. But if you get sick just once, you may see that premium shoot up to $2,500—and there's nothing you can do but pay it.

Under the health security plan, insurance companies won't be able to charge you more just because your sick.

Mr. Speaker, a lot of older Americans who are living on fixed incomes write me to ask if they'll be able to stay on Medicare.

The answer is "yes"—under the President's plan, older Americans who receive Medicare will still be able to receive their Medicare benefits exactly as they do today.

In fact, Medicare will be made stronger—because for the first time ever, Medicare will cover prescription drugs; and no senior will ever again have to choose between the food they need to survive and the medicine they need to live.

It's important to point out that the President's plan is the only plan that covers prescription drugs and long-term care for seniors.

Under this plan, old people won't be made to pay more just to pay for health care for young people.

And if you decide that you want different coverage, older Americans will be able to choose among different health plans that may offer fuller benefit packages and lower payments.

But, many people ask me, what if someone in my family has a preexisting condition? Will They be covered?

The answer is "yes"—under the health security plan, it will be illegal to refuse to insure people just because they've been sick.

Not long ago, a couple named Bob and Michele Peterson came to Washington to tell their story.

Their 9-year-old son was diagnosed with a potentially fatal blood disease and needed a bone marrow transplant. So far the bills to care for their son have exceeded $800,000. But the family found out halfway through that their insurance policy has a lifetime limit—and won't pay more than $250,000.

Three out of four Americans with insurance today have lifetime limits—and most of them don't even know it.

This was an upper middle-class family with good health insurance—and now they're forced to hold community fundraisers to raise the money that will keep their son alive—because they can't find another insurance company who will cover his preexisting condition.

Michele says with tears in her eyes, "I thought we were safe. I thought we were in the clear. Now, we have $700,000 in bills—and nobody will cover us."

After reform passes, Bob and Michele's son can never be denied coverage again. Health plans will have to accept people—healthy or not. They won't be able to charge you more for being sick.

And most important, they can't cut you off when you reach a lifetime limit. Because the President's plan abolishes lifetime limits for good.

Finally, a lot of skeptical people often ask me, "Will the President's plan really control costs."

The answer is "yes," the President's plan will control costs.

Don't just take my word for it.

A few weeks ago, the Congressional Budget Office—which is a highly respected, nonpartisan office that provides budget analysis and advice to

Congress—issued a report on the President's plan.

The CBO found that not only will the President's plan indeed guarantee all Americans private health insurance with 100 percent effectiveness.

But within 8 years time, it will reduce health care costs by $30 billion.

And in 10 years time, it will reduce costs by $150 billion.

And that is something that is never going to happen if we let the present system continue down the path it's going.

Mr. Speaker, those are just some of the questions I get. And those people who tell me it doesn't matter what plan we enact into law remind me of the old story about the veterinarian and taxidermist who shared the same office.

The slogan was "either way you get your dog back."

There is a difference between what plan we choose.

The President's plan is the only plan that provides to all Americans guaranteed private health insurance that can never be taken away.

It's the only plan that covers prescription drugs and long-term care for seniors.

And it's the only plan that guarantees you will never be denied coverage or dropped from coverage again.

Is it a perfect plan? Of course not.

Some things will change between now and the time the President signs a bill into law.

And we're going to be working with Democrats and Republicans over the coming months to make a good plan even better.

Is it complicated? Of course it is—it has to be. Health care is 14 percent of the gross national product.

It's a difficult issue—and sometimes it seems we're dealing with a whole other language.

But we all have a responsibility to get this system under control.

And I'm going to keep coming to this floor in the days to come, and I'm going to continue to answer the questions I get from back home.

Because the American people know what's at stake. They feel this health care crisis every day.

They don't need any more interpretations.

They don't need more partisan bickering.

What they need is the truth.

What they deserve is honest answers.

And it's up to all of us to make sure they get them.

□ 1640

The SPEAKER pro tempore (Mr. STENHOLM). Pursuant to the Speaker's announced policy of February 11, 1994, the gentleman from Pennsylvania [Mr. WALKER] is recognized for 5 minutes as the minority leader's designee.

BALANCED BUDGET AMENDMENT

Mr. WALKER. Mr. Speaker, I yield to the gentleman from Oregon [Mr. SMITH] for an announcement.

Mr. SMITH of Oregon. Mr. Speaker, I thank the gentleman for yielding.

Mr. Speaker, you and I and many have been working for a very long time, many years in fact, on a balanced budget amendment to the Constitution. It has come to votes here in the House several times falling very narrowly short. But again today, Mr. Speaker, with your help and the help of the gentleman in the well, we now have 218 signatures on a discharge petition, which means that the balanced budget amendment to the Constitution will be debated and voted upon probably by mid-March.

I am delighted that we have all worked so closely together. I think the American people want a balanced budget amendment to the Constitution. And I want to thank the gentleman from Pennsylvania and the gentleman from Texas for their outstanding support.

Mr. WALKER. I thank the gentleman very much

I too would like to add my congratulations to the gentleman in the chair, the gentleman from Texas [Mr. STENHOLM], the Speaker pro tempore at the moment, for all of the hard work he has done on this, as well as the gentleman from Oregon [Mr. SMITH] for months and months of hard work. I really do believe at this time getting it to the floor and bringing up a balanced budget amendment may well be the time when we pass it and send it to the country for approval. And the gentleman is to be congratulated.

We will all be better off and future generations will be better off if we can bring this about.

I thank the gentleman.

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 Member (at the request of Mr. GOSS) to revise and extend her remarks and include extraneous material:)

Mrs. BENTLEY, for 5 minutes, on March 1.

(The following Members (at the request of Ms. WOOLSEY) to revise and extend their remarks and include extraneous material:)

Mr. STARK, for 5 minutes, today.
Mr. MOAKLEY, for 5 minutes, today.
Mr. OWENS, for 5 minutes, today.
Mr. GONZALEZ, for 5 minutes, today.
Mr. COYNE, for 5 minutes, today.
Mr. FALEOMAVAEGA, 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. WALKER) and to include extraneous matter:)

Mr. QUINN.
Mr. FISH.
Mr. HASTERT.
Mr. COYNE.
Mr. INHOFE.
Mr. COSTELLO.
Miss COLLINS of Michigan.
Mr. CLAY.
Mrs. MORELLA.
Mr. VENTO.
Mr. SMITH of New Jersey.
Mr. CLINGER.
Mr. CLEMENT.

(The following Members (at the request of Ms. WOOLSEY) and to include extraneous matter:

Mr. NATCHER.
Mr. HAMILTON in two instances.
Mr. STOKES.
Mr. GLICKMAN.
Mr. STARK.
Mr. BARCIA of Michigan.
Mr. FOGLIETTA in two instances.
Mr. DARDEN.
Mr. LEHMAN.
Mr. MAZZOLI in two instances.
Mr. VENTO.
Mr. BERMAN.
Mr. COLEMAN in two instances.
Mr. NEAL of Massachusetts.
Mr. VISCLOSKY.
Mr. KOPETSKI in two instances.
Mr. KLEIN.
Mr. JEFFERSON in two instances.
Mr. KREIDLER.
Mr. RUSH.
Mr. SKELTON.
Mrs. MEEK of Florida.

(The following Members (at the request of Mr. GOSS) and to include extraneous matter:)

Mr. TAYLOR of North Carolina.
Mr. SOLOMON in three instances.
Mr. WALSH.
Mr. LIVINGSTON.
Mr. PORTER.
Mr. BILIRAKIS.
Mr. TALENT.
Mr. HORN.
Mr. BOEHLERT.
Mr. FAWELL.
Mr. CALVERT.
Mr. CRANE.
Mr. GILLMOR.

ADJOURNMENT

Mr. WALKER. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 4 o'clock and 46 minutes p.m.), under its previous order, the House adjourned until Monday, February 28, 1994, at 12 noon.

MOTION TO DISCHARGE A COMMITTEE

FEBRUARY 24, 1994.

To the CLERK OF THE HOUSE OF REPRESENTATIVES:

Pursuant to clause 4, rule XXVII, I, CHARLES W. STENHOLM, move to dis-

charge the Committee on Rules from the consideration of the resolution (H. Res. 331) providing for the consideration of the joint resolution (H.J. Res. 103) proposing an amendment to the Constitution to provide for a balanced budget for the United States Government and for greater accountability in the enactment of tax legislation, which was referred to said committee January 25, 1994, in support of which motion the undersigned Members of the House of Representatives affix their signatures, to wit:

1. Charles W. Stenholm.
2. James M. Inhofe.
3. Pete Geren.
4. Olympia J. Snowe.
5. Dick Swett.
6. H. Martin Lancaster.
7. Porter J. Goss.
8. Deborah Pryce.
9. Joe Barton.
10. Jay Dickey.
11. Earl Hutto.
12. James A. Hayes.
13. Chet Edwards.
14. Don Johnson.
15. L.F. Payne.
16. Henry Bonilla.
17. Nathan Deal.
18. Gerald B.H. Solomon.
19. Toby Roth.
20. Robert F. Smith.
21. Glen Browder.
22. Gene Taylor.
23. Peter Hoekstra.
24. Cass Ballenger.
25. Curt Weldon.
26. Bill Barrett.
27. Jack Quinn.
28. Calvin M. Dooley.
29. Dave Camp.
30. F. James Sensenbrenner.
31. Tim Valentine.
32. Jim Bunning.
33. Harris W. Fawell.
34. Frank R. Wolf.
35. Peter T. King.
36. Jon Kyl.
37. Bob Inglis.
38. John Edward Porter.
39. Dick Zimmer.
40. Charles T. Canady.
41. Pat Roberts.
42. Fred Upton.
43. Jim Bacchus.
44. Doug Bereuter.
45. Stephen Horn.
46. Craig Thomas.
47. Michael A. "Mac" Collins.
48. Sanford D. Bishop, Jr.
49. Peter Blute.
50. Collin C. Peterson.
51. John S. Tanner.
52. Frank Pallone, Jr.
53. Richard H. Baker.
54. Bill Baker.
55. Jay Kim.
56. Lincoln Diaz-Balart.
57. David Minge.
58. Steve Gunderson.
59. C.W. Bill Young.
60. Howard Coble.
61. Bill Paxon.
62. Alfred A. (Al) McCandless.
63. Bill Emerson.
64. Randy "Duke" Cunningham.
65. Elton Gallegly.
66. Dean A. Gallo.
67. Michael Bilirakis.
68. Barbara F. Vucanovich.
69. Scott McInnis.
70. Dan Schaefer.
71. Robert E. (Bud) Cramer, Jr.
72. Nick Smith.
73. Mike Parker.
74. Glen Poshard.
75. George E. Sangmeister.
76. Robert H. Michel.
77. Larry Combest.
78. Howard P. "Buck" McKeon.
79. James T. Walsh.
80. James V. Hansen.
81. Jerry Lewis.
82. James A. Leach.
83. Helen Delich Bentley.
84. Jill L. Long.
85. Joe Skeen.
86. Ralph M. Hall.
87. Sonny Callahan.
88. Jim Lightfoot.
89. William F. Clinger, Jr.
90. Don Sundquist.
91. Amo Houghton.
92. W.J. Billy Tauzin.
93. Stephen E. Buyer.
94. Jennifer Dunn.
95. E. Clay Shaw, Jr.
96. Sam Johnson.
97. Ike Skelton.
98. J. Roy Rowland.
99. Peter G. Torkildsen.
100. J. Alex McMillan.
101. Jan Meyers.
102. Bill K. Brewster.
103. Jim Nussle.
104. Richard W. Pombo.
105. Roscoe G. Bartlett.
106. Pat Danner.
107. Gary A. Condit.
108. William H. Zeliff, Jr.
109. Cliff Stearns.
110. Jim Kolbe.
111. Joe Knollenberg.
112. Rich Lazio.
113. Tillie K. Fowler.
114. Thomas J. Bliley.
115. Arthur Ravenel, Jr.
116. Hamilton Fish, Jr.
117. Jim Chapman.
118. Ken Calvert.
119. Dan Miller.
120. James H. (Jimmy) Quillen.
121. William O. Lipinski.
122. Michael D. Crapo.
123. Michael N. Castle.
124. W.G. (Bill) Hefner.
125. Timothy J. Penny.
126. Vernon J. Ehlers.
127. Jim Saxton.
128. David Dreier.
129. Ron Packard.
130. William F. Goodling.
131. Thomas W. Ewing.
132. Bob Stump.
133. Bill Archer.
134. Philip M. Crane.
135. Jim McCrery.
136. Rob Portman.
137. Donald A. Manzullo.
138. John M. McHugh.
139. Ernest J. Istook.
140. John A. Boehner.
141. Terry Everett.
142. Rod Grams.
143. Duncan Hunter.
144. Bill McCollum.
145. Lamar S. Smith.
146. Edward R. Royce.
147. Martin R. Hoke.
148. Newt Gingrich.
149. Richard K. Armey.
150. Sherwood Boehlert.
151. Dave McCurdy.
152. George (Buddy) Darden.
153. Michael Huffington.
154. Carlos J. Moorhead.
155. Ronald K. Machtley.
156. David Mann.
157. Scotty Baesler.
158. Christopher Cox.
159. Gary A. Franks.
160. William M. Thomas.
161. John T. Doolittle.
162. Christopher H. Smith.
163. Herbert H. Bateman.
164. Fred Grandy.
165. Rick Santorum.
166. Bob Goodlatte.
167. Jack Kingston.
168. Jim Ramstad.
169. Bob Livingston.
170. Harold Rogers.
171. J. Dennis Hastert.
172. David A. Levy.
173. Robert S. Walker.
174. James A. Barcia.
175. David L. Hobson.
176. Bob Franks.
177. Dana Rohrabacher.
178. John R. Kasich.
179. John Linder.
180. Mel Hancock.
181. Michael G. Oxley.
182. Paul E. Gillmor.
183. Joel Hefley.
184. Spencer Bachus.
185. Jack Fields.
186. Wayne Allard.
187. James C. Greenwood.
188. Wally Herger.
189. Bob Clement.
190. Peter A. DeFazio.
191. Blanche M. Lambert.
192. Harold L. Volkmer.
193. Tom Lewis.
194. James M. Talent.
195. James P. Moran.
196. Robert K. Dornan.
197. Wayne T. Gilchrest.
198. Dan Burton.
199. Nancy L. Johnson.
200. Thomas E. Petri.
201. Thomas J. Ridge.
202. Charles H. Taylor.
203. Larry LaRocco.
204. Tom Bevill.
205. John L. Mica.
206. Andrew Jacobs, Jr.
207. Y. Tim Hutchinson.
208. Susan Molinari.
209. Tom DeLay.
210. Steven L. Neal.
211. Don Young.

212. Ileana Ros-Lehtinen.
213. Marcy Kaptur.
214. Jim Cooper.
215. Ralph Regula.
216. Robert G. Torricelli.
217. James A. Traficant, Jr.
218. Scott L. Klug.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

2613. A letter from the President and Chairman, Export-Import Bank of the United States, transmitting the Bank's report on compensation of employees, pursuant to Public Law 102-429, section 117(c) (106 Stat. 2196); to the Committee on Banking, Finance and Urban Affairs.

2614. A letter from the Federal Housing Finance Board, transmitting the Board's annual report on the low-income housing and community development activities of the Federal Home Loan Bank System for calendar year 1992, pursuant to 12 U.S.C. 1422a; to the Committee on Banking, Finance and Urban Affairs.

2615. A letter from the Chairman, Harry S. Truman Scholarship Foundation, transmitting the Foundation's annual report for 1993, pursuant to 20 U.S.C. 2012(b); to the Committee on Education and Labor.

2616. A letter from the Secretary, Department of Transportation, transmitting the annual report on railroad financial assistance for fiscal year 1993, pursuant to Public Law 96-448, section 409; to the Committee on Energy and Commerce.

2617. A letter from the Secretary, Department of Transportation, transmitting the 18th annual report on the Automotive Fuel Economy Program, pursuant to 15 U.S.C. 2002(a)(2); to the Committee on Energy and Commerce.

2618. A letter from the Acting Chief Financial Officer, Department of Energy, transmitting notification that the Department's report on the uncosted obligation balances of the Department for the previous fiscal year will be transmitted on or before March 14, 1994; to the Committee on Energy and Commerce.

2619. A letter from the Director, National Institute on Deafness and Other Communication Disorders, transmitting an updated national strategic research plan for hearing and hearing impairment and voice and voice disorders, pursuant to Public Law 100-553, section 2 (102 Stat. 2773); to the Committee on Energy and Commerce.

2620. A letter from the Secretary of Energy, transmitting the Department's report on procedures for overseeing the expenditure by States and territories of stripper well and Exxon funds and the status of any pending enforcement actions with regard to the expenditure of those funds; to the Committee on Energy and Commerce.

2621. A letter from the Assistant Secretary for Legislative Affairs, Department of State, transmitting the 17th annual report to Congress on Americans incarcerated abroad, pursuant to 42 U.S.C. 2151n-1; to the Committee on Foreign Affairs.

2622. A letter from the Assistant Secretary for Legislative Affairs, Department of State, transmitting certification pursuant to the Cooperative Threat Reduction Act of 1993; to the Committee on Foreign Affairs.

2623. A letter from the Secretary of Defense, transmitting a report pursuant to section 1206 of the Cooperative Threat Reduction Act of 1993; to the Committee on Foreign Affairs.

2624. A letter from the Comptroller General of the United States, General Accounting Office, transmitting the Comptroller General's 1993 annual report, and a supplement summary tables of GAO personnel assigned to congressional committees for fiscal year 1993, pursuant to 31 U.S.C. 719(a); to the Committee on Government Operations.

2625. A letter from the Assistant Secretary for Human Resources and Administration, Department of Energy, transmitting a report of activities under the Freedom of Information Act for calendar year 1993, pursuant to 5 U.S.C. 552(e); to the Committee on Government Operations.

2626. A letter from the Assistant Secretary for Management and Budget, Department of Health and Human Services, transmitting the Department's report on management of consultant services contracts; to the Committee on Government Operations.

2627. A letter from the Executive Secretary, National Security Council, transmitting a report of activities under the Freedom of Information Act for calendar year 1993, pursuant to 5 U.S.C. 552(d); to the Committee on Government Operations.

2628. A letter from the Chairman, U.S. Merit System Protection Board, transmitting a report of activities under the Freedom of Information Act for calendar year 1993, pursuant to 5 U.S.C. 552(d); to the Committee on Government Operations.

2629. A letter from the Secretary, Department of Transportation, transmitting the Department's fiscal year 1992 report entitled, "Overweight Vehicles—Penalties and Permits," pursuant to 23 U.S.C. 141 nt.; to the Committee on Public Works and Transportation.

2630. A letter from the Administrator, Federal Aviation Administration, transmitting a copy of the updated Aviation System Capital Investment Plan [CIP], pursuant to 49 U.S.C. app. 2203(b)(1); to the Committee on Public Works and Transportation.

2631. A letter from the Director, National Science Foundation, transmitting the Foundation's annual metrication report; to the Committee on Science, Space, and Technology.

2633. A letter from the Chairman, Federal Reserve System, transmitting the Board's monetary policy report for 1994, pursuant to 12 U.S.C. 225a; jointly to the Committees on Banking, Finance and Urban Affairs, and Education and labor.

2634. A letter from the Secretary, Department of Transportation, transmitting the Department's report entitled, "Improvements to Hazardous Materials Identification Systems," pursuant to Public Law 101-615, section 25(d) (104 Stat. 3275); jointly, to the Committees on Public Works and Transportation and Energy and Commerce.

2635. A communication from the President of the United States, transmitting a list of 50 projects selected to receive Federal matching funds under the Technology Reinvestment Project; jointly, to the Committees on Science, Space, and Technology, Energy and Commerce, Education and Labor, and Armed Services.

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. ANDREWS of Texas:

H.R. 3892. A bill to improve the child support system; jointly, to the Committees on Ways and Means, the Judiciary, Education and Labor, and Banking, Finance and Urban Affairs.

By Mr. BACCHUS of Florida (for himself and Mr. MICA):

H.R. 3893. A bill to authorize the collection of entrance fees at Canaveral National Seashore, and for other purposes; to the Committee on Natural Resources.

By Mr. BEREUTER:

H.R. 3894. A bill to extend the conservation reserve program for 10 years and the wetlands reserve program for 5 years; to protect vulnerable soil and water resources by facilitating the transition of our Nation's most environmentally sensitive land to conservation uses by enabling farmers to meet conservation compliance requirements through the early withdrawal, modification, reenrollment, or enrollment of lands in the conservation reserve; to best achieve such conservation purposes with sharply limited resources by permitting the Secretary of Agriculture to negotiate reduced annual rental payments in exchange for granting farmers increased flexibility to withdraw, enroll, or reenroll parts of land parcels in the conservation reserve program and for permitting limited uses on lands enrolled in the conservation reserve; to permit the transfer of crop bases among owners upon the expiration of enrollment; and to authorize the establishment of demonstration projects; to the Committee on Agriculture.

By Mr. CANADY (for himself, Mr. PETE GEREN of Texas, Mr. ZIMMER, Mrs. THURMAN, Mr. DIAZ-BALART, Mr. CONDIT, Mr. COLLINS of Georgia, Mr. HOEKSTRA, Mr. POMBO, Mr. INGLIS of South Carolina, Mr. HUTTO, Mr. MILLER of Florida, Mr. DOOLITTLE, Mr. CRAPO, Mr. KASICH, Mrs. FOWLER, Mr. BILIRAKIS, Mr. DELAY, Mr. GOSS, Mr. TALENT, Mr. BAKER of California, Mr. CALLAHAN, Mr. LEWIS of Florida, Mr. YOUNG of Florida, Mr. DORNAN, Mr. MOORHEAD, Mr. STUMP, Mr. BOEHNER, Mr. COBLE, Mr. MCKEON, and Mr. STEARNS):

H.R. 3895. A bill to provide appropriate remedies for prison overcrowding; to the Committee on the Judiciary.

By Miss COLLINS of Michigan:

H.R. 3896. A bill to amend the Public Health Service Act to provide for demonstration projects to improve the health of racial and ethnic minority groups by preventing disease and death; to the Committee on Energy and Commerce.

By Ms. ESHOO:

H.R. 3897. A bill to amend the Internal Revenue Code of 1986 to establish a Higher Education Accumulation Program [HEAP] under which individuals are allowed a deducation for contributions to HEAP accounts; to the Committee on Ways and Means.

By Mr. FRANK of Massachusetts (for himself, Mr. MOAKLEY, Mr. MARKEY, Mr. STUDDS, Mr. BLUTE, Mr. KENNEDY, Mr. TORKILDSEN, Mr. MEEHAN, Mr. NEAL of Massachusetts, Mr. OLVER, and Mr. FALEOMAVAEGA):

H.R. 3898. A bill to establish the New Bedford Whaling National Historical Park in New Bedford, MA, and for other purposes; to the Committee on Natural Resources.

By Mr. GLICKMAN (for himself, Mr. GEPHARDT, and Ms. DELAURO):

H.R. 3899. A bill to create police parnterships for children; to the Committee on the Judiciary.

By Mr. GEPHARDT (for himself, Mrs. COLLINS of Illinois, Mr. MATSUI, Mr. LEVIN, Mr. REGULA, Mr. MINETA, Mr. DINGELL, Mr. BLACKWELL, Mr. BROWN of Ohio, Mr. BARCA of Wisconsin, Ms. BROWN of Florida, Mr. KLECZKA, Mr. CONYERS, Mrs. BENTLEY, Mr. COYNE, Ms. KAPTUR, Mr. CARDIN, Mr. OBEY, Mr. NEAL of Massachusetts, and Mr. KLINK):

H.R. 3900. A bill to expand U.S. exports of goods and services by requiring the development of objective criteria to achieve market access in Japan, and for other purposes; to the Committee on Ways and Means.

By Mr. HILLIARD (for himself and Ms. MCKINNEY):

H.R. 3901. A bill to establish a Southern Rural Development Commission; jointly, to the Committees on Public Works and Trasnportation, Energy and Commerce, Education and Labor, and Agriculture.

By Mr. HOEKSTRA (for himself and Mr. EHLERS):

H.R. 3902. A bill to amend the Clean Air Act to require the designation of certain areas as rural transport areas for purposes of nonattainment requirements, and for other purposes; to the Committee on Energy and Commerce.

By Mr. JEFFERSON:

H.R. 3903. A bill to amend the Internal Revenue Code of 1986 to permit the tax-free rollover of certain payments made by employers to separated employees; to the Committee on Ways and Means.

H.R. 3904. A bill to provide that certain service or management contracts will not result in municipal water or wastewater facilities being treated as used in a private business use for purposes of the limitations on private activity bonds; to the Committee on Ways and Means.

By Mr. KOPETSKI:

H.R. 3905. A bill to provide for the establishment and management of the Opal Creek Forest Preserve in the State of Oregon; jointly, to the Committees on Natural Resources and Agriculture.

By Mr. KREIDLER (for himself and Mr. CANADY):

H.R. 3906. A bill to amend title XIX of the Social Security Act to permit Federal payment under the Medicaid Program for physicians' services furnished to children or pregnant women under State Medicaid plans by physicians certified by the medical specialty board recognized by the American Osteopathic Association; to the Committee on Energy and Commerce.

By Mr. KREIDLER:

H.R. 3907. A bill to direct the Secretary of Health and Human Services to carry out a demonstration project under which physicians providing services to individuals entitled to benefits under the Medicare Program will receive regular information on charges submitted by and payments made to other providers who furnish services to such individuals; jointly, to the Committees on Ways and Means and Energy and Commerce.

By Mr. LAROCCO:

H.R. 3908. A bill to establish the Office of Personal Savings Promotion within the Department of the Treasury; to the Committee on Ways and Means.

H.R. 3909. A bill to amend title XVII of the Public Health Service Act to authorize the Secretary of Health and Human Services to make grants to establish and develop telemedicine projects for rural areas, to establish a health care data interchange system, and for other purposes; jointly, to the Committees on Energy and Commerce, Ways and Means, Armed Services, Veterans' Affairs, Post Office and Civil Service, Natural Resources, and Education and Labor.

By Mr. MACHTLEY:

H.R. 3910. A bill to suspend temporarily the duty on certain pigments; to the Committee on Ways and Means.

By Mr. MILLER of Florida (for himself, Mr. ARMEY, Mr. BALLENGER, Mr. BOEHNER, Mr. COX, Mr. DORNAN, Mr. DELAY, Mr. SAXTON, Mrs. FOWLER, Mr. GINGRICH, Mr. HUTCHINSON, and Mr. LEWIS of Florida):

H.R. 3911. A bill to prohibit the imposition by the Federal Government of global budgets, health care premium caps, and similar limits on private health care expenditures in geographic areas; to the Committee on Energy and Commerce.

By Mr. QUINN (for himself, Mr. HOCHBRUECKNER, Mr. BLUTE, Mr. KING, Mr. LEVY, Mr. HOUGHTON, Mr. WALSH, Mr. LAZIO, Mr. CASTLE, and Ms. MOLINARI):

H.R. 3912. A bill to prohibit the receipt of explosives without a Federal permit, and to provide for a waiting period before the purchase of explosives; to the Committee on the Judiciary.

By Mr. SMITH of Michigan (for himself, Mr. DUNCAN, and Mr. GEKAS):

H.R. 3913. A bill to amend title XVI of the Social Security Act to terminate the eligibility of children under 16 years of age for supplemental security income benefits by reason of disability, and preserve the eligibility of such disabled children for Medicaid benefits; jointly, to the Committees on Ways and Means and Energy and Commerce.

By Mr. TALENT:

H.R. 3914. A bill to designate the Federal building located at 1655 Woodson Road in Overland, MO, as the "Sammy L. Davis Federal Building"; to the Committee on Public Works and Transportation.

By Mr. TORKILDSEN (for himself, Mr. BLUTE, and Mr. STUDDS):

H.R. 3915. A bill to prevent States from taxing Federal military retirement annuities while not taxing State retirement annuities on the basis of whether there are employee contributions for such annuities; to the Committee on the Judiciary.

By Mr. ZIMMER (for himself, Mr. GALLO, Mr. WELDON, Mr. BARTLETT of Maryland, and Mr. INGLIS of South Carolina):

H.R. 3916. A bill to rescind the authority of the President to engage in certain activities agreed to in exchange for votes for the North American Free-Trade Agreement Implementation Act; jointly, to the Committees on Ways and Means, Armed Services, Agriculture, Public Works and Transportation, and Science, Space, and Technology.

By Mr. WELDON (for himself, Mr. HOYER, Mr. BOEHLERT, and Mr. VALENTINE):

H.J. Res. 328. Joint resolution designating the week beginning May 1, 1994, as "Arson Awareness Week"; to the Committee on Post Office and Civil Service.

By Mr. LAROCCO:

H. Con. Res. 211. Concurrent resolution to express the sense of the Congress that the President should convene a White House Conference on Savings; to the Committee on Banking, Finance and Urban Affairs.

By Mrs. MORELLA (for herself, Mr. BROWN of California, Ms. FURSE, Mr. KENNEDY, Mr. MCDERMOTT, Mr. MOAKLEY, Mr. RAVENEL, and Ms. WOOLSEY):

H. Con. Res. 212. Concurrent resolution expressing the sense of the Congress regarding the Guatemalan peace process and the need for greater protection of human rights in Guatemala; to the Committee on Foreign Affairs.

By Mr. FROST:

H. Res. 369. Resolution providing amounts from the contingent fund of the House for the expenses of investigations and studies by certain committees of the House in the 2d session of the 103d Congress; to the Committee on House Administration.

By Mr. GLICKMAN (for himself and Mr. HANSEN):

H. Res. 370. Resolution providing for the consideration of the bill (H.R. 3087), proposing to amend the Federal Aviation Act of 1958 to establish time limitations on certain civil actions against aircraft manufacturers, and for other purposes; to the Committee on Rules.

By Mr. LAROCCO:

H. Res. 371. Resolution requesting the President to designate April 1994 as "National Savings Month"; to the Committee on Post Office and Civil Service.

MEMORIALS

Under clause 4 of rule XXII,

291. The SPEAKER presented a memorial of the Senate of the Commonwealth of Pennsylvania, relative to the war in Bosnia; to the Committee on Foreign Affairs.

PRIVATE BILLS AND RESOLUTIONS

Under clause 1 of rule XXII,

Mr. STUPAK introduced a bill (H.R. 3917) for the relief of Arthur A. Carron, Jr.; which was referred to the Committee on the Judiciary.

ADDITIONAL SPONSORS

Under clause 4 of rule XXII, sponsors were added to the public bills and resolutions as follows:

H.R. 39: Mr. NEAL of Massachusetts and Mr. DEUTSCH.

H.R. 44: Mr. DURBIN and Mr. SPRATT.

H.R. 65: Ms. NORTON.

H.R. 71: Mr. MANZULLO.

H.R. 93: Mr. MCCANDLESS.

H.R. 140: Mr. HALL of Texas, Mr. TANNER, Mr. QUINN, Ms. SCHENK, Mr. GRAMS, Mr. HASTERT, Mr. SANTORUM, and Ms. DUNN.

H.R. 163: Mr. GOODLATTE.

H.R. 167: Mrs. LLOYD and Mr. LIPINSKI.

H.R. 171: Mr. PACKARD.

H.R. 173: Mr. LIVINGSTON and Mr. TALENT.

H.R. 303: Mr. MCCOLLUM.

H.R. 518: Ms. BYRNE, Mr. ZIMMER, and Mr. NEAL of Massachusetts.

H.R. 769: Mr. OLVER.

H.R. 823: Mr. BROWDER.

H.R. 885: Mr. LIGHTFOOT, Mr. GREENWOOD, Mr. WYDEN, Mr. PETERSON of Minnesota, and Mr. WALSH.

H.R. 911: Mr. LIPINSKI.

H.R. 1110: Mr. LEWIS of California, Mr. HAYES, Mr. BARTON of Texas, Mr. LEVY, Mr. FIELDS of Texas, Mr. GEKAS, and Mr. WALSH.

H.R. 1155: Mr. HOLDEN.

H.R. 1181: Mr. DARDEN, Mr. ROTH, and Mr. SKELTON.

H.R. 1182: Mr. HAMBURG.

H.R. 1280: Mr. HAMBURG, Mr. HOAGLAND, Mr. CONYERS, Mr. SCOTT, Mr. HEFNER, Mr. JEFFERSON, Ms. WATERS, Mrs. MEEK of Florida, Mr. ROMERO-BARCELO, Ms. ESHOO, and Mr. ROSE.

H.R. 1295: Mr. CARR, Mr. DURBIN, and Ms. HARMAN.

H.R. 1417: Mr. WASHINGTON and Mr. FARR.

H.R. 1431: Mr. NADLER.

H.R. 1432: Mr. MINETA.

H.R. 1531: Mr. DIXON, Mr. RANGEL, Mr. WASHINGTON, Mrs. MEEK of Florida, Mr. FLAKE, and Mr. ENGEL.

H.R. 1602: Mrs. MALONEY, Mr. LAZIO, and Mr. HOYER.

H.R. 1671: Mr. CHAPMAN.

H.R. 1712: Mr. LEVY, Mr. GALLEGLY, and Mrs. JOHNSON of Connecticut.

H.R. 1783: Mr. SMITH of New Jersey.

H.R. 1818: Mr. MEEHAN.

H.R. 1900: Mr. PETERSON of Florida, Mr. SWIFT, Mr. WYNN, Mr. BARRETT of Wisconsin, Mr. ROSE, and Mr. MARTINEZ.

H.R. 1938: Mr. MINGE and Mr. HUGHES.

H.R. 1980: Mr. SMITH of Iowa, and Mr. JOHNSON of South Dakota.

H.R. 2105: Mr. SANDERS, Mr. ACKERMAN, Mr. SHAYS, and Mr. KREIDLER.

H.R. 2175: Mr. GLICKMAN and Mr. GOODLATTE.

H.R. 2199: Ms. WATERS, Mrs. UNSOELD, Mr. MARKEY, and Mr. ANDREWS of Maine.

H.R. 2222: Mr. GEJDENSON.

H.R. 2249: Ms. ESHOO.

H.R. 2345: Mr. BISHOP, Ms. KAPTUR, Mr. BARCIA of Michigan, Mr. VENTO, Ms. PELOSI, Mr. KREIDLER, Mr. THOMPSON, Mr. EDWARDS of California, and Mr. SERRANO.

H.R. 2394: Mr. SYNAR, Mr. CONYERS, Mr. BLACKWELL, Mr. DE LUGO, and Mrs. MALONEY.

H.R. 2395: Mr. SYNAR, Mr. CONYERS, Mr. BLACKWELL, Mr. DE LUGO, Mrs. MALONEY, and Mr. DIXON.

H.R. 2448: Mr. BEILENSON, Mr. MILLER of California, Mr. DELLUMS, Mr. LIPINSKI, Mr. FOGLIETTA, and Mrs. SCHROEDER.

H.R. 2599: Miss COLLINS of Michigan, Mr. QUINN, Mr. PAXON, Mrs. UNSOELD, Mr. EMERSON, Mr. MINETA, Mr. GREENWOOD, Mr. TOWNS, and Mr. ROMERO-BARCELÓ.

H.R. 2626: Mr. MOAKLEY, Mr. LEWIS of Georgia, and Mr. MAZZOLI.

H.R. 2671: Mr. PETRI.

H.R. 2720: Mr. ROTH, Mr. BEILENSON, Mr. BATEMAN, and Mr. KOPETSKI.

H.R. 2803: Ms. FURSE.

H.R. 2882: Mr. LIVINGSTON.

H.R. 2912: Mr. LAROCCO, Mr. KILDEE, and Mr. MINETA.

H.R. 2966: Mr. EDWARDS of California, Mr. CARDIN, Mr. FILNER, Mr. SCOTT, Mr. DEFAZIO, Mr. WYNN, Mrs. LLOYD, Mr. WAXMAN, Mr. BACCHUS of Florida, and Mr. WILLIAMS.

H.R. 3031: Mr. LINDER.

H.R. 3064: Mr. EMERSON and Mr. NEAL of Massachusetts.

H.R. 3087: Mr. COOPER, Mr. LAROCCO, Ms. ENGLISH of Arizona, Mr. GEJDENSON, Mr. KILDEE, and Mr. FRANKS of New Jersey.

H.R. 3122: Mr. PASTOR.

H.R. 3251: Mr. BARRETT of Wisconsin.

H.R. 3389: Mr. BARRETT of Wisconsin.

H.R. 3407: Mr. BALLENGER, Mr. WHEAT, Mr. EVANS, Mr. KLECZKA, Mr. MACHTLEY, Mr. SAM JOHNSON, Ms. PRYCE of Ohio, and Mr. LAFALCE.

H.R. 3486: Mr. CALLAHAN, Mr. BARCIA of Michigan, Mr. GOSS, Mr. PARKER, Mr. PETRI, Mrs. FOWLER, Mr. CANADY, and Mr. DUNCAN.

H.R. 3498: Mr. FROST.

H.R. 3523: Mr. TORKILDSEN, Mr. VENTO, Mr. SMITH of Michigan, Mr. WALSH, Mr. GINGRICH, Mr. LEWIS of Georgia, Mrs. SCHROEDER, Mr. ROSE, Mr. FILNER, Mr. HUGHES, Mr. EWING, and Mr. EVANS.

H.R. 3605: Mr. BISHOP.

H.R. 3629: Mr. LIPINSKI, Mr. LINDER, and Ms. MCKINNEY.

H.R. 3663: Mr. MARTINEZ and Mrs. UNSOELD.

H.R. 3666: Mr. WHITTEN, Mr. MARTINEZ, Mr. THORNTON, Mr. MCCRERY, and Mr. SANTORUM.

H.R. 3725: Mr. ARMEY and Mr. EMERSON.

H.R. 3787: Mr. INGLIS of South Carolina.

H.R. 3795: Mr. BOEHNER, Mr. WALSH, Mr. FROST, and Mr. SKEEN.

H.R. 3797: Mr. ROMERO-BARCELÓ.

H.R. 3849: Mr. POSHARD.

H.R. 3862: Mr. HASTERT, Mr. COMBEST, Mr. DARDEN, Mr. DUNCAN, Mr. ROWLAND, Mr. INHOFE, Mr. GILCHREST, Mr. GOSS, Mr. COLLINS of Georgia, Mr. VOLKMER, Mr. LIGHTFOOT, and Mr. TAUZIN.

H.R. 3866: Mr. MURTHA, Mr. NEAL of Massachusetts, Mr. KILDEE, Mr. JOHNSON of South Dakota, Mr. FOGLIETTA, and Mr. LIPINSKI.

H.R. 3870: Mr. INSLEE and Mr. MORAN.

H.R. 3872: Mr. MILLER of California, Mr. LIPINSKI, Mr. MCCANDLESS, and Mr. DEUTSCH.

H.J. Res. 22: Mr. LIVINGSTON.

H.J. Res. 90: Mrs. MALONEY, Mrs. COLLINS of Illinois, Mr. VALENTINE, Mr. CONYERS, Mr. LIPINSKI, Mr. CASTLE, Mr. NEAL of North Carolina, Mr. RAHALL, Mr. MCNULTY, Mr. DE LUGO, Mr. MARKEY, Mrs. MINK of Hawaii, Ms. DELAURO, Mr. ACKERMAN, Mr. MACHTLEY, Mr. FRANKS of Connecticut, Mr. MCCOLLUM, Mr. SMITH of Oregon, Mr. SPRATT, Mr. TAUZIN, Mr. BARRETT of Wisconsin, Mr. CALVERT, Mr. WILSON, Mr. MATSUI, Mr. HASTERT, Ms. EDDIE BERNICE JOHNSON of Texas, Mr. SISISKY, Mr. BOUCHER, Mr. POSHARD, and Mr. STUPAK.

H.J. Res. 113: Mr. MCDADE.

H.J. Res. 297: Mr. TANNER, Mrs. LLOYD, Mr. BURTON of Indiana, Mr. RAMSTAD, and Mr. CALLAHAN.

H.J. Res. 304: Ms. BROWN of Florida, Mr. ACKERMAN, Mr. HINCHEY, Mrs. MORELLA, Mr. BORSKI, Mr. EMERSON, Mr. MCNULTY, Mr. FALEOMAVAEGA, Mr. BALLENGER, Mr. FILNER, Mrs. MINK of Hawaii, Mr. MCDERMOTT, Mr. WALSH, Ms. DELAURO, Mr. KOPETSKI, Mr. SOLOMON, Mr. FOGLIETTA, Mr. RANGEL, Mr. LANCASTER, Mr. SARPALIUS, Mr. SISISKY, Mr. BARRETT of Wisconsin, Ms. FURSE, Mr. DEFAZIO, Mr. FISH, Mr. ROMERO-BARCELÓ, Mr. EVANS, and Ms. VELAZQUEZ.

H.J. Res. 316: Mr. BATEMAN, Ms. BROWN of Florida, Mr. FALEOMAVAEGA, Mr. JOHNSON of South Dakota, Mr. MCDERMOTT, Mr. DEFAZIO, Mr. ROMERO-BARCELO, Mr. JEFFERSON, Mr. RANGEL, Mr. HOCHBRUECKNER, Mr. FOGLIETTA, Mr. ANDREWS of New Jersey, Mr. MARTINEZ, Mr. KREIDLER, Mr. BARRETT of Wisconsin, Mr. WAXMAN, Ms. FURSE, Mr. EVANS, Mr. FISH, Mr. INSLEE, Mrs. MINK of Hawaii, and Mr. FARR.

H.J. Res. 321: Mr. SOLOMON.

H.J. Res. 325: Mr. FILNER, Ms. PELOSI, Mr. EMERSON, Mr. ROMERO-BARCELÓ, Mr. DELLUMS, Mr. JEFFERSON, Mr. MARTINEZ.

H. Con. Res. 35: Mr. LIPINSKI.

H. Con. Res. 98: Mrs. MEYERS of Kansas, Mr. COX, Mr. BAKER of California, Mr. JOHNSTON of Florida, Mr. TOWNS, Mr. HOKE, Mr. DEFAZIO, and Ms. KAPTUR.

H. Con. Res. 191: Mr. CANADY.

H. Con. Res. 202: Mr. POSHARD and Mr. WILLIAMS.

H. Res. 122: Mrs. LOWEY, Mr. GALLEGLY, Mr. ZIMMER, Mr. LINDER, Mr. HASTERT, Mr. MICA, Mr. MCCOLLUM, Ms. SNOWE, and Mrs. BYRNE.

H. Res. 234: Mr. FIELDS of Louisiana, Mr. OBERSTAR, Mr. SCHIFF, Mr. QUILLEN, Mr. GEJDENSON, Mr. KINGSTON, Mr. TEJEDA, Mr. DEAL, Mr. HEFLEY, Mr. TUCKER, Mr. CARR, Mr. OLVER, Mr. NEAL of Massachusetts, Mr. FARR, Mr. BAESLER, Mr. KNOLLENBERG, Mr. HEFNER, Mr. SANGMEISTER, Mr. HOAGLAND, Ms. CANTWELL, Mr. STUMP, Mr. UPTON, Mr. ORTON, and Mr. BACCHUS of Florida.

PETITIONS, ETC.

Under clause 1 of rule XXII,

76. The SPEAKER presented a petition of Huey McCoulskey, State Representative, House of Representatives of Texas, relative to petitioning the Congress of the United States to call a convention for the purpose of drafting an amendment to the Federal Constitution relating to State Tidelands Rights, and so forth; which was referred to the Committee on the Judiciary.

DISCHARGE PETITIONS

Under clause 3, rule XXVII the following discharge petition was filed:

Petition 14, February 24, 1994, by Mr. STENHOLM on House Resolution 331 has been signed by the following Members: Charles W. Stenholm, James M. Inhofe, Pete Geren, Olympia J. Snowe, Dick Swett, H. Martin Lancaster, Porter J. Goss, Deborah Pryce, Joe Barton, Jay Dickey, Earl Hutto, James A. Hayes, Chet Edwards, Don Johnson, L. F. Payne, Henry Bonilla, Nathan Deal, Gerald B. H. Solomon, Tody Roth, Robert F. Smith, Glen Browder, Gene Taylor, Peter Hoekstra, Cass Ballenger, Curt Weldon, Bill Barrett, Jack Quinn, Calvin M. Dooley, Dave Camp, F. James Sensenbrenner, Tim Valentine, Jim Bunning, Harris W. Fawell, Frank R. Wolf, Peter T. King, Jon Kyl, Bob Inglis, John Edward Porter, Dick Zimmer, Charles T. Canady, Pat Roberts, Fred Upton, Jim Bacchus, Doug Bereuter, Stephen Horn, Craig Thomas, Michael A. "Mac" Collins, Sanford D. Bishop, Jr., Peter Blute, Collin C. Peterson, John S. Tanner, Frank Pallone, Jr., Richard H. Baker, Bill Baker, Jay Kim, Lincoln Diaz-Balart, David Minge, Steve Gunderson, C.W. Bill Young, Howard Coble, Bill Paxon, Alfred A. (Al) McCandless, Bill Emerson, Randy "Duke" Cunningham, Elton Gallegly, Dean A. Gallo, Michael Bilirakis, Barbara F. Vucanovich, Scott McInnis, Dan Schaefer, Robert E. (Bud) Cramer, Jr., Nick Smith, Mike Parker, Glenn Poshard, George E. Sangmeister, Robert H. Michel, Larry Combest, Howard P. "Buck" McKeon, James T. Walsh, James V. Hansen, Jerry Lewis, James A. Leach, Helen Delich Bentley, Jill L. Long, Joe Skeen, Ralph M. Hall, Sonny Callahan, Jim Lightfoot, William F. Clinger, Jr., Don Sundquist, Amo Houghton, W.J. Billy Tauzin, Stephen E. Buyer, Jennifer Dunn, E. Clay Shaw, Jr., Sam Johnson, Ike Skelton, J. Roy Rowland, Peter G. Torkildsen, J. Alex McMillan, Jan Meyers, Bill K. Brewster, Jim Nussle, Richard W. Pombo, Roscoe G. Bartlett, Pat Danner, Gary A. Condit, William H. Zeliff, Jr., Cliff Stearns, Jim Kolbe, Joe Knollenberg, Rick Lazio, Tillie K. Fowler, Thomas J. Bliley, Arthur Ravenel, Jr., Hamilton Fish, Jr., Jim Chapman, Ken Calvert, Dan Miller, James H. (Jimmy) Quillen, William O. Lipinski, Michael D. Crapo, Michael N. Castle, W. G. (Bill) Hefner, Timothy J. Penny, Vernon J. Ehlers, Jim Saxton, David Dreier, Ron Packard, William F. Goodling, Thomas W. Ewing, Bob Stump, Bill Archer, Philip M. Crane, Jim McCrery, Rob Portman, Donald A. Manzullo, John M. McHugh, Ernest J. Istook, John A. Boehner, Terry Everett, Rod Grams, Duncan Hunter, Bill McCollum, Lamar S. Smith, Edward R. Royce, Martin R. Hoke, Newt Gingrich, Richard K. Armey, Sherwood Boehlert, Dave McCurdy, George (Buddy) Darden, Michael Huffington, Carlos J. Moorhead, Ronald K. Machtley, David Mann, Scotty Baesler, Christopher Cox, Gary A. Franks, William M. Thomas, John T. Doolittle, Christopher H. Smith, Herbert H. Bateman, Fred Grandy, Rick Santorum, Bob Goodlatte, Jack Kingston,

Jim Ramstad, Bob Livingston, Harold Rogers, J. Dennis Hastert, David A. Levy, Robert S. Walker, James A. Barcia, David L. Hobson, Bob Franks, Dana Rohrabacher, John R. Kasich, John Linder, Mel Hancock, Michael G. Oxley, Paul E. Gillmor, Joel Hefley, Spencer Bachus, Jack Fields, Wayne Allard, James C. Greenwood, Wally Herger, Bob Clement, Peter A. DeFazio, Blanche M. Lambert, Harold L. Volkmer, Tom Lewis, James M. Tallent, James P. Moran, Robert K. Dornan, Wayne T. Gilchrest, Dan Burton, Nancy L. Johnson, Thomas E. Petri, Thomas J. Ridge, Charles H. Taylor, Larry LaRocco, Tom Bevill, John L. Mica, Andrew Jacobs, Jr., Y. Tim Hutchinson, Susan Molinari, Tom DeLay, Steven L. Neal, Don Young, Ileana Ros-Lehtinen, Marcy Kaptur, Jim Cooper, Ralph Regula, Robert G. Torricelli, James A. Traficant, Jr., and Scott L. Klug.

DISCHARGE PETITIONS—ADDITIONS OR DELETIONS

The following Members added their names to the following discharge petitions:

Petition 4 by Mr. HOEKSTRA on H.J. Res. 9: Pat Roberts.

Petition 10 by Mr. McCOLLUM on House Resolution 295: Robert S. Walker.

Petition 11 by Mr. RAMSTAD on House Resolution 247: Spencer L. Bachus, Lamar S. Smith, Robert S. Walker, Dan Schaefer, Bill Emerson, Jack Quinn, Dave Camp, Fred Upton, Craig Thomas, Michael A. "Mac" Collins, Peter Blute, Rod Grams, Bob Goodlatte, and Jack Kingston.

Petition 12 by Mr. TRAFICANT on H.R. 3261: Charles W. Stenholm.

Petition 13 by Mr. SMITH of New Jersey on House Resolution 281: Michael D. Crapo, Vernon J. Ehlers, Duncan Hunter, Wayne Allard, Robert S. Walker, Jay Dickey, Bill Barrett, Frank R. Wolf, John Edward Porter, Dick Zimmer, Charles T. Canady, Fred Upton, Michael A. "Mac" Collins, Craig Thomas, Rod Grams, Gary A. Condit, William H. Zeliff, Jr., Rob Portman, Newt Gingrich, Fred Grandy, Bob Goodlatte, David A. Levy, Jim Lightfoot, Tom Lewis, Robert K. Dornan, Charles H. Taylor, and Jack Kingston.

AMENDMENTS

Under clause 6 of rule XXIII, proposed amendments were submitted as follows:

H.R. 6

By Mr. CASTLE:

—Page 885, line 1, insert "and the National Assessment Governing Board as appropriate" after "Commissioner".

—Page 885, line 5, delete "goals" and insert "levels".

—Page 896, delete lines 6 through 23 and insert the following:

(e) STUDENT PERFORMANCE LEVELS.—The student performance levels established under section 412(e)(1)(A) may be used as a basis for reporting results of the National Assessment and State assessments, but shall be used on a trial basis only until the Commissioner determines, through an evaluation under subsection (f), that goals are reasonable, valid and informative to the public. Other methods of reporting results may also be used.

Page 897, line 4, delete "goals" and insert "levels".

Page 898, insert the following new section after line 5:

SEC. 412. NATIONAL ASSESSMENT GOVERNING BOARD.

(a) ESTABLISHMENT.—There is established the National Assessment Governing Board (the "Board"), which shall formulate policy guidelines for the National Assessment.

(b) MEMBERSHIP.—(1) The Board shall be appointed by the Secretary and be composed of—

(A) two Governors, or former Governors, who shall not be members of the same political party;

(B) two State legislators, who shall not be members of the same political party;

(C) two chief State school officers;

(D) one superintendent of a local educational agency;

(E) one member of a State board of education;

(F) one member of a local board of education;

(G) three classroom teachers representing the grade levels at which the National Assessment is conducted;

(H) one representative of business or industry;

(I) two curriculum specialists;

(J) three testing and measurement experts, who shall have training and experience in the field of testing and measurement;

(K) one nonpublic school administrator or policymaker;

(L) two school principals, one elementary and one secondary; and

(M) four additional members who are representatives of the general public, including parents.

(2) The Assistant Secretary for Educational Research and Improvement shall serve as an ex officio, nonvoting member of the Board.

(3) The Secretary and the Board shall ensure at all times that the membership of the Board reflects regional, racial, gender, and cultural balance and diversity and that it exercises its independent judgment, free from inappropriate influences and special interests.

(c) TERMS.—Members of the Board shall serve for terms not to exceed three years which shall be staggered, as determined by the Secretary. Any appointed member of the Board who changes status under subsection (b) during the term of the appointment of the member may continue to serve as a member until the expiration of such term.

(d) VACANCIES.—As vacancies occur, new members of the Board shall be appointed by the Secretary from among individuals who are nominated by the Board after consultation with representatives of the groups listed in subsection (b)(1). For each vacancy, the Board shall nominate at least three individuals who, by reason of experience or training, are qualified in that particular Board vacancy.

(e) DUTIES.—(1) In carrying out its functions under this section the Board shall—

(A) select subject areas to be assessed (consistent with section 11(b)(1));

(B) identify appropriate achievement goals for each age and grade in each subject area to be tested under the National Assessment;

(C) develop assessment objectives;

(D) develop test specifications;

(E) design the methodology of the assessment;

(F) develop guidelines for analysis plans and for reporting and disseminating results;

(G) develop standards and procedures for interstate, regional, and national comparisons; and

(H) take appropriate actions needed to improve the form and use of the National Assessment.

(2) The Board may delegate any of its procedural and administrative functions to its staff.

(3) The Board shall have final authority on the appropriateness of cognitive items.

(4) The Board shall take steps to ensure that all items selected for use in the National Assessment are free from racial, cultural, gender, or regional bias.

(5) Each learning area assessment shall have goal statements devised through a national consensus approach, providing for active participation of teachers, curriculum specialists, local school administrators, parents, and concerned members of the general public.

(f) PERSONNEL.—(1) In the exercise of its responsibilities, the Board shall be independent of the Secretary and the other offices and officers of the Department of Education.

(2) The Secretary may appoint, at the direction of the Board, such staff as the Board requires. Such appointments may include, for terms not to exceed three years, without regard to the provisions of title 5, United States Code, governing appointments in the competitive service, not more than six technical employees to administer this subsection, who may be paid without regard to the provisions of chapter 51 and subchapter III of chapter 53 of such title relating to classification and General Schedule pay rates.

(g) COMMISSIONER REPORTS.—The Commissioner shall report to the Board at regular intervals on the Department's actions to implement the decisions of the Board.

(h) ADMINISTRATION.—(1) Not more than 10 percent of the funds available for the National Assessment for any fiscal year may be used for administrative expenses (including staff, consultants, and contracts) and to carry out the Board's functions described in subsection (e).

(2) For the purposes of its administrative functions, the Board shall have the authorities authorized by the Federal Advisory Committee Act and shall be subject to the open meeting provisions of that law.

SEC. 413. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated to carry out this title, such sums as may be necessary for each of the fiscal years 1995 through 1999.

Page 885, line 1, insert "and the National Assessment Governing Board as appropriate" after "Commissioner".

—Page 885, line 5, strike "goals" and insert "levels".

—Page 896, strike lines 6 through 23 and insert the following:

(e) STUDENT PERFORMANCE LEVELS.—The student performance levels established under section 412(e)(1)(A) may be used as a basis for reporting results of the National Assessment and State assessments, but shall be used on a trial basis only until the Commissioner determines, through an evaluation under subsection (f), that levels are reasonable, valid, and informative to the public. Other methods of reporting results may also be used.

—Page 897, line 4, strike "goals" and insert "levels".

—Page 898, insert the following new section after line 5:

SEC. 412. NATIONAL ASSESSMENT GOVERNING BOARD.

(a) ESTABLISHMENT.—There is established the National Assessment Governing Board (the "Board"), which shall formulate policy guidelines for the National Assessment.

(b) MEMBERSHIP.—(1) The Board shall be appointed by the Secretary and be composed of—

(A) 2 Governors, or former Governors, who shall not be members of the same political party;

(B) 2 State legislators, who shall not be members of the same political party;

(C) 2 chief State school officers;

(D) 1 superintendent of a local educational agency;

(E) 1 member of a State board of education;

(F) 1 member of a local board of education;

(G) 3 classroom teachers representing the grade levels at which the National Assessment is conducted;

(H) 1 representative of business or industry;

(I) 2 curriculum specialists;

(J) 3 testing and measurement experts, who shall have training and experience in the field of testing and measurement;

(K) 1 nonpublic school administrator or policymaker;

(L) 2 school principals, 1 elementary and 1 secondary; and

(M) 4 additional members who are representatives of the general public, including parents.

(2) The Assistant Secretary for Educational Research and Improvement shall serve as an ex officio, nonvoting member of the Board.

(3) The Secretary shall ensure at all times that membership of the Board reflects regional racial, gender, and cultural balance and diversity and that it exercises its independent judgment, free from inappropriate influences and special interests.

(c) TERMS.—Members of the Board shall serve for terms not to exceed 3 years which shall be staggered, as determined by the Secretary. Any appointed member of the Board who changes status under subsection (b) during the term of the appointment of the member may continue to serve as a member until the expiration of such term. No member of the Board may serve more than 2 consecutive terms.

(d) VACANCIES.—As vacancies occur, new members of the Board shall be appointed by the Secretary. In making appointments, the Secretary shall solicit recommendations from a wide variety of groups, including those representing the types of individuals listed in subsection (b)(1).

(e) DUTIES.—(1) The Board, working with the Assistant Secretary, shall develop—

(A) appropriate performance levels for each age and grade in each subject area to be tested under the National Assessment. Such levels shall be—

(i) devised through a national consensus approach providing for active participation of teachers, curriculum specialists, local school administrators, parents, and concerned members of the general public; and

(ii) updated as appropriate;

(B) assessment objectives and test specifications for each subject area assessment. Such assessment objectives shall be devised through a national consensus approach, providing for active participation of teachers, curriculum specialists, local school administrators, parents, and concerned members of the general public;

(C) guidelines for analysis plans and for reporting and disseminating results; and

(D) recommendations for actions needed to improve the form and use of the National Assessment.

(2) The Board, working with the Commissioner, shall take steps to ensure that all items selected for use in the National Assessment are free from racial, cultural, gender, or regional bias.

(3) The Board shall seek technical advice as appropriate, from the Commissioner and the Advisory Council on Education Statistics.

(f) PERSONNEL.—The Secretary may appoint, at the request of the Board, such staff as the Board requires. Such appointments may include, for terms not to exceed 3 years, with regard to the provisions of title 5, United States Code, governing appointments in the competitive service, not more than 6 technical employees to administer this subsection, who may be paid without regard to the provisions of chapter 51 and subchapter III of chapter 53 of such title relating to classification and General Schedule pay rates.

(g) COMMISSIONER REPORTS.—The Commissioner shall report to the Board at regular intervals on the Department's actions to implement the decisions of the Board.

(h) ADMINISTRATION.—(1) Not to exceed 10 percent of the funds available for the National Assessment for any fiscal year may be used for administrative expenses (including staff, consultants, and contracts) and to carry out the Board's functions described in subsection (e).

(2) For the purposes of its administrative functions, the Board shall have the authorities authorized by the Federal Advisory Committee Act and shall be subject to the open meeting provisions of that law.

SEC. 413. AUTHORIZATIONS OF APPROPRIATIONS.

There are authorized to be appropriated to carry out this title, such sums as may be necessary for each of the fiscal years 1995 through 1999.

—Page 898, delete lines 6 through 10.

By Mr. CUNNINGHAM:

—Page 729, strike line 15 and all that follows through line 21 on page 730.

By Mr. DOOLITTLE:

—Page 762, after line 8, insert the following:

"SEC. 9508. SEX EDUCATION.

"(a) SEX EDUCATION INSTRUCTION.—All public elementary and secondary schools receiving assistance under this act in classes that teach sex education or discuss sexual intercourse, sexually transmitted diseases (STDs), including acquired immune deficiency syndrome (AIDS), shall continuously stress throughout the sex education program and sexual intercourse discussion that abstinence from sexual intercourse is the only protection that is 100 percent effective against unwanted teenage pregnancy, STDs, and AIDS when transmitted sexually. All material and instruction in classes that teach sex education and discuss sexual intercourse shall be age appropriate.

"(b) CRITERIA.—All sex education courses that discuss sexual intercourse shall satisfy the following criteria:

"(1) Course material and instruction shall be age appropriate.

"(2) Course material and instruction shall stress that abstinence is the only contraceptive method which is 100 percent effective, and that all other methods of contraception carry a risk of failure in preventing unwanted teenage pregnancy. Statistics based on the latest medical information shall be provided to pupils citing the laboratory and real-life failure and success rates of condoms and other contraceptives in preventing pregnancy.

"(3) Course material and instruction shall stress that STDs are serious possible hazards of sexual intercourse. Pupils shall be provided with statistics based on the latest medical information citing the laboratory and real-life failure and success rates of condoms in preventing AIDS and other STDs among elementary and secondary pupils.

"(4) Course material and instruction shall include a discussion of the possible emotional and psychological consequences of preadolescent and adolescent sexual intercourse outside of marriage and the consequences of unwanted adolescent pregnancy.

"(5) Course material and instruction shall stress that pupils should abstain from sexual intercourse until they are ready for marriage.

"(6) Course material and instruction shall teach honor and respect for monogamous heterosexual marriage.

"(7) Course material and instruction shall advise pupils of the laws pertaining to their financial responsibility to children born in and out of wedlock.

"(8) Course material and instruction shall advise pupils that it is unlawful for males of any age to have sexual relations with females under a certain age to whom they are not married.

"(9) Course material and instruction shall emphasize that the pupil has the power to control personal behavior. Pupils shall be encouraged to base their actions on reasoning, self-discipline, sense of responsibility, self-control, and ethical considerations, such as respect for one's self and others.

"(10) Course material and instruction shall teach pupils to refrain from making unwanted physical and verbal sexual advances and how to say no to unwanted sexual advances. Pupils shall be taught that it is wrong to take advantage of, or to exploit, another person. The material and instruction shall also encourage youth to resist negative peer pressure.

By Mr. DURBIN:

—Page 439, strike lines 1 through 17 and insert the following:

"(1) The term 'drug and violence prevention' means—

"(A) with respect to drugs, prevention, early intervention, rehabilitation referral, or education related to the illegal use of alcohol, the use of tobacco and the use of controlled, illegal, addictive, or harmful substances, including inhalants and anabolic steroids; and

"(B) with respect to violence, the promotion of school safety, such that students and school personnel are free from violent and disruptive acts, including sexual harassment, on school premises, going to and from school, and at school-sponsored activities, through the creation and maintenance of a school environment that is free from weapons and fosters individual responsibility and respect for the rights of others.

Page 762, after line 8, insert the following:

"SEC. 9508. NONSMOKING POLICY.

"(a) GENERAL RULE.—Each person who receives Federal funds under this Act and provides services to elementary or secondary school students pursuant to this Act shall, in providing such services, establish and make a good-faith effort to enforce a nonsmoking policy that, except as provided in subsection (b)—

"(1) prohibits smoking in each indoor portion of a facility used in connection with the provision of such services; and

"(2) where appropriate, requires that signs be posted to communicate the nonsmoking policy.

"(b) PERMISSIBLE FEATURES.—(1) The nonsmoking policy described in subsection (a) may permit smoking in specially designated areas of a facility if—

"(A) services are not normally provided directly to children in the designated areas; and

"(B) the designated areas are ventilated separately from areas of the facility in which such services are normally provided directly

to children to ensure that air from the designated areas is directly exhausted to the outside and does not recirculate or drift to other areas within the facility.

"(2) Nothing in this subsection shall be construed to require the establishment of a designated smoking area.

"(c) CIVIL PENALTIES.—

"(1) Any person subject to the requirements of this section who fails to comply with such requirements shall be liable to the United States for a civil penalty in an amount not to exceed $1,000 for each violation, but in no case shall the amount be in excess of the amount of the Federal funds received by the person for the provision of elementary and secondary educational services for the fiscal year in which the violation occurred. Each day a violation continues shall constitute a separate violation.

"(2) A civil penalty for a violation of this section shall be assessed by the Secretary to the person by an order made on the record after opportunity for a hearing in accordance with section 554 of title 5, United States Code. Before issuing the order, the Secretary shall—

"(A) give written notice to the person to be assessed a civil penalty under the order of the proposal to issue the order; and

"(B) provide the person an opportunity to request, not later than 15 days after the date of receipt of the notice, a hearing on the order.

"(3) In determining the amount of a civil penalty under this subsection, the Secretary shall take into account the nature, circumstances, extent, and gravity of the violation, the ability of the violator to pay, any prior history of the same kind of violation, the degree of culpability of the violator, a demonstration by the violator of willingness to comply with the requirements of this section, and such other matters as justice may require.

"(4) The Secretary may compromise, modify, or remit, with or without conditions, any civil penalty that may be imposed under this subsection. The amount of the penalty as finally determined or agreed upon in compromise may be deducted from any sums that the United States owes to the person against whom the penalty is assessed.

"(5) A person who has requested a hearing concerning the assessment of a penalty pursuant to paragraph (2) and is aggrieved by an order assessing a civil penalty may file a petition for judicial review of the order with the United States Court of Appeals for the District of Columbia Circuit or for any other circuit in which the person resides or transacts business. The petition may only be filed during the 30-day period beginning on the date of issuance of the order making the assessment.

"(6) If a person fails to pay an assessment of a civil penalty—

"(A) after the order making the assessment has become a final order and without filing a petition for judicial review in accordance with paragraph (5); or

"(B) after a court has entered a final judgment in favor of the Secretary,

the Attorney General shall recover the amount assessed (plus interest at currently prevailing rates from the last day of the 30-day period referred to in paragraph (5) or the date of the final judgment, as the case may be) in an action brought in an appropriate district court of the United States. In the action, the validity, amount, and appropriateness of the penalty shall not be subject to review.

"(d) EFFECTIVE DATE.—

"(1) IN GENERAL.— This section shall take effect on the date which is 180 days after the date of enactment of the Improving America's Schools Act of 1994, except as provided in paragraph (2).

"(2) COLLECTIVE BARGAINING AGREEMENTS.—

"(A) In the case of a person described in subsection (a) who employs individuals who are members of a labor organization and provide elementary or secondary educational services pursuant to a collective bargaining agreement that—

"(i) took effect before the date of enactment of the Improving America's Schools Act of 1994, and

"(ii) includes provisions relating to smoking privileges that are in violation of this section;

this section shall take effect on the date that is 180 days after the date of enactment of the Improving America's Schools Act of 1994 or the date specified in subparagraph (B), whichever is later.

"(B) The date specified in this subparagraph is the earlier of—

"(i) the first expiration date (after the date of enactment of the Improving America's Schools Act of 1994) of the collective bargaining agreement containing the provisions relating to smoking privileges, or

"(ii) the date that is 1 year after the date of enactment of the Improving America's Schools Act of 1994.

"(e) PREEMPTION.—Nothing in this section shall preempt or otherwise affect any provision of law of a State or political subdivision of a State that is as restrictive or more restrictive than a provision of this section.

By Mr. FARR:

—Page 406, after line 18, insert the following:

"PART J—NATIONAL CENTER FOR LANGUAGE DEVELOPMENT

"SEC. 3941. SHORT TITLE.

"This part may be cited as the "National Center for Second Language Development Act".

"SEC. 3942. FINDINGS.

"The Congress finds that—

"(1) at a time when international opportunities and challenges are escalating, no national education effort exists to develop second language capabilities in the United States;

"(2) in the present international economic context, it is critical for Americans to become skilled speakers of other languages;

"(3) there is widespread recognition of the need for skilled speakers of other languages, but little awareness of important advances in the technology of language instruction and in our understanding of the processes involved in acquiring a second language;

"(4) the technological and conceptual advances need to be incorporated in language instruction and in the professional development of language teachers;

"(5) the technological and conceptual advances currently in use and being developed in the second language arena can improve our ability to instruct the millions of immigrant school children and adults who have limited-English proficiency, because without fluency in the English language these individuals remain an untapped national resource; and

"(6) the concentration of talent focused on research of second language acquisition, language instruction, teaching technology, training of language professionals, and curriculum development and publications housed at the Defense Language Institute (located in Monterey, California) and related instructional and research organizations located in the Monterey Bay region of California, provides an optimal environment for the development of a nationwide effort in second language training and acquisition.

"SEC. 3943. PURPOSE.

"The purpose of this part is to implement advances in research and technology in the language education of children, college students, and adults and in the professional development of language instructors.

"SEC. 3944. NATIONAL CENTER FOR SECOND LANGUAGE DEVELOPMENT.

"(a) ESTABLISHMENT.—In order to better effectuate the purposes of this part through assistance in the coordination of services and programs provided for under this part, the Secretary shall establish a National Center for Second Language Development.

"(b) COMPOSITION.—The Center may include representation from—

"(1) the Defense Language Institute; and

"(2) other public, government and private entities with expertise in the education and training of second language curricula, as determined necessary by the Secretary.

"(c) MISSION.—The Center may—

"(1) assess the economic and social benefits of second language capabilities for the population of the United States;

"(2) make recommendations to the Secretary of the most appropriate means of increasing widespread second language capabilities in the United States; and

"(3) effectuate a greater second language capability within the United States through activities that include: developing and implementing model programs for children, college students and adults, conducting research on effective ways to teach second languages; developing teacher training programs; and, developing teaching materials.

By Mr. FOGLIETTA:

—Amend section 2343(a) on page 296, line 22 by adding the following: "The Secretary shall establish one specialized center for urban education and one specialized center for rural education to provide training and technical assistance to local education agencies. The urban center shall provide training and technical assistance to local educational agencies which serve the largest central city in a State, or which enroll more than 30,000 students and serve a central city with a population of at least 200,000 in a metropolitan statistical area."

By Mr. FORD of Michigan:

—In section 101 of the bill, at the end of title VIII of the Elementary and Secondary Education Act of 1965 (as proposed to be added by such section 101), add the following new section:

"SEC. 8014. LIMITATION ON BASIC SUPPORT PAYMENTS ATTRIBUTABLE TO CHILDREN CONNECTED WITH DEFENSE ACTIVITIES UNDER SECTION 8004.

"The Secretary shall make basic support payments attributable to children connected with defense activities, as described in subparagraphs (B) and (D) of section 8004(a)(1), to local educational agencies under such section for a fiscal year only to the extent the Secretary of Defense transfers to the Secretary of Education amounts for such fiscal year for the purpose of making such payments."

By Mr. GOODLING:

—On page 114, after line 18, add the following: "(3) However, no state may receive less under this section [for fiscal years 1995 and 1996] than it received the preceding year, or fiscal year 1993, whichever is greater, as a result of the application of paragraph (2)."

—On page 112, after line 21, add the following: "(3) However, no State may receive less

under this section [for fiscal years 1995 and 1996] than it received the preceding year, or fiscal year 1993, whichever is greater, as a result of application of paragraph (2)."

—On page 112, after line 21, add the following: "(3) However, no State may receive less under this section [for fiscal years 1995 and 1996] than it received the preceding year, or fiscal year 1993, whichever is greater, as a result of application of paragraph (2)."

—On page 114, after line 18, add the following: "(3) However, no state may receive less under this section [for fiscal years 1995 and 1996] than it received the preceding year, or fiscal year 1993, whichever is greater, as a result of the application of paragraph (2)."

—Page 768: after line 21, insert the following new section:

SEC. 10007. LIMITATION ON USE OF FUNDS FOR COORDINATION OF SERVICES.

"None of the funds authorized under this Act which are used for projects which include the coordination of health and social services with education may be used to provide actual contraception or abortion services.

—Page 901, after line 4, insert the following:

TITLE VI—BASIC PROGRAM ALLOCATIONS

SEC. 601. STANDARDS AND ASSESSMENTS.

Subsection (b) of section 1111 of the Elementary and Secondary Education Act of 1965, as amended by section 101 of this Act, is further amended to read as follows:

"(b) STANDARDS AND ASSESSMENT PROVISIONS.—(1)(A) Each State plan shall demonstrate that the State has developed or adopted high-quality standards for children served under this title that will be used by the State, its local educational agencies, and its schools to carry out this Act and that these standards be as challenging and of the same high-quality as they are for all children. These standards shall include—

"(i) challenging content standards in the core academic subjects that—

"(I) specify what children served under this title are expected to know and be able to do;

"(II) contain coherent and rigorous content; and

"(III) emphasize the teaching of advanced skills; and

"(ii) challenging performance standards that—

"(I) are aligned with the State's content standards;

"(II) describe two levels of high performance 'proficient' and 'advanced' that determine how well children served under this title are mastering the material in the content standards; and

"(III) include a third benchmark below proficient, if necessary, to provide complete information about the progress of the lower-performing children toward achieving the high 'proficient' and 'advanced' performance standards.

"(B) For those core academic subjects in which a State has not adopted challenging content and performance standards, the State plan shall include a schedule for their development that includes the completion of standards in mathematics and reading/language arts by the end of the interim period as described in paragraph (5).

"(2)(A) Each State plan shall demonstrate, based on assessments described under paragraph (3), what constitutes adequate yearly progress of—

"(i) any school served under this part toward enabling children to meet the State's 'proficient' and 'advanced' performance standards; and

"(ii) any local educational agency that received funds under this part toward enabling children in schools receiving assistance under this part to meet the State's 'proficient' and 'advanced' performance standards.

"(B) Adequate yearly progress shall be defined in a manner—

"(i) that is consistent with criteria of general applicability established by the Secretary and results in continuous and substantial yearly improvement for economically disadvantaged, limited-English proficient, and all students under this title in each school and local educational agency toward the goal of all children under this title meeting the State's challenging 'advanced' performance standards; and

"(ii) links progress primarily to performance on the assessments carried out under this section while permitting progress to be established in part through the use of other outcome-based measures such as reductions in drop-out rates.

"(3) Each State plan shall demonstrate that the State has developed or adopted a set of high-quality, yearly student assessments that will be used as the primary means of determining the yearly performance of each local educational agency and school receiving assistance under this part in enabling children served under this title to meet the State's performance standards and that these assessments be challenging and of the same high-quality as they are for all children. These assessments shall—

"(A) be aligned with the State's challenging content and performance standards and provide coherent information about student attainment of such standards;

"(B) be used for purposes for which they are valid and reliable, and be consistent with relevant nationally, recognized, professional and technical standards of assessments;

"(C) shall measure the proficiency of students in the core academic subjects in which a State has adopted challenging content and performance standards and be administered some time during grades 3 through 5, grades 6 through 9, grades 10 through 12;

"(D) be comprised of multiple, up-to-date measures of student performance;

"(E)(i) include limited-English proficient students who shall be assessed, to the extent practicable in the language and form most likely to yield accurate and reliable information on what these students know and can do, to determine their mastery of skills in subjects other than English;

"(ii) include students who have been resident in a local educational agency for a full academic year but have not attended a single school for a full year, provided that the performance of students who have attended more than one school in the local educational agency in any academic year shall be used only in determining the progress of the local educational agency; and

"(iii) include students with disabilities who shall be assessed to the extent practicable, in a manner and form most likely to yield accurate and reliable information on what these students know and can do, including assessment accommodations and modifications necessary to make such determinations, provided that those students who are determined, through valid evaluation conducted by qualified personnel, to be so severely cognitively impaired as to permanently lack the capacity to make any educational progress, with the provision of special education and related services, in meeting the State content and performance standards may be exempted from the assessment process;

"(F) provide individual student scores; and

"(G) provide for disaggregated results within each State, local educational agency, and school by gender, by each major racial and ethnic group, by English proficiency status, and by economically disadvantaged students as compared to students who are not economically disadvantaged.

"(4) Each State plan shall identify the languages other than English that are present in the participating student population and indicate the languages for which yearly student assessments are not available and are needed. The State shall make every effort to develop such assessments and shall notify the Secretary if linguistically- accessible assessment measures are needed. Upon notification, the Secretary shall assist with the identification of appropriate assessment measures in the needed languages through the Office of Bilingual Education and Minority Language Affairs.

"(5) If a State has developed or adopted challenging content and performance standards and an aligned set of assessments for all students such as those developed under title III of the Goals 2000: Educate America Act, or another process, the State shall use such standards and assessments, modified, if necessary, to conform with the requirements of paragraphs (1)(A)(ii), (2), and (3).

"(6) If, after 2 years, a State does not have challenging content and performance standards that meet the requirements of paragraph (1) or after 3 years, a State does not have assessments that meet the requirements of paragraph (3), a State shall adopt a set of standards and aligned assessments such as the standards and assessments contained in other State plans that the Secretary has approved.

"(7)(A) If a State does not have assessments that meet the requirements of paragraph (3), the State may propose to use an interim set of yearly statewide assessments that will assess the performance of complex skills and challenging subject matter.

"(B) For any year during which a State is using an interim assessment system, the State shall devise a means for identifying schools and local educational agencies in need of improvement under section 1116.

SEC. 602. PEER REVIEW AND SECRETARIAL APPROVAL.

Paragraph (3) of subsection (d) of section 1111 of the Elementary and Secondary Education Act of 1965, as amended by section 101 of this Act, is further amended to read as follows:

"(3)(A) shall, if the Secretary determines that the State plan does not meet the requirements of subsection (a), (b) or (c), immediately notify the State of such determination and the reasons for it;

"(B) shall not decline to approve a State's plan before offering the State an opportunity to revise its plan or application, provide technical assistance in order to assist the State to meet the requirements under subsections (a), (b) and (c) and a hearing; and

"(C) may withhold funds until determining that the plan meets the requirements of this section.

SEC. 603. NO FEDERAL CONTROL OF STANDARDS.

Subsection(b) and (g) of section 1111 of the Elementary and Secondary Education Act of 1965, as amended by section 101 of this Act, is further amended to read as follows:

"(g) NO FEDERAL CONTROL OF STANDARDS.—Nothing in this title shall be construed to authorize an officer, or employee of the Federal Government to mandate, direct, or control a State, local educational agency, or school's specific instructional content or pupil performance standards and assess-

ments, curriculum, or program of instruction for eligibility to receive funds under this title.

SEC. 604. STANDARDS AND ASSESSMENT PROVISIONS.

Paragraph (4) of subsection (b) of section 1112 of the Elementary and Secondary Education Act of 1965, as amended by section 101 of this Act, is further amended to read as follows:

"(4) a description of the strategies the local educational agency will use to implement standards for all students under this title;."

SEC. 605. LOCAL REVIEW.

Subsection (a) of section 1116 of the Elementary and Secondary Education Act of 1965, as amended by section 101 of this Act, is further amended to read as follows:

"(a) LOCAL REVIEW.—Each local educational agency receiving funds under this part shall—

"(1) use the State assessments described in the State plan and any additional measures described in the local educational agency's plan to review annually the progress of each school served under this part to determine whether the school is meeting, or making adequate progress as defined in section 1111(b)(2)(A)(i) or section 1112(b)(2), as appropriate, toward enabling its students to meet, the State's performance standards;

"(2) publicize and disseminate to teachers, parents, students, and the community the results of the annual review under paragraph (1) of all schools served under this part in individual school performance profiles that include disaggregated results as required by section 1111(b)(3)(F); and

"(3) provide the results of the local annual review to schools so that they can continually refine the program of instruction to help all children in such schools to meet the State's high performance standards.

SEC. 606. SYSTEM FOR SUPPORT.

Subsection (a) of section 1117 of the Elementary and Secondary Education Act of 1965, as amended by section 101 of this Act, is further amended to read as follows:

"(a) SYSTEM FOR SUPPORT.—(1) Each State educational agency shall establish a statewide system of intensive and sustained support and improvement for schools receiving funds under this title, including all schoolwide programs and all schools in need of program improvement, in order to increase the opportunity for all students in such schools to meet the State's content and performance standards.

"(2) Funds appropriated pursuant to section 1002(6) shall be used to meet the requirements of this section. In addition and notwithstanding section 1002(1), a State or local educational agency may use funds made available under section 1002(1) and other available funds to meet such requirements.

SEC. 607. BUILDING CAPACITY FOR INVOLVEMENT.

Paragraph (1) of subsection (f) of section 1118 of the Elementary and Secondary Education Act of 1965, as amended by section 101 of this Act, is further amended to read as follows:

"(1) shall provide assistance to participating parents in such areas as understanding the National Education Goals, the State's content and performance standards, State and local assessments, the requirements of this part, and how to monitor a child's progress and work with educators to improve the performance of their children;".

SEC. 608. REVIEW.

Subsection (h) of section 1119 of the Elementary and Secondary Education Act of 1965, as amended by section 101 of this Act, is further amended to read as follows:

"(h) REVIEW PROFESSIONAL DEVELOPMENT ACTIVITIES.—(1) The State educational agency shall review the local educational agency's plan to determine if such agency's professional development activities—

"(A) are tied to challenging State student content and performance standards;

"(B) reflect recent research on teaching and learning;

"(C) are of sufficient intensity and duration to have a positive impact on the teacher's performance in the classroom;

"(D) are part of the everyday activities of the school and create an orientation toward continuous improvement in the classroom or throughout the school;

"(E) include methods to teach children with special needs;

"(F) are developed with the extensive participation of teachers; and

(G) include gender-equitable education methods, techniques and practices."

SEC. 609. FUND FOR THE IMPROVEMENT OF EDUCATION.

Subparagraph (A) of paragraph (1) of subsection (b) of section 3201 of the Elementary and Secondary Education Act of 1965, as amended by section 101 of this Act, is further amended to read as follows:

"(A) activities that will promote systemic educational reform at the State and local levels, such as—

"(i) research and development related to content and performance standards for student learning; and

"(ii) the development and evaluation of model strategies for assessment of student learning, professional development for teachers and administrators, parent and community involvement, and other aspects of systemic reform;

By Mr. GUNDERSON:

—Page 901, after line 4, insert the following:

Title VI—Innovative Education Program Strategies assure that all students have the opportunity to achieve challenging performance standards;

"(D) are of sufficient intensity and duration to have a positive and lasting impact on the teacher's performance in the classroom or the administrator's performance on the job; and

"(E) recognize teachers as an important source of knowledge that should inform and help shape professional development.

"(4) The term 'local standard' means challenging content and performance standards in the core subjects (in addition to State content and performance standards approved by the State for title I).

"PART B—INNOVATIVE EDUCATION PROGRAM

"SEC. 6401. FINDINGS AND STATEMENT OF PURPOSE.

"(a) FINDINGS.—The Congress finds that chapter 2 of the Education Consolidation and Improvement Act of 1981 has been successful in achieving the goals of increasing local flexibility, reducing administrative burden, providing services for private school students, encouraging innovation, and contributing to the improvement of elementary and secondary educational programs.

"(b) STATEMENT OF PURPOSE.—It is the purpose of programs under this part:

"(1) To support local education reform efforts which are consistent with and support statewide reform efforts under the Goals 2000 Educate America Act.

"(2) To support State and local efforts to accomplish the National Education Goals.

"(3) To provide funding to enable State and local educational agencies to implement promising educational reform programs that can be supported by State and local sources of funding after such programs are demonstrated to be effective.

"(4) To provide a continuing source of innovation, educational improvement, and support for library services and instructional materials, including media materials and,

"(5) To meet the special educational needs of at risk and high cost students.

"(c) STATE AND LOCAL RESPONSIBILITY.—The basic responsibility for the administration of funds made available under this part is within the State educational agencies, but it is the intent of Congress that the responsibility be carried out with a minimum of paperwork and that the responsibility for the design and implementation of programs assisted under this part will be mainly that of local educational agencies, school superintendents and principals, and classroom teachers and supporting personnel, because they have the most direct contact with students and are most likely to be able to design programs to meet the educational needs of students in their own districts.

"SEC. 6402. DEFINITION.

"For the purposes of this part the term "effective schools programs" means school-based programs that may encompass preschool through secondary school levels and that have the objectives of (1) promoting school-level planning, instructional improvement, and staff development, (2) increasing the academic achievement levels of all children and particularly educationally deprived children, and (3) achieving as ongoing conditions in the school the following factors identified through effective schools research as distinguishing effective from ineffective schools:

"(A) strong and effective administrative and instructional leadership that creates consensus on instructional goals and organizational capacity for instructional problem solving;

"(B) emphasis on the acquisition of basic and higher order skills;

"(C) a safe and orderly school environment that allows teachers and pupils to focus their energies on academic achievement;

"(D) a climate of expectation that virtually all children can learn under appropriate conditions; and

"(E) continuous assessment of students and programs to evaluate the effects of instruction.

"SEC. 6403. AUTHORIZATION OF APPROPRIATIONS; DURATION OF ASSISTANCE.

"(a) AUTHORIZATION.—To carry out the purposes of this part, there are authorized to be appropriated such sums for fiscal years 1995 through 1999.

"(b) DURATION OF ASSISTANCE.—During the period beginning October 1, 1994, and ending, September 30, 1999, the Secretary shall, in accordance with the provisions of this part, make payments to State educational agencies for the purpose of this section.

"Subpart 1—State and Local Programs

"SEC. 6404. ALLOTMENT TO STATES.

"(a) RESERVATIONS.—From the sums appropriated to carry out this subpart in any fiscal year, the Secretary shall reserve not to exceed 1 percent for payments to Guam, American Samoa, the Virgin Islands, Palau (until the effective date of the Compact of Free Association with the Government of Palau), and the Northern Mariana Islands, to be allotted in accordance with their respective needs.

"(b) ALLOTMENT.—From the remainder of such sums the Secretary shall allot to each

State an amount which bears the same ratio to the amount of such remainder as the school-age population of the State bears to the school-age population of all States, except that no State shall receive less than an amount equal to one-half of 1 percent of such remainder.

"(c) DEFINITIONS.—For purposes of this subpart:

"(1) The term 'school-age population' means the population aged 5 through 17.

"(2) The term 'States' includes the 50 States, the District of Columbia, and the Commonwealth of Puerto Rico.

"SEC. 6405. ALLOCATION TO LOCAL EDUCATIONAL AGENCIES.

"(a) DISTRIBUTION RULE.—From the sums made available each year to carry out this part, the State educational agency shall distribute not less than 85 percent to local educational agencies within such State according to the relative enrollments in public and private, nonprofit schools within the school districts of such agencies, adjusted, in accordance with criteria approved by the Secretary, to provide higher per pupil allocations to local educational agencies which have the greatest numbers or percentages of children whose education imposes a higher than average cost per child, such as—

"(1) children living in areas with high concentrations of low-income families,

"(2) children from low-income families, and

"(3) children living in sparsely populated areas.

"(b) CALCULATION OF ENROLLMENTS.—(1) The calculation of relative enrollments under subsection (a) shall be on the basis of the total of—

"(A) the number of children enrolled in public schools, and

"(B) the number of children enrolled in private nonprofit schools that desire that their children participate in programs or projects assisted under this part, for the fiscal year preceding the fiscal year in which the determination is made. Nothing in this subsection shall diminish the responsibility of local educational agencies to contact, on an annual basis, appropriate officials from private nonprofit schools within the areas served by such agencies in order to determine whether such schools desire that their children participate in programs assisted under this part.

"(2)(A) Relative enrollments under subsection (a) shall be adjusted, in accordance with criteria approved by the Secretary under subparagraph (B), to provide higher per pupil allocations only to local educational agencies which serve the greatest numbers or percentages of—

"(i) children living in areas with high concentrations of low-income families,

"(ii) children from low-income families, or

"(iii) children living in sparsely populated areas.

"(B) The Secretary shall review criteria submitted by a State educational agency for adjusting allocations under paragraph (1) and shall approve such criteria only if the Secretary determines that such criteria are reasonably calculated to produce an adjusted allocation that reflects the relative needs within the State's local educational agencies based on the factors set forth in subparagraph (A).

"(c) PAYMENT OF ALLOCATIONS.—

"(1) From the funds paid to it pursuant to section 2203 for a fiscal year, a State educational agency shall distribute to each eligible local educational agency which has submitted an application as required in section 2223 the amount of its allocation as determined under subsection (a).

"(2)(A) Additional funds resulting from higher per pupil allocations provided to a local educational agency on the basis of adjusted enrollments of children described in subsection (a), may, at the discretion of the local educational agency, be allocated for expenditures to provide services for children enrolled in public and private nonprofit schools in direct proportion to the number of children described in subsection (a) and enrolled in such schools within the local educational agency.

"(B) In any fiscal year, any local educational agency that elects to allocate such additional funds in the manner described in subparagraph (A) shall allocate all additional funds to schools within the local educational agency in such manner.

"(C) The provisions of subparagraphs (A) and (B) may not be construed to require any school to limit the use of such additional funds to the provision of services to specific students or categories of students.

"Subpart 2—State Programs

"SEC. 6406. STATE USES OF FUNDS.

"(a) AUTHORIZED ACTIVITIES.—A State educational agency may use funds reserved for State use under this section only for—

"(1) State administration of programs under this section including—

"(A) supervision of the allocation of funds to local educational agencies;

"(B) planning, supervision, and processing of State funds; and

"(C) monitoring and evaluation of programs and activities under this part; and

"(2) technical assistance and direct grants to local educational agencies and statewide education reform activities, including effective schools programs, which assist local educational agencies to provide targeted assistance.

"(b) LIMITATIONS AND REQUIREMENTS.—Not more than 25 percent of funds available for State programs under this part in any fiscal year may be used for State administration under subsection (a)(1).

"SEC. 6407. STATE APPLICATIONS.

"(a) APPLICATION REQUIREMENTS.—Any State which desires to receive a grant under this subpart shall submit to the Secretary an application which—

"(1) designates the State educational agency as the State agency responsible for administration and supervision of programs assisted under this part;

"(2)(A) provides for an annual submission of data on the use of funds, the types of services furnished, and the students served under this section; and

"(B) in fiscal year 1998 provides for an evaluation of the effectiveness of programs assisted under this subpart;

"(3) sets forth the allocation of such funds requested to implement section 2252;

"(4) provides that the State educational agency will keep such records and provide such information to the Secretary as may be required for fiscal audit and program evaluation (consistent with the responsibilities of the Secretary under this section);

"(5) provides assurance that, apart from technical and advisory assistance and monitoring compliance with this part, the State educational agency has not exercised and will not exercise any influence in the decision making processes of local educational agencies as to the expenditure made pursuant to an application under section 2233; and

"(6) contain assurances that there is compliance with the specific requirements of this part.

"(b) PERIOD OF APPLICATION.—An application filed by the State under subsection (a) shall be for a period not to exceed 3 years, and may be amended annually as may be necessary to reflect changes without filing a new application.

"(c) AUDIT RULE.—Notwithstanding section 1745 of the Omnibus Budget Reconciliation Act of 1981, local educational agencies receiving less than an average of $5,000 each under this section need not be audited more frequently than once every 5 years.

"Subpart 3—Local Targeted Assistance Programs

"SEC. 6408. TARGETED USE OF FUNDS.

"(a) GENERAL RULE.—Funds allocated for use under this subpart shall be used by local educational agencies for targeted assistance described in subsection (b).

"(b) TARGETED ASSISTANCE.—The targeted assistance programs referred to in subsection (a) include—

"(1) technology related to the implementation of school-based reform programs, including professional development to assist teachers and other school officials regarding how to use effectively such equipment and software;

"(2) instructional and educational materials, assessments, and library services and materials (including media materials) tied to high academic standards and which are part of an overall education reform program;

"(3) promising education reform projects, including effective schools and 21st Century Learning Center school projects in accordance with subpart 4; and

"(4) computer hardware and software purchased under this section should be used only for instructional purposes.

"SEC. 6409. ADMINISTRATIVE AUTHORITY.

"In order to conduct the activities authorized by this part, each State or local educational agency may use funds reserved for this part to make grants to and to enter into contracts with local educational agencies, institutions of higher education, libraries, museums , and other public and private nonprofit agencies, organizations, and institutions.

"SEC. 6410. LOCAL APPLICATIONS.

"(a) CONTENTS OF APPLICATION.—A local educational agency or consortia of local educational agencies may receive an allocation of funds under this subpart for any year for which an application is submitted to the State educational agency and such application is certified to meet the requirements of this section. The State educational agency shall certify any such application if such application—

"(1)(A) sets forth the planned allocation of funds among targeted assistance programs described in section 2231 of this part and describes the programs, projects and activities designed to carry out such targeted assistance which it intends to support, together with the reasons for selection of such programs, projects and activities; and

"(B) sets forth the allocation of such funds required to implement section 2252;

"(2) describes how assistance under this section will contribute to meeting the National Education Goals and improving student achievement or improving the quality of education for students;

"(3) provides assurances of compliance with the provisions of this part, including the participation of children enrolled in private, nonprofit schools in accordance with section _____;

"(4) agrees to keep such records, and provide such information to the State educational agency as may reasonably be required for fiscal audit and program evalua-

tion, concession with the responsibilities of the State agency under this part; and

"(5) provides in the allocation of funds for the assistance authorized by this part, and in the design, planning and implementation of such programs, for systematic consultation with parents of children attending elementary and secondary schools in the area served by the local education agency, with teachers and administrative personnel in such schools, and with other groups involved in the implementation of this section (such as librarians, school counselors, and other pupil services personnel) as may be considered appropriate by the local educational agency.

"(b) PERIOD OF APPLICATION.—An application filed by a local educational agency under subsection (a) shall be for a period not to exceed 3 fiscal years, may provide for the allocation of funds to programs for a period of 3 years, and may be amended annually as may be necessary to reflect changes without filing a new application.

"(c) LOCAL EDUCATIONAL AGENCY DISCRETION.—Subject to the limitations and requirements of this part, a local educational agency shall have complete discretion in determining how funds under this subpart shall be divided among the areas of targeted assistance. In exercising such discretion, a local educational agency shall ensure that expenditures under this subpart carry out the purposes of this subpart and are used to meet the educational needs within the schools of such local educational agency.

"Subpart 4—21st Century Community Learning Centers

"SEC. 6411. FINDINGS.

"The Congress finds that—

"(1) there are influences outside of school which affect the ability of a child to achieve academically and schools are in a unique position to identify student and family needs to coordinate programs;

"(2) access to health and social service programs can assist children and their families to improve the ability of the family to take an active role in their child's education;

"(3) coordination of health and social service programs with education can help the Nation meet the National Education Goals and ensure better outcomes for children;

"(4) the high technology, global economy of the 21st century will require lifelong learning to keep America's workforce competitive and successful;

"(5) 21st Century Community Learning Centers enable the entire community to develop an education strategy that addresses the educational needs of all members of local communities; and

"(6) local public schools should provide centers for lifelong learning and educational opportunities for individuals of all ages.

"SEC. 6412. FUNDS FOR COMMUNITY LEARNING CENTERS.

"(a) IN GENERAL.—Local educational agencies may use funds provided under section 2212 to pay the Federal share of the cost for enabling schools to serve as centers for the delivery of education and human services for members of a community.

"(b) USES OF FUNDS.—Local educational agencies may use funds provided under section 2212 for projects described under this subpart.

"SEC. 2243. PROGRAMS.

"Local educational agencies that receive funds under this subpart may develop programs that include—

"(1) literacy education programs;

"(2) senior citizen programs;

"(3) children's day care services;

"(4) integrated education, health, social service, recreational, or cultural programs;

"(5) summer and weekend school programs in conjunction with summer recreation programs;

"(6) nutrition programs;

"(7) expanded library service hours to serve community needs;

"(8) telecommunications and technology education programs for all ages;

"(9) parenting skills education programs;

"(10) support and training for child day care providers;

"(11) employment counseling, training, and placement;

"(12) services for students who withdraw from school before graduating high school, regardless of age; and

"(13) services for individuals who are either physically or mentally challenged.

"SEC. 6413. REQUIREMENTS.

"A local educational agency that uses funds to develop programs under this subpart shall, at the end of the first year for which funds are used for this purpose, provide information to the State educational agency which describes the activities and projects established with funds under this subpart and includes—

"(1) information on the comprehensive local plan that enables such school to serve as a center for the delivery of education and human services for members of a community; and

"(2) information on the initial evaluation of needs, available resources, and goals and objectives for the proposed community education program and how such evaluation was used to determine the program developed to address such needs; including—

"(A) the mechanism used to disseminate information in a manner understandable and accessible to the community;

"(B) identification of Federal, State, and local programs merged or coordinated so that public resources could be maximized;

"(C) a description of the collaborative efforts of community-based organizations, related public agencies, businesses, or other appropriate organizations;

"(D) a description of how the school will assist as a delivery center for existing and new services; and

"(E) the establishment of the facility utilization policy that specifically states rules and regulations for building and equipment use and supervision guidelines.

"SEC. 6414. DEFINITION.

"For purposes of this subpart, the term 'Community Learning Center' means the provision of educational, recreational, health, and social service programs for residents of all ages of a local community in public school buildings, primarily in rural and inner city areas, operated by the local educational agency in conjunction with local governmental agencies, businesses, vocational education programs, community colleges, universities, cultural, recreational, and other community and human service entities.

"Subpart 5—General Administrative Provisions

"SEC. 6415. MAINTENANCE OF EFFORT; FEDERAL FUNDS SUPPLEMENTARY.

"(a) MAINTENANCE OF EFFORT.—(1) Except as provided in paragraph (2), a State is entitled to receive its full allocation of funds under this part for any fiscal year if the Secretary finds that either the combined fiscal effort per student or the aggregate expenditures within the State with respect to the provision of free public education for the preceding fiscal year was not less than 90 percent of such combined fiscal effort or aggregate expenditures for the second preceding fiscal year.

"(2) The Secretary shall reduce the amount of the allocation of funds under this part in any fiscal year in the exact proportion to which the State fails to meet the requirements of paragraph (1) by falling below 90 percent of both the fiscal effort per student and aggregate expenditures (using the measure most favorable to the State), and no such lesser amount shall be used for computing the effort required under paragraph (1) for subsequent years.

"(3) The Secretary may waive, for 1 fiscal year only, the requirements of this subsection if the Secretary determines that such a waiver would be equitable due to exceptional or uncontrollable circumstances such as a natural disaster or a precipitous and unforeseen decline in the financial resources of the State.

"(b) FEDERAL FUNDS SUPPLEMENTARY.—A State or local educational agency may use and allocate funds received under this part only so as to supplement and, to the extent practical, increase the level of funds that would, in the absence of Federal funds made available under this part, be made available from non-Federal sources, and in no case may such funds be used so as to supplant funds from non-Federal sources.

"SEC. 6416. PARTICIPATION OF CHILDREN ENROLLED IN PRIVATE SCHOOLS.

"(a) PARTICIPATION ON EQUITABLE BASIS.—(1) To the extent consistent with the number of children in the school district of a local educational agency which is eligible to receive funds under this part or which serves the area in which a program or project assisted under this part is located who are enrolled in private nonprofit elementary and secondary schools, or with respect to instructional or personnel training programs funded by the State educational agency from funds reserved for State use, such agency, after consultation with appropriate private school officials, shall provide for the benefit of such children in such schools secular, neutral, and nonideological services, materials, and equipment, including the participation of the teachers of such children (and other educational personnel serving such children) in training programs, and the repair, minor remodeling, or construction of public facilities as may be necessary for their provision (consistent with subsection (c) of this section), or, if such services, materials, and equipment are not feasible or necessary in one or more such private schools as determined by the local educational agency after consultation with the appropriate private school officials, shall provide such other arrangements as will assure equitable participation of such children in the purposes and benefits of this part.

"(2) If no program or project is carried out under subsection (a)(1) of this section in the school district of a local educational agency, the State educational agency shall make arrangements, such as through contracts with nonprofit agencies or organizations, under which children in private schools in that district are provided with services and materials to the extent that would have occurred if the local educational agency had received funds under this part.

"(3) The requirements of this section relating to the participation of children, teachers, and other personnel serving such children shall apply to programs and projects carried out under this part by a State or local edu-

cational agency, whether directly or through grants to or contracts with other public or private agencies, institutions, or organizations.

"(b) EQUAL EXPENDITURES.—Expenditures for programs pursuant to subsection (a) shall be equal (consistent with the number of children to be served) to expenditures for programs under this part for children enrolled in the public schools of the local educational agency, taking into account the needs of the individual children and other factors which relate to such expenditures, and when funds available to a local educational agency under this part are used to concentrate programs or projects on a particular group, attendance area, or grade or age level, children enrolled in private schools who are included within the group, attendance area, or grade or age level selected for such concentration shall, after consultation with the appropriate private school officials, be assured equitable participation in the purposes and benefits of such programs or projects.

"(c) FUNDS.—(1) The control of funds provided under this part, and title to materials, equipment, and property repaired, remodeled, or constructed therewith, shall be in a public agency for the uses and purposes provided in this part, and a public agency shall administer such funds and property.

"(2) The provision of services pursuant to this section shall be provided by employees of a public agency or through contract by such public agency with a person, an association, agency, or corporation who or which, in the provision of such services, is independent of such private school and of any religious organizations, and such employment or contract shall be under the control and supervision of such public agency, and the funds provided under this part shall not be commingled with State or local funds.

"(d) STATE PROHIBITION WAIVER.—If by reason of any provision of law a State or local educational agency is prohibited from providing for the participation in programs of children enrolled in private elementary and secondary schools, as required by this section, the Secretary shall waive such requirements and shall arrange for the provision of services to such children through arrangements which shall be subject to the requirements of this section.

"(e) WAIVER AND PROVISION OF SERVICES.—(1) If the Secretary determines that a State or a local educational agency has substantially failed or is unwilling to provide for the participation on an equitable basis of children enrolled in private elementary and secondary schools as required by this section, the Secretary may waive such requirements and shall arrange for the provision of services to such children through arrangements which shall be subject to the requirements of this section.

"(2) Pending final resolution of any investigation or complaint that could result in a determination under this subsection or subsection (d), the Secretary may withhold from the allocation of the affected State or local educational agency the amount estimated by the Secretary to be necessary to pay the cost of those services.

"(f) DETERMINATION.—Any determination by the Secretary under this section shall continue in effect until the Secretary determines that there will no longer be any failure or inability on the part of the State or local educational agency to meet the requirements of subsections (a) and (b).

"(g) PAYMENT FROM STATE ALLOTMENT.—When the Secretary arranges for services pursuant to this section, the Secretary shall, after consultation with the appropriate public and private school officials, pay the cost of such services, including the administrative costs of arranging for those services, from the appropriate allotment of the State under this part.

"(h) REVIEW.—(1) The Secretary shall not take any final action under this section until the State educational agency and the local educational agency affected by such action have had an opportunity, for at least 45 days after receiving written notice thereof, to submit written objections and to appear before the Secretary or the Secretary's designee to show cause why that action should not be taken.

"(2) If a State or local educational agency is dissatisfied with the Secretary's final action after a proceeding under paragraph (1) of this subsection, it may, within 60 days after notice of such action, file with the United States court of appeals for the circuit in which such State is located a petition for review of that action. A copy of the petition shall be forthwith transmitted by the clerk of the court to the Secretary. The Secretary thereupon shall file in the court the record of the proceedings on which the Secretary based this action, as provided in section 2112 of title 28, United States Code.

"(3) The findings of fact by the Secretary, if supported by substantial evidence, shall be conclusive; but the court, for good cause shown, may remand the case to the Secretary to take further evidence and the Secretary may thereupon make new or modified findings of fact and may modify the Secretary's previous action, and shall file in the court the record of the further proceedings. Such new or modified findings of fact shall likewise be conclusive if supported by substantial evidence.

"(4) Upon the filing of such petition, the court shall have jurisdiction to affirm the action of the Secretary or to set it aside, in whole or in part. The judgment of the court shall be subject to review by the Supreme Court of the United States upon certiorari or certification as provided in section 1254 of title 28, United States Code.

"SEC. 6417. EVALUATIONS AND REPORTING.

"(a) LOCAL EDUCATIONAL AGENCIES.—A local educational agency which receives financial assistance under this part shall report annually to the State educational agency on the use of funds under section 2431. Such reporting shall be carried out in a manner which minimizes the amount of paperwork required while providing the State educational agency with the necessary information under the preceding sentence. Such report shall be made available to the public.

"(b) STATE EDUCATIONAL AGENCIES.—A State educational agency which receives financial assistance under this part shall evaluate the effectiveness of State and local programs under this part in accordance with section 2423(a)(4)(B). That evaluation shall be submitted for review and comment by the State advisory committee and shall be made available to the public. The State educational agency shall submit to the Secretary a copy of the evaluation and a summary of the reports under subsection (a).

"(c) REPORTS.—(1) The Secretary, in consultation with State and local educational agency representatives, shall develop a model system which State educational agencies may use for data collection and reporting under this part.

"(2)(A) The Secretary shall submit annually a report to the Congress for the use of funds, the types of services furnished, and the students served under this part.

"(B) The Secretary shall not later than October 1, 1998, submit a report to the Congress summarizing evaluations under subsection (b) in order to provide a national overview of the uses of funds and effectiveness of programs under this part.

"SEC. 6418. FEDERAL ADMINISTRATION.

"(a) TECHNICAL ASSISTANCE.—The Secretary, upon request, shall provide technical assistance to State and local educational agencies under this part.

(b) RULEMAKING.—The Secretary shall issue regulations under this part only to the extent that such regulations are necessary to ensure that there is compliance with the specific requirements and assurances required by this part.

(c) AVAILABILITY OF APPROPRIATIONS.—Notwithstanding any other provision of law, unless expressly in limitation of this subsection, funds appropriated in any fiscal year to carry out activities under this part shall become available for obligation on July 1 of such fiscal year and shall remain available for obligation until the end of the subsequent fiscal year.

"SEC. 6419. APPLICATION OF GENERAL EDUCATION PROVISIONS ACT.

"(a) GENERAL RULE.—Except as otherwise specifically provided by this section, the General Education Provisions Act shall apply to the programs authorized by this part.

"(b) APPLICABILITY.—The following provisions of the General Education Provisions Act shall be superseded by the specified provisions of this part with respect to the programs authorized by this part:

"(1) Section 410(a)(1) of the General Education Provisions Act is superseded by section 2254(b) of this part.

"(2) Section 433(a) of such Act is superseded by section 2254(a) of this part.

"(3) Section 436 of such Act is superseded by sections 2223 and 2233 of this part.

(c) SPECIAL RULE.—Sections 440, 441, and 442 of the General Education Provisions Act, except to the extent that such sections relate to fiscal control and fund accounting procedures, may not apply to the programs authorized by this part and shall not be construed to authorize the Secretary to require any reports or take any actions not specifically authorized by this part.

By Mr. HANCOCK:

—Page 762, after line 8, insert the following:

"SEC. 9508. PROHIBITION AGAINST FUNDS FOR HOMOSEXUAL SUPPORT.

"(a) PROHIBITION.—No local educational agency that receives funds under this Act shall implement or carry out a program or activity that has either the purpose or effect of encouraging or supporting homosexuality as a positive lifestyle alternative.

"(b) DEFINITION.—A program or activity, for purposes of this section, includes the distribution of instructional materials, instruction, counseling, or other services on school grounds, or referral of a pupil to an organization that affirms a homosexual lifestyle.

By Mr. HANCOCK:

—Page 762, after line 8, insert the following:

"SEC. 9508. PROHIBITION AGAINST FUNDS FOR HOMOSEXUAL SUPPORT.

"(a) PROHIBITION.—No local education agency that receives funds under this Act shall implement or carry out a program or activity as provided by this Act that has either the purpose or effect of encouraging or supporting homosexuality as positive lifestyle alternative.

"(b) DEFINITION.—A program or activity, for purposes of this section, includes the distribution of instructional materials, instruc-

tion, counseling, or other services on school grounds, or referral of pupil to an organization that affirms a homosexual lifestyle.

By Mr. KILDEE:

—Beginning on page 28, strike line 12 and all that follows through page 30, line 2, and insert in lieu thereof the following:

"(iii) model opportunity to learn standards for schools which receive assistance under this title that address—

(I) the alignment of curricula, instructional materials, and other school resources with the content and performance standards adopted by the State;

(II) the capability of teachers to provide high quality instruction within each subject area for which the State has adopted content and performance standards;

(III) such other factors that the State deems appropriate to ensure that students served under this title receive a fair opportunity to achieve the knowledge and skills described in content and performance standards adopted by the State."

—Page 34, strike lines 7 through 11 (and redesignate any subsequent paragraphs accordingly)

—Page 36, line 18 after "agencies" insert "and the public of the standards and assessments developed under this section, and"

—Page 39, after line 12, insert the following new paragraph (and redesignate accordingly):

"(g) Notwithstanding any other provision of this Act, the implementation of model opportunity to learn standards shall be voluntary on the part of the States, local educational agencies, and schools."

—Page 39, after line 17, insert the following new paragraphs (and redesignate accordingly):

"(i) Nothing in this section shall be construed to create a legally enforceable right for any person against a State, local educational agency, or school based on opportunity to learn standards.

"(j) Nothing in this section shall be construed to mandate equalized spending per pupil for a State, local educational agency, or school.

"(k) Nothing in this section shall be construed to mandate national school building standards for a State, local educational agency, or school."

—Page 42, strike lines 19 through 22

—Page 67, strike lines 7 through 9

—Page 69, line 3, after "standards" insert "including reviewing the school's plan in the context of the State's model opportunity to learn standards"

—Page 70, line 13 after "include" insert "implementing the State's model opportunity to learn standards,"

—Page 72, line 20, after "standards" insert "including reviewing the local educational agency's plan in the context of the State's model opportunity to learn standards"

—Page 74, line 1, after "include" insert "implementing the State's model opportunity to learn standards,"

—Page 75, line 12, strike "and opportunity to learn standards"

—Page 91, line 19, strike "opportunity to learn standards"

—Page 183, after line 16 insert the following (and redesignate accordingly):

"(v) are using any of the voluntary model State opportunity to learn standards that may have been implemented and whether they are useful in improving learning."

By Mr. MILLER of California:

—Page 688, line 8, strike "$40,000,000" and insert "$100,000,000".

—Page 762, beginning on line 15, strike "policy" and all that follows through page 763, line 3, and insert the following: "policy—

"(1) shall require that any student who is determined to have brought a gun to school in violation of such policy shall be expelled from such school for a period of not less than one year, except that the chief administrator of the local educational agency may modify such expulsion requirement for a student on a case-by-case basis; and

"(2) may include the provision for—

"(A) alternative educational placement or services for a student who violates the policy and is expelled; and

"(B) opportunity for a hearing to address an expulsion decision for violation of the policy.

By Mr. MILLER of Florida:

—Beginning on page 240, strike line 1 and all that follows through line 4 on page 264 (and redesignate the subsequent subparts accordingly).

—Beginning on page 264, strike line 5 and all that follows through line 4 on page 272 (and redesignate the subsequent subparts accordingly).

—Beginning on page 284, strike line 9 and all that follows through line 5 on page 290 (and redesignate the subsequent subparts accordingly).

—Beginning on page 290, strike line 6 and all that follows through line 7 on page 293.

—Beginning on page 190, strike line 1 and all that follows through line 13 on page 194 (and redesignate the subsequent sections accordingly).

—Beginning on page 240, strike line 2 and all that follows through line 4 on page 264 (and redesignate the subsequent subparts accordingly).

—Beginning on page 264, strike line 5 and all that follows through line 4 on page 272 (and redesignate the subsequent subparts accordingly).

—Beginning on page 284, strike line 9 and all that follows through line 5 on page 290 (and redesignate the subsequent subparts accordingly).

—Beginning on page 290, strike line 6 and all that follows through line 7 on page 293.

—Page 350, strike line 13.

—Beginning on page 354, strike line 1 and all that follows through line 22 on page 363 (and redesignate the subsequent parts accordingly).

—Beginning on page 367, strike line 1 and all that follows through line 19 on page 372 (and redesignate the subsequent parts accordingly).

—Beginning on page 372, strike line 20 and all that follows through line 22 on page 397 (and redesignate the subsequent parts accordingly).

—Beginning on page 398, strike line 1 and all that follows through line 21 on page 404 (and redesignate the subsequent parts accordingly).

—Beginning on page 404, strike line 22 and all that follows through line 18 on page 406 (and redesignate the subsequent parts accordingly).

—Beginning on page 456, strike line 5 and all that follows through line 15 on page 458 (and redesignate the subsequent parts accordingly).

—Beginning on page 768, strike line 22 and all that follows through line 7 on page 776 (and redesignate the subsequent parts accordingly).

—Beginning on page 776, strike line 8 and all that follows through line 19 on page 798 (and redesignate the subsequent parts accordingly).

—Beginning on page 776, strike line 10 and all that follows through line 12 on page 791 (and redesignate the subsequent parts accordingly).

—Beginning on page 791, strike line 13 and all that follows through line 19 on page 798 (and redesignate the subsequent parts accordingly).

—Beginning on page 870, strike line 1 and all that follows through line 20 on page 875 (and redesignate the subsequent parts accordingly).

By Mr. PETRI:

Page 901, after line 4, insert the following:

TITLE VI—BASIC PROGRAM ALLOCATIONS

SEC. 601. ALLOCATIONS.

Subpart 2 of part A of title I of the Elementary and Secondary Education Act of 1965, as amended by section 101 of this Act, is further amended to read as follows:

"Subpart 2—Allocations

"SEC. 1122. GRANTS FOR THE OUTLYING AREAS AND THE SECRETARY OF THE INTERIOR

"(a) RESERVATION OF FUNDS.—From the amount appropriated for payments to States for any fiscal year under section 1002(a), the Secretary shall reserve a total of up to 1 percent to provide assistance to—

"(1) the outlying areas on the basis of their respective need for such assistance according to such criteria as the Secretary determines will best carry out the purpose of this part; and

"(2) the Secretary of the Interior in the amount necessary to make payments pursuant to subsection (b).

"(b) ALLOTMENT TO THE SECRETARY OF THE INTERIOR.—

"(1) The amount allotted for payments to the Secretary of the Interior undersubsection (a)(2) for any fiscal year shall be, as determined pursuant to criteria established by the Secretary, the amount necessary to meet the special educational needs of—

"(A) Indian children on reservations served by elementary and secondary schools for Indian children operated or supported by the Department of the Interior; and

"(B) out-of-State Indian children in elementary and secondary schools in local educational agencies under special contracts with the Department of the Interior.

"(2) From the amount allotted for payments to the Secretary of the Interior under subsection (a)(2), the Secretary of the Interior shall make payments to local educational agencies, upon such terms as the Secretary of Education determines will best carry out the purposes of this part, with respect to out-of-State Indian children described in paragraph (1). The amount of such payment may not exceed, for each such child, the greater of—

"(A) 40 percent of the average per-pupil expenditure in the State in which the agency is located; or

"(B) 48 percent of such expenditure in the United States.

"SEC. 1123. ALLOCATIONS TO STATES.

"(a) GENERAL.—For each fiscal year, an amount of the appropriations for this part equal to the appropriation for fiscal year 1994 for part A of chapter 1, title I, Elementary and Secondary Education Act, shall be allocated in accordance with sections 1124 and 1124A. Any additional appropriations for this part for any fiscal year, after application of the preceding sentence, shall be allocated in accordance with section 1125.

"(b) ADJUSTMENTS WHERE NECESSITATED BY APPROPRIATIONS.—

"(1) If the sums available under this part for any fiscal year are insufficient to pay the full amounts that all local educational agencies in States are eligible to receive under sections 1124, 1124A, and 1125 for such year,

the Secretary shall ratably reduce the allocations to such local educational agencies, subject to subsections (c) and (d) of this section.

"(2) If additional funds become available for making payments under sections 1124, 1124A, and 1125 for such fiscal year, allocations that were reduced under paragraph (1) shall be increased on the same basis as they were reduced.

"(c) HOLD-HARMLESS AMOUNTS.—Notwithstanding subsection (b), the total amount made available to each local educational agency under each of sections 1124 and 1125 for any fiscal year shall be at least 85 percent of the total amount such local educational agency was allocated under such sections (or, for fiscal year 1995, their predecessor authorities) for the preceding fiscal year.

"(d) DEFINITION.—For the purpose of this section and sections 1124 and 1125, the term State means each of the 50 States, the District of Columbia, and the Commonwealth of Puerto Rico.

"SEC. 1124. BASIC GRANTS TO LOCAL EDUCATIONAL AGENCIES

"(a) AMOUNT OF GRANTS.—

"(1) GRANTS FOR LOCAL EDUCATIONAL AGENCIES AND PUERTO RICO.—

"(A) The grant which a local educational agency in a State is eligible to receive under this subpart for a fiscal year shall (except as provided in paragraph (3)), be determined by multiplying the number of children counted under subsection (c) by 40 percent of the amount determined under the next sentence. The amount determined under this sentence shall be the average per pupil expenditure in the State except that (i) if the average per pupil expenditure in the State is less than 80 percent of the average per pupil expenditure in the United States, such amount shall be 80 percent of the average per pupil expenditure in the United States, or (ii) if the average per pupil expenditure in the State is more than 120 percent of the average per pupil expenditure in the United States, such amount shall be 120 percent of the average per pupil expenditure in the United States. For each local educational agency serving an area with a total population of at least 20,000 persons, the grant under this section shall be the amount determined by the Secretary. For local educational agencies serving areas with total population of fewer than 20,000 persons, the State education agency may either (I) distribute to such local educational agencies grants under this section equal to the amounts determined by the Secretary; or (ii) use an alternative method, approved by the Secretary, to distribute the share of the State's total grants under this section that is based on local educational agencies with total populations of fewer than 20,000 persons. Such an alternative method of distributing grants under this section among a State's local educational agencies serving areas with total populations of fewer than 20,000 persons shall be based upon population data that the State education agency determines best reflects the current distribution of children in poor families among the State's local educational agencies serving areas with total populations of fewer than 20,000 persons. If a local educational agency serving an area with total population of less than 20,000 persons is dissatisfied with the determination of its grant by the State education agency, then it may appeal this determination to the Secretary. The Secretary must respond to this appeal within 45 days of receipt. The Secretary shall consult with the Secretary of Commerce regarding whether available data on population for local educational agencies serving areas with total populations of fewer than 20,000 persons are sufficiently reliable to be used to determine final grants to such areas.

"(B) If, and only if, there are portions of any of the States for which the Department of Commerce has not prepared data on the number of children, aged 5–17, from families below the poverty level for local educational agencies, then the Secretary shall use such data compiled for counties in those portions of the States, treating the counties as if they were local educational agencies. In such cases, subject to paragraph (3), the grant for any local educational agency in such an area of a State shall be determined on the basis of the aggregate amount of such grants for all such agencies in the county or counties in which the school district of the particular agency is located, which aggregate amount shall be equal to the aggregate amount determined under subparagraph (A) for such county or counties, and shall be allocated among those agencies upon such equitable basis as may be determined by the State educational agency in accordance with basic criteria prescribed by the Secretary.

"(C) For each fiscal year, the Secretary shall determine the percentage which the average per pupil expenditure in the Commonwealth of Puerto Rico is of the lowest average per pupil expenditure of any of the 50 States. The grant which the Commonwealth of Puerto Rico shall be eligible to receive under this subpart for a fiscal year shall be the amount arrived at by multiplying the number of children counted under subsection (c) for the Commonwealth of Puerto Rico by the product of—

"(i) the percentage determined under the preceding sentence; and

"(ii) 32 percent of the average per pupil expenditure in the United States.

"(2) DEFINITION.—For purposes of this subsection, the term 'State' does not include Guam, American Samoa, the Virgin Islands, the Northern Mariana Islands, and, until adoption of its Compact of Free Association, Palau.

"(b) MINIMUM NUMBER OF CHILDREN TO QUALIFY.—A local educational agency shall be eligible for a basic grant for a fiscal year under this subpart only if the number of children counted under subsection (c) in the school district of such local educational agency is at least 10.

"(c) CHILDREN TO BE COUNTED.—

"(1) CATEGORIES OF CHILDREN.—The number of children to be counted for purposes of this section is the aggregate of—

"(A) the number of children aged 5 to 17, inclusive, in the school district of the local educational agency from families below the poverty level as determined under paragraph (2)(A),

"(B) the number of children aged 5 to 17, inclusive, in the school district of such agency from families above the poverty level as determined under paragraph (2)(B), and

"(C) the number of children aged 5 to 17, inclusive, in the school district of such agency living in institutions for neglected or delinquent children (other than such institutions operated by the United States) but not counted pursuant to subpart 3 of part D for the purposes of a grant to a State agency, or being supported in foster homes with public funds.

"(2) DETERMINATION OF NUMBER OF CHILDREN.—

"(A) For the purposes of this section, the Secretary shall determine the number of children aged 5 to 17, inclusive, from families below the poverty level on the basis of the most recent satisfactory data available from the Department of Commerce for local educational agencies (as produced and published under section 181a of title 13, United States Code). If, and only if, there are portions of any of the States for which the Department of Commerce has not prepared data on the number of children, aged 5–17, from families below the poverty level for local educational agencies, then the Secretary shall use such data compiled for counties in those portions of the States, treating the counties as if they were local educational agencies. The District of Columbia and the Commonwealth of Puerto Rico shall be treated as individual local educational agencies. If a local educational agency contains two or more counties in their entirety, then each county will be treated as if it were a separate local educational agency for purposes of calculating grants under this part. The total of grants for such counties shall be allocated to such a local educational agency, which shall distribute to schools in each county within it a share of the local educational agency's total grant that is no less than the county's share of the population counts used to calculate the local educational agency's grant. If the Department of Commerce has updated data on the number of children, aged 5–17, from families below the poverty level for local educational agencies, then the Secretary shall use the updated data. In determining the families which are below the poverty level, the Secretary shall utilize the criteria of poverty used by the Bureau of the Census in compiling the most recent decennial census, in such form as those criteria have been updated by increases in the Consumer Price Index for all urban consumers, published by the Bureau of Labor Statistics.

"(B) For purposes of this section, the Secretary shall determine the number of children aged 5 to 17, inclusive, from families above the poverty level on the basis of the number of such children from families receiving an annual income, in excess of the current criteria of poverty, from payments under the program of aid to families with dependent children under a State plan approved under title IV of the Social Security Act; and in making such determinations the Secretary shall utilize the criteria of poverty used by the Bureau of the Census in compiling the most recent decennial census for a family of 4 in such form as those criteria have been updated by increases in the Consumer Price Index for all urban consumers, published by the Bureau of Labor Statistics. The Secretary shall determine the number of such children and the number of children of such ages living in institutions for neglected or delinquent children, or being supported in foster homes with public funds, on the basis of the caseload data for the month of October of the preceding fiscal year (using, in the case of children described in the preceding sentence, the criteria of poverty and the form of such criteria required by such sentence which were determined for the calendar year preceding such month of October) or, to the extent that such data are not available to the Secretary before January of the calendar year in which the Secretary's determination is made, then on the basis of the most recent reliable data available to the Secretary at the time of such determination. The Secretary of Health and Human Services shall collect and transmit the information required by this subparagraph to the Secretary not later than January 1 of each year.

"(C) When requested by the Secretary, the Secretary of Commerce shall make a special

updated estimate of the number of children of such ages who are from families below the poverty level (as determined under subparagraph (A) of this paragraph) in each school district, and the Secretary is authorized to pay (either in advance or by way of reimbursement) the Secretary of Commerce the cost of making this special estimate. The Secretary of Commerce shall give consideration to any request of the chief executive of a State for the collection of additional census information. For purposes of this section, the Secretary shall consider all children who are in correctional institutions to be living in institutions for delinquent children.

"(d) STATE MINIMUM.—

"(1) The aggregate amount allotted for all local educational agencies within a State may not be less than one-quarter of 1 percent of the total amount available for such fiscal year under this section.

"(2)(A) No State shall, by reason of the application of the provisions of paragraph (1) of this subsection, be allotted more than—

"(i) 150 percent of the amount that the State received in the fiscal year preceding the fiscal year for which the determination is made, or

"(ii) the amount calculated under subparagraph (B),whichever is less.

"(B) For the purpose of subparagraph (A)(ii), the amount for each State equals—

"(i) the number of children in such State counted under subsection (c) in the fiscal year specified in subparagraph (A),multiplied by

"(ii) 150 percent of the national average per pupil payment made with funds available under this section for that year.

"SEC. 1124A. CONCENTRATION GRANTS TO LOCAL EDUCATIONAL AGENCIES

"(a) ELIGIBILITY FOR AND AMOUNT OF GRANTS.—

"(1)(A) Except as otherwise provided in this paragraph, each local educational agency, in a State other than Guam, American Samoa, the Virgin Islands, the Northern Mariana Islands, and Palau, which is eligible for a grant under this part for any fiscal year shall be entitled to an additional grant under this section for that fiscal year if—

"(i) the number of children counted under section 1123(c) of this part in the local educational agency for the preceding fiscal year exceeds 6,500, or

"(ii) the number of children counted under section 1123(c) exceeds 15 percent of the total number of children aged five to seventeen, inclusive, in the local educational agency in that fiscal year.

"(B) Except as provided in subparagraph (C), no State described in subparagraph (A) shall receive less than—

"(i) one-quarter of 1 percent of the sums appropriated under subsection (c) of this section for such fiscal year; or

"(ii) $250,000, whichever is higher.

"(C) No State shall, by reason of the application of the provisions of subparagraph (B)(i) of this paragraph, be allotted more than—

"(i) 150 percent of the amount that the State received in the fiscal year preceding the fiscal year for which the determination is made, or

"(ii) the amount calculated under subparagraph (D),whichever is less.

"(D) For the purpose of subparagraph (C), the amount for each State equals—

"(i) the number of children in such State counted for purposes of this section in the fiscal year specified in subparagraph (B),multiplied by

"(ii) 150 percent of the national average per pupil payment made with funds available under this section for that year.

"(2) For each local educational agency eligible to receive an additional grant under this section for any fiscal year the Secretary shall determine the product of—

"(A) the greater of—

"(i) the number of children in excess of 6,500 counted under section 1123(c) for the preceding fiscal year, in a local educational agency which qualifies on the basis of subparagraph (A)(i) of paragraph (1); or

"(ii) the number of children counted under section 1123(c) for the preceding fiscal year in a local educational agency which qualifies on the basis of subparagraph (A)(ii) of paragraph (1); and

"(B) the quotient resulting from the division of the amount determined for those agencies under section 1123(a)(1) of this chapter for the fiscal year for which the determination is being made divided by the total number of children counted under section 1123(c) for that agency for the preceding fiscal year.

"(3) The amount of the additional grant to which an eligible local educational agency is entitled under this section for any fiscal year shall be an amount which bears the same ratio to the amount reserved under subsection (c) for that fiscal year as the product determined under paragraph (2) for such local educational agency for that fiscal year bears to the sum of such products for all local educational agencies in the United States for that fiscal year.

"(4) For the purposes of this section, the Secretary shall determine the number of children counted under section 1123(c) for any local educational agency, and the total number of children aged five to seventeen, inclusive, in local educational agencies, on the basis of the most recent satisfactory data available at the time the payment for such local educational agency is determined under section 1123.

"(5)(A) For each local educational agency serving an area with a total population of at least 20,000 persons, the grant under this section shall be the amount determined by the Secretary. For local educational agencies serving areas with total populations of fewer than 20,000 persons, the State education agency may either (i) distribute to such local educational agencies grants under this section equal to the amounts determined by the Secretary; or (ii) use an alternative method, approved by the Secretary, to distribute the share of the State's total grants under this section that is based on local educational agencies with total populations of fewer than 20,000 persons. Such an alternative method of distributing grants under this section among a State's local educational agencies serving areas with total populations of fewer than 20,000 persons shall be based upon population data that the State education agency determines best reflects the current distribution of children in poor families among the State's local educational agencies serving areas with total populations of fewer than 20,000 persons and meeting the eligibility criteria of paragraph (1)(A). If a local educational agency serving an area with total population of less than 20,000 persons is dissatisfied with the determination of its grant by the State education agency, then it may appeal this determination to the Secretary. The Secretary must respond to this appeal within 45 days of receipt. The Secretary shall consult with the Secretary of Commerce regarding whether available data on population for local educational agencies serving areas with total populations of fewer than 20,000 persons are sufficiently reliable to be used to determine final grants to such areas meeting the eligibility criteria of paragraph (1)(A).

"(B) If, and only if, there are portions of any of the States for which the Department of Commerce has not prepared data on the number of children, aged 5-17, from families below the poverty level for local educational agencies, then the Secretary shall use such data compiled for counties in those portions of the States, treating the counties as if they were local educational agencies. In such cases, subject to paragraph (3), the grant for any local educational agency in such an area of a State shall be determined on the basis of the aggregate amount of such grants for all such agencies in the county or counties in which the school district of the particular agency is located, which aggregate amount shall be equal to the aggregate amount determined under subparagraph (A) for such county or counties, and shall be allocated among those agencies upon such equitable basis as may be determined by the State educational agency in accordance with the basic criteria prescribed by the Secretary.

"(b) RESERVATION OF FUNDS.—Of the total amount of funds available for sections 1123 and 1123A, 10 percent of the amount appropriated for that fiscal year shall be available to carry out this section.

"(c) RATABLE REDUCTION RULE.—If the sums available under subsection (b) for any fiscal year for making payments under this section are not sufficient to pay in full the total amounts which all States are entitled to receive under subsection (a) for such fiscal year, the maximum amounts which all States are entitled to receive under subsection (a) for such fiscal year shall be ratably reduced. In case additional funds become available for making such payments for any fiscal year during which the preceding sentence is applicable, such reduced amounts shall be increased on the same basis as they were reduced.

"SEC. 1125. TARGETED GRANTS TO LOCAL EDUCATIONAL AGENCIES

"(a) ELIGIBILITY OF LOCAL EDUCATIONAL AGENCIES.—A local educational agency in a State is eligible to receive a targeted grant under this section for any fiscal year if the number of children in the local educational agency under subsection 1124(c), before application of the weighting factor, is at least 10.

"(b) GRANTS FOR LOCAL EDUCATIONAL AGENCIES, THE DISTRICT OF COLUMBIA, AND PUERTO RICO.—(1) The amount of the grant that a local educational agency in a State or that the District of Columbia is eligible to receive under this section for any fiscal year shall be the product of —

"(A) the number of children counted under subsection 1124(c); and

"(B) the amount in the second sentence of subparagraph 1124(a)(1)(A).

"(2) For each fiscal year, the amount of the grant for which the Commonwealth of Puerto Rico is eligible under this section shall be equal to the number of children counted under subsection 1124(c) for Puerto Rico, multiplied by the amount determined in subparagraph 1124(a)(1)(C).

"(c) CHILDREN TO BE COUNTED.—

"(1) CATEGORIES OF CHILDREN.—The number of children to be counted for purposes of this section shall be the number counted in subsection 1123(c) multiplied by the weighting factor for the local educational agency. The weighting factor shall be established on the basis of the percentage that the number of children counted under (i) through (iii),

above, represents of the total population aged 5-17 years in the local educational agency. Weighting factors shall be assigned according to the following scale: if the percentage is greater than 0 but less than or equal to 14.265, the weighting factor shall be 1.00; if the percentage is greater than 14.265 and less than or equal to 21.553, the weighting factor shall be 1.125; if the percentage is greater than 21.553 and less than or equal to 29.223, the weighting factor shall be 1.250; if the percentage is greater than 29.223 and less than or equal to 36.538, the weighting factor shall be 1.375; and if the percentage is greater than 36.538, the weighting factor shall be 1.500. For the Commonwealth of Puerto Rico, the weighting factor shall be no greater than 1.125.

"(d) LOCAL EDUCATIONAL AGENCY ALLOCATIONS.—For each local educational agency serving an area with a total population of at least 20,000 persons, the grant under this section shall be the amount determined by the Secretary. For local educational agencies serving areas with total populations of fewer than 20,000 persons, the State education agency may either (1) distribute to such local educational agencies grants under this section equal to the amounts determined by the Secretary; or (2) use an alternative method, approved by the Secretary, to distribute the share of the State's total grants under this section that is based on local educational agencies with total populations of fewer than 20,000 persons. Such an alternative method of distributing grants under this section among a State's local educational agencies serving areas with total populations of fewer than 20,000 persons shall be based upon population data that the State education agency determines best reflects the current distribution of children in poor families among the State's local educational agencies serving areas with total populations of fewer than 20,000 persons. If a local educational agency serving an area with total populations of less than 20,000 persons is dissatisfied with the determination of its grant by the State education agency, then it may appeal this determination to the Secretary. The Secretary must respond to this appeal within 45 days of receipt. If, and only if, there are portions of any of the States for which the Department of Commerce has not prepared data on the number of children, aged 5-17, from families below the poverty level for local educational agencies, then the Secretary shall use such data compiled for counties in those portions of the States, treating the counties as if they were local educational agencies. The Secretary shall consult with the Secretary of Commerce regarding whether available data on population for local educational agencies serving areas with total populationsof fewer than 20,000 persons are sufficiently reliable to be used to determine final grants to such areas.

"(e) STATE MINIMUM.—Notwithstanding any other provision of this section, from the total amount available for any fiscal year to carry out this section, each State shall be allotted at least the lesser of—

"(1) one quarter of one percent of such amount;

"(2) 150 percent of the national average grant under section 1125 per child described in section 1124(c), without application of a weighting factor, multiplied by the State's total number of children described in section 1124(c), without application of a weighting factor.

"SEC. 1126. SPECIAL ALLOCATION PROCEDURES

"(a) HOLD-HARMLESS AMOUNTS.—The total amount made available to each local educational agency under each of sections 1124 and 1125 for any fiscal year shall be at least 85 percent of the total amount such agency received under such sections (or, for fiscal year 1995, under their predecessor authorities) for the preceding fiscal year.

"(b) ALLOCATIONS FOR NEGLECTED OR DELINQUENT CHILDREN.—(1) If a State educational agency determines that a local educational agency in the State is unable or unwilling to provide for the special educational needs of children who are living in institutions for neglected or delinquent children as described in subparagraph 1124(c)(1)(C), the State educational agency shall, if it assumes responsibility for the special educational needs of such children, receive the portion of such local educational agency's allocation under sections 1124, 1124A, and 1125 that is attributable to such children.

"(2) If the State educational agency does not assume such responsibility, any other State or local public agency that does assume such responsibility shall receive that portion of the local educational agency's allocation.

"(c) ALLOCATIONS AMONG LOCAL EDUCATIONAL AGENCIES.—The State educational agency may allocate the amounts of grants under sections 1124, 1124A, and 1125 between and among the affected local educational agencies when—

"(1) two or more local educational agencies serve, in whole or in part, the same geographical area; or

"(2) a local educational agency provides free public education for children who reside in the school district of another local educational agency.

"(d) REALLOCATION.—If a State educational agency determines that the amount of a grant a local educational agency would receive under sections 1124, 1124A, and 1125 is more than such local agency will use, the State educational agency shall make the excess amount available to other local educational agencies in the State that need additional funds in accordance with criteria established by the State educational agency.

"SEC. 1127. CARRYOVER AND WAIVER

"(a) LIMITATION ON CARRYOVER.—Notwithstanding section 412 of the General Education Provisions Act or any other provision of law, not more than 15 percent of the funds allocated to a local educational agency for any fiscal year under this subpart (but not including funds received through any reallocation under this subpart) may remain available for obligation by such agency for one additional fiscal year.

"(b) WAIVER.—A State educational agency may, once every three years, waive the percentage limitation in subsection (a) if—

"(1) the agency determines that the request of a local educational agency is reasonable and necessary; or

"(2) supplemental appropriations for this subpart become available.

"(c) EXCLUSION.—The percentage limitation under subsection (a) shall not apply to any local educational agency that receives less than $50,000 under this subpart for any fiscal year.".

By Mr. QUILLEN:

—Page 694, after line 7, insert the following:

"(e) SCHOOL DISTRICT CONTAINING FOREST SERVICE LAND AND SERVING CERTAIN COUNTIES.—Beginning with fiscal year 1995, a school district shall be deemed to meet the requirements of subsection (a)(1)(C) if such school district meets the following requirements:

"(1) The school district contains between 50,000 and 55,000 acres of land that has been acquired by the Forest Service of the Department of Agriculture between 1915 and 1990, as demonstrated by written evidence from the Forest Service satisfactory to the Secretary.

"(2) The school district serves a county chartered by State law in 1875.

By Mr. SISISKY:

—At the end of the matter proposed to be inserted by the amendment, add the following new section:

"SEC. 8014. WAIVER OF REQUIREMENT TO TRANSFER DEFENSE FUNDS TO MAKE PAYMENTS UNDER SECTION 8004.

"The Secretary of Defense may waive the operation of any provision of law requiring the transfer to the Secretary of Education of funds to make impact aid payments associated with children connected with defense activities, as described in section 8004, and decline to make the transfer of funds otherwise required by that provision of law, if the Secretary of Defense determines that such a waiver is in the national security interest of the United States. In the event of such a waiver, the Secretary of Education shall use other funds available to the Secretary to make such payments.

—At the end of the matter to be inserted by the amendment, add the following new section:

"SEC. 8014. PROHIBITION ON TRANSFER OF DEFENSE FUNDS TO MAKE PAYMENTS UNDER SECTION 8004.

"Notwithstanding any other provision of law, amounts available to the Secretary of Defense shall not be transferred to the Secretary of Education to make impact aid payments associated with children connected with defense activities, as described in section 8004. The Secretary of Education shall use other funds available to the Secretary to make such payments.

—At the end of the matter proposed to be inserted by the amendment, add the following new section:

"SEC. 8014. PROHIBITION ON ACCEPTANCE OF DEFENSE FUNDS TO MAKE PAYMENTS UNDER SECTION 8004.

"Notwithstanding any other provision of law, the Secretary of Education may not accept the transfer of any funds from the Secretary of Defense for the purpose of making impact aid payments associated with children connected with defense activities, as described in section 8004. The Secretary of Education shall use other funds available to the Secretary to make such payments.

—At the end of the matter proposed to be inserted by the amendment, add the following new section:

"SEC. 8014. WAIVER OF REQUIREMENT TO TRANSFER DEFENSE FUNDS TO MAKE PAYMENTS UNDER SECTION 8004.

"The Secretary of Education may not accept the transfer of any funds from the Secretary of Defense for the purpose of making impact aid payments associated with children connected with defense activities, as described in section 8004, unless the Secretary of Education secures the written assurances of the Secretary of Defense that such transfer is in the national security interest of the United States. In the absence of such a written assurance, the Secretary of Education shall use other funds available to the Secretary to make such payments.

—At the end of the matter proposed to be inserted by the amendment, add the following new section:

"SEC. 8014. CONDITION ON ACCEPTANCE OF DEFENSE FUNDS TO MAKE PAYMENTS UNDER SECTION 8004.

"Notwithstanding any other provision of law, the Secretary of Education may not ac-

cept a transfer of funds in a fiscal year from the Secretary of Defense for the purpose of making impact aid payments associated with children connected with defense activities, as described in section 8004, unless such transfer is specifically authorized for that fiscal year in a law making annual authorizations of appropriations for the operation and maintenance of the Armed Forces for that fiscal year. In the absence of such a specific authorization for a fiscal year, the Secretary of Education shall use other funds available to the Secretary to make such payments.

—At the end of the matter proposed to be inserted by the amendment, add the following new section:

"SEC. 8014. CONDITION ON TRANSFER OF DEFENSE FUNDS TO MAKE PAYMENTS UNDER SECTION 8004.

"Notwithstanding any other provision of law, the Secretary of Defense may not transfer funds in a fiscal year to the Secretary of Education to make impact aid payments associated with children connected with defense activities, as described in section 8004, unless such transfer is specifically authorized for that fiscal year in a law making annual authorizations of appropriations for the operation and maintenance of the Armed Forces for that fiscal year. In the absence of such a specific authorization for a fiscal year, the Secretary of Education shall use other funds available to the Secretary to make such payments.

By Mr. WILLIAMS:

—Page 738, line 8, strike section 9104 and insert the following:

"Sec. 9104. For purposes of any competitive program under this Act, a consortia of schools operated by the Bureau of Indian Affairs, a school operated under a contract or grant with the Bureau of Indian Affairs in consortia with another contract or grant school or tribal or community organization, or a Bureau of Indian Affairs school in consortia with an Institution of Higher Education, a contract or grant school and tribal or community organization shall be given the same consideration as a local education agency. Such consortia shall apply through the Bureau of Indian Affairs which shall apply to the Department of Education on their behalf."

By Ms. WOOLSEY:

—Page 743, after line 20, insert the following:

"SEC. 9206. AVAILABILITY OF FLEXIBLE PROGRAM FUNDS.

"(a) FLEXIBLE PROGRAM FUNDS.—With approval of its State educational agency, a local educational agency that determines for any fiscal year that funds under a covered program other than part A of title I of this Act are not needed for the purpose of that covered program may use such funds, not to exceed five percent of the total amount of its funds under that covered program, for the purpose of another covered program.

"(b) COORDINATION OF SERVICES.—A local educational agency, individual school, or consortium of schools may use a total of up to 5 percent of the funds it receives under this Act for the establishment and implementation of a coordinated services project consistent with the requirements of Title X of this Act.".

—On page 763, after line 3, insert the following:

"TITLE X—COORDINATED SERVICES PROJECTS

"SEC. 10001. FINDINGS AND PURPOSE.

"(a) FINDINGS.—The Congress makes the following findings:

"(1) Growing numbers of children and youth are negatively affected by influences outside of the classroom which increase their risk of academic failure.

"(2) Factors such as poor nutrition, unsafe living conditions, physical and sexual abuse, family and gang violence, inadequate health care, unemployment, lack of child care and substance abuse adversely affect family relationships and the ability of a child to learn.

"(3) Parents and other caregivers in today's high pressure society often face demands which place restraints on their time and affect their ability to adequately provide for the needs of their families.

"(4) Access to health and social service programs can address the basic physical and emotional needs of children and youth so that they can fully participate in the learning experiences offered them in school.

"(5) Services for at-risk students need to be more convenient, less fragmented, regulated and duplicative in order to meet the needs of children and youth and their families.

"(6) School personnel, parents, and support service providers often lack knowledge of, and access to, available services for at-risk students and their families in the community, and have few resources to coordinate services and make them accessible.

"(7) Service providers, such as teachers, social workers, health care and child care providers, juvenile justice workers and others, are often trained in separate disciplines that provide little support for the coordination of services.

"(8) Coordination of services is more cost effective because it substitutes prevention for expensive crisis intervention.

"(9) Coordinating health and social services with education can help the Nation meet the National Education Goals by ensuring better outcomes for children.

"(b) PURPOSE OF COORDINATING SERVICES.—The purpose of this section is to provide elementary and secondary school students and their families better access to the social, health and education services necessary for students to succeed in school and for their families to take an active role in ensuring that children receive the best possible education.

"SEC. 10002. DEFINITIONS.

"(a) The term 'coordinated services project' refers to a comprehensive approach to meeting the educational, health, social service, and other needs of children and their families, including foster children and their foster families, through a communitywide partnership that links public and private agencies providing such services or access to such services through a coordination site at or near a school.

"(b) An 'eligible entity' is a local educational agency, individual school, or consortium of schools.

"SEC. 10003. PROJECT DEVELOPMENT AND IMPLEMENTATION.

"(a) PROJECT PLANS.—Eligible entities exercising their authority under section 9206(b) shall submit to the Secretary an application for planning or implementing a coordinated services project.

"(b) PROJECT DEVELOPMENT.—The application for the coordinated services project, which can last for up to one year, shall—

"(1) demonstrate that an assessment will be performed of the economic, social, and health barriers to educational achievement experienced by children and families, including foster children and their foster families, in the community, and the local, State, federal, and privately funded services available to meet such needs;

"(2) identify the measures that will be taken to establish a communitywide partner ship that links public and private agencies providing services to children and families; and

"(3) identify and other measures that will be taken to develop a comprehensive plan for the implementation of a coordinated services project or projects.

"(c) PROJECT IMPLEMENTATION.—Eligible entities shall submit to the Secretary a plan for the implementation or expansion of a coordinated services project. Such plan shall include—

"(1) the results of a children and families needs assessment, which will include an assessment of the needs of foster children;

"(2) the membership of the coordinated services project partnership;

"(3) a description of the proposed coordinated services project, its objectives, where it will be located, and the staff that will be used to carry out the purposes of the project;

"(4) a description of how the success of the coordinated services project will be evaluated;

"(5) a description of the training to be provided to teachers and appropriate personnel; and

"(6) information regarding whether or not a sliding scale fee for services will be employed, and if not, an explanation of why such a scale is not feasible.

"SEC. 10004. USES OF FUNDS

"(a) Funds utilized under the authority of section 9206(b) may be used for activities under this title which include—

"(1) hiring a services coordinator;

"(2) making minor renovations to existing buildings;

"(3) purchasing basic operating equipment;

"(4) improving communications and information-sharing between members of the coordinated services project partnership;

"(5) providing training to teachers and appropriate personnel concerning their role in a coordinated services project; and

"(6) conducting the needs assessment required in section 10003(b)(1).

"(b) Projects operating under the authority of this title shall comply with the requirements of Sec. 1121(b).

"SEC. 10005. CONTINUING AUTHORITY

"The Secretary shall not approve the plan of any project which fails to demonstrate that it is achieving effective coordination after 2 years of implementation.

"(a) AGENCY COORDINATION.—The Secretaries of Education, Health and Human Services, Labor, Housing and Urban Development, Treasury, and Agriculture, and the Attorney General shall review the programs administered by their agencies to identify barriers to service coordination.

"(b) REPORT TO CONGRESS.—Such Secretaries and the Attorney General shall submit jointly a report to the Congress not later than 2 years after the date of the enactment of the Improving America's Schools Act, based on the review required under paragraph (a) recommending legislative and regulatory action to address such barriers, and during this time, shall use waiver authorities authorized under this and other Acts.

SENATE—*Thursday, February 24, 1994*

(Legislative day of Tuesday, February 22, 1994)

The Senate met at 11 a.m., on the expiration of the recess, and was called to order by the Honorable RUSSELL D. FEINGOLD, a Senator from the State of Wisconsin.

PRAYER

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

Let us pray:

Jesus called them unto him, and said, "Ye know that the princes of the Gentiles exercise dominion over them, and they that are great exercise authority upon them. But it shall not be so among you: but whosoever will be great among you, let him be your minister; And whosoever will be chief among you, let him be your servant: Even as the Son of man came not to be ministered unto, but to minister, and to give his life a ransom for many."—Matthew 20:25–28.

Eternal God, Lord of Heaven and Earth, Ruler of the nations, we have learned in our contemporary culture that power begets power, that the powerful sometimes forget they are the servants of the people who elected them. In the words of former Senator John Stennis as he spoke to junior Senators, "Some who come here grow; others just swell."

Grant to Your servants in the Senate the relevance of the word from Jesus: "* * * whosoever will be chief among you, let him be your servant * * *." Save Your servants from preoccupation with power and infuse them with the full meaning of being a public servant.

In His name Who is the Servant of servants. Amen.

APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

The PRESIDING OFFICER. The clerk will please read a communication to the Senate from the President pro tempore [Mr. BYRD].

The legislative clerk read the following letter:

U.S. SENATE,
PRESIDENT PRO TEMPORE,
Washington, DC, February 24, 1994.

To the Senate:

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

ROBERT C. BYRD,
President pro tempore.

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

RESERVATION OF LEADER TIME

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

MORNING BUSINESS

The ACTING PRESIDENT pro tempore. Under the previous order, there will now be a period for the transaction of morning business, not to extend beyond the hour of 12 noon, with Senators permitted to speak for up to 10 minutes each.

The Chair, in his capacity as a Senator from Wisconsin, suggests the absence of a quorum.

The clerk will call the roll.

The legislative clerk proceeded to call the roll.

(Mrs. FEINSTEIN assumed the chair.)

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

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

FACES OF HEALTH CARE

Mr. FEINGOLD. Madam President, I rise to continue my floor statements on the need for long-term care reform as part of the health care reform effort.

I am proud to be part of an effort that we are making on the floor, those of us who support health care reform and universal health care, to portray in a very human way the faces of health care, the faces of those who often do not get health care.

As I have noted in earlier statements, establishing consumer-oriented and consumer-directed flexible benefits, as well as making fundamental reforms to the linkages between the long-term care and acute care systems, are absolutely necessary if we are to realize the goals of health care reform.

President Clinton's home- and community-based long-term care proposal goes further than any other in achieving this needed reform. It lays the groundwork for creating a system of community- and home-based flexible services that respond to individual consumer choice and preference.

Madam President, I am proud to note that much of the basis for the President's long-term care reform provisions flow from a program established in Wisconsin in the early 1980's—the Community Options Program, known as COP.

COP has been an enormous success by any measure. It has provided long-term care consumers with an alternative to institutional care by establishing a program of flexible benefits that are consumer-oriented and directed. It has saved State taxpayers hundreds of millions of dollars, and has been instrumental in actually lowering the number of Medicaid nursing home beds being used in the State at a time when the rest of the country was experiencing significant increases in Medicaid nursing home bed use.

President Clinton's long-term care reform proposal can achieve the same success for the entire country.

Madam President, more than any other group, advocates of long-term care reform like to tell stories and give examples. Part of this desire comes from the advocates themselves—people committed to helping others.

But it also stems from the need to emphasize the uniqueness of every long-term care situation, and to stress the need for a system that is flexible enough and consumer friendly enough to respond to those unique situations.

Recently I had the privilege of holding a field hearing of the Senate Special Committee on Aging in my home State of Wisconsin. The hearing was on the President's long-term care plan, and we invited a variety of people to testify.

Madam President, I want to talk today about two of the witnesses that appeared at the field hearing. Better than any list of statistics, the story of these two people demonstrates both the promise of and the need for long-term care reform.

First, let me tell you about a man named Robert Deist. Bob was left a quadriplegic as a result of a bullet wound at the age of 14. He has experienced just about every facet of the long-term care system. He was institutionalized at age 15 because there were no community services available to him or his family, and, at that time, his parents could not afford to quit their jobs and provide him care in their home.

Eventually, though, at great financial loss to her family, Bob's mother quit her job to take care of Bob at home.

Bob eventually went to college, got married, and is currently the director of two personal care programs at an independent living center in Wisconsin. He hopes to work until retirement age, but his wife is his only caregiver.

Even though both Bob and his wife work, they cannot afford to pay for a personal care attendant to come to

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

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their home and assist Bob with his care needs. And because he works, Bob is not eligible for government funding to pay for his daily care needs.

As Bob noted, in his testimony to our committee, his wife provides his care 7 days a week, 52 weeks a year, every year, whether she is ill or injured. If she were not able to provide Bob's personal care needs for some reason, even for just a few weeks, their savings would be gone and they would probably lose their home.

Bob and his wife live at the edge every single day of their lives.

As I mentioned earlier, Bob is the director of two personal care programs. One of those programs serves long-term care consumers who use Wisconsin's Community Options Program. So even though Bob actually runs a program that uses COP funds, Bob himself is unable to get on the program because it has a long waiting list. There are a lot of people that need these services. Because of the huge demand for services, he is unlikely to become eligible for years.

With President Clinton's long-term care proposal in place, Bob would be eligible for services almost immediately. The very real threat to Bob and his wife of imminent financial disaster would begin to ultimately disappear, and he could begin to utilize the kinds of flexible services available through the very program he runs.

Another long-term care consumer, Jettie Jones of Milwaukee also testified before our committee. Her husband Launcelot has been a COP recipient for 4 years.

Launcelot has been an active community advocate on behalf of seniors for some time. Retired from the Department of Housing and Urban Development, he is now in frail health, having heart trouble, is visually and physically impaired, and is a borderline diabetic. Jettie is not able to provide all the care Launcelot needs.

Launcelot was a classic candidate for a nursing home.

But because of the Community Options Program in Wisconsin, Launcelot and Jettie have been able to remain together. As Jettie said, COP has enabled them to maintain our dignity and our love and relationship as a family unit.

COP provides Launcelot adult day care at Village Church in Milwaukee, where he receives meals and socializes with others. COP also provides transportation to and from the day care as well as transportation to and from the doctor.

COP provides a personal care attendant who comes to the Jones home 4 hours per week, and a homemaker who helps Jettie maintain the home.

Jettie and Launcelot Jones are an example of what can be achieved with a flexible, consumer oriented long-term care program. Without COP, Launcelot and Jettie would not be able to live together.

Madam President, thousands of elderly couples like the Joneses are forced to separate and impoverish themselves in order to get needed long-term care services in the only setting available to them—a nursing home.

Thousands of disabled consumers who could live and work productively in a home or community setting are forced to live out their days without that opportunity.

And thousands more like Bob Deist, who is able to live and work in the community only while his wife is able to provide him care, live with the daily threat that the least disturbance or misfortune could bankrupt them in days or weeks.

In some of the most eloquent testimony I have heard on long-term care, Chuck McGlaughlin, a county long-term care administrator, testified at our hearing that prior to the Community Options Program, elderly and disabled people had few choices. Unless they were wealthy enough and had a sufficient natural support system to remain in their home, they had no alternative but to enter a nursing home.

McGlaughlin noted that these people were torn from familiar places and familiar people, an lost the continuity of their lives. While some eventually adjusted to leaving their homes and communities, others never did.

And some he saw simply willed their own death because they saw no reason to continue living.

In contrast to the grim lack of choice for the elderly and disabled, McGlaughlin recalled thinking that when he went to the grocery store, there was an incredible choice available to consumers, even an entire aisle for various types of pet food.

It seemed a sad reality to McGlaughlin that society has been doing a much better job at providing meal diversity to cats and dogs than they were doing at offering choices to humans facing frailty.

Madam President, I can and have made arguments on this floor about the need for long-term care as a part of health care reform as a way to control costs, as a way to ensure that our acute care reforms can work, and as a guarantee that we can realize the goal of a reduced Federal budget deficit. And I believe all of that is the case.

But, Madam President, to me the most persuasive argument for long-term care reform is a human one.

We must provide our seniors and others with mental and physical disabilities with real choice. They are entitled to the opportunity to continue to live and contribute in the homes and communities they have helped build and sustain.

Madam President, to conclude, I am very glad to have the opportunity to join with other Senators in trying to show the faces of health care and, in particular, that many of those faces are ones who need long-term care.

I yield the floor.

Madam President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The absence of a quorum has been suggested. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

Mrs. FEINSTEIN. Mr. President, I ask unanimous consent that I be recognized to speak in morning business.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered. The Senator from California is recognized to speak for up to 20 minutes.

Mrs. FEINSTEIN. Thank you very much, Mr. President. I would like to speak this morning on two subjects. The first involves a piece of legislation I would like to introduce and the second an update on legislation which the Senate passed and is now before the House.

(The remarks of Mrs. FEINSTEIN, Ms. MOSELEY-BRAUN, and Mr. SIMON pertaining to the introduction of S. 1864 are located in today's RECORD under "Statements on Introduced Bills and Joint Resolutions.")

A PERIODIC UPDATE ON MILITARY-STYLE ASSAULT WEAPONS

Mrs. FEINSTEIN. Mr. President, last November the U.S. Senate considered and passed legislation to ban the sale, possession, and future manufacture of 19 semiautomatic assault weapons and their copycat versions. In addition, the legislation would ban ammunition devices that hold more than 10 rounds and specifically protect more than 670 guns used only for hunting and recreational purposes.

It made me proud to serve in the U.S. Senate when this body approved the amendment by a vote of 56 to 43. We did the right thing.

However, the House has not yet acted on the crime bill or on legislation to ban military-style assault weapons from the streets of America.

Beginning today, I would like to take the opportunity to periodically update the Senate on crimes that are being perpetrated on the streets of America with the very weapons that the Senate's legislation aims to stop. Some people feel that semiautomatic assault weapons are not really responsible for much crime in America. In fact, that picture is changing. So just as others comment regularly on issues of their concern, I am going to comment regularly on crimes taking place that are perpetrated with semiautomatic assault weapons, and on the people bearing those weapons of war.

The Atlanta Constitution found in a 1989 study that, although assault weapons make up only 2 to 3 percent of all guns owned by Americans, they show up in 30 percent of all firearms traced to organized crime, gun trafficking, and terrorism.

More recent statistics show that the number of assault weapons traced to all kinds of gun crime is also disproportionately large.

According to the Bureau of Alcohol, Tobacco and Firearms:

Of the 55,665 crime guns traced by ATF in 1993, 5,397—roughly 10 percent—were assault weapons.

The most popular: the AK-47, the Intratec TEC-9, the Colt AR-15, and the MAC SM10, SM11, and M11.

As uncommitted House Members continue to ponder this issue, the staccato of assault weapon gunfire continues to be heard across America—shattering bodies and families from California to New Hampshire by way of Texas, Louisiana, Minnesota, Georgia, and New York.

Mr. President, let me describe just a few incidents from just the last 4 months, and ask unanimous consent that a table of these and other incidents be printed in the RECORD immediately following my remarks.

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

(See exhibit 1).

On October 25 in Indianapolis, IN, a 16-year-old girl was killed, and a 7-year-old boy was shot in his apartment, after more than 50 rounds of AK-47 gunfire ripped through a housing project in a retaliatory gang shooting.

On October 30 in El Cajon, CA, a child-hating sniper used a Colt AR-15 to kill a woman, a 9-year-old child, and wound five others in a parking lot;

On November 1 in Newbury, NH, a man with a grudge and a replica of a Tommy gun murdered two people and wounded a third in an attack on a tax collector's office.

That same day in Houston, TX, a teenage boy was slain by an AK-47 at a Halloween party by rival gang members.

On November 23 in New Orleans, a jealous husband used an AK-47 and a MAC-11 to kill four: twin 4-month-old girls sleeping in their cribs, if you can believe it, their 8-year-old sister, and their mother. He also wounded their 10-year-old brother before committing suicide.

On December 17 in Hugo, OK, a grievance killer with a MAK-90 assault rifle, purchased in a pawn shop, opened fire on holiday shoppers in a Wal-Mart parking lot, killing two and wounding three others. And it goes on.

On December 30 in Dekalb County, GA, a grandmother was shot twice in the abdomen by her 13-year-old stepgranddaughter wielding a MAC-11, hidden by the girl under her grandmother's bed for that purpose.

On January 17 in St. Paul, MN, a 17-year-old used an AK-47 to shoot and kill another teenager in a dispute over a stolen stereo.

I hope that it is not lost that the military style assault weapon is becoming the gun of choice for children.

On January 29 in Buffalo, NY, a 16-year-old and his 14-year-old accomplice carjacked a vehicle, persuading the driver to hand over the keys with an AK-47.

On January 31 in Seattle, WA, a teacher was shot in the back and killed by a former student armed with an AR-15 on school grounds.

On February 7, just a few weeks ago, in Minneapolis, MN, a fugitive from a Detroit murder investigation was apprehended with a small arsenal of assault weapons, including a Colt AR-15.

Just last week, on February 14 in the community of Rancho Palos Verdes, a masked gunman wearing a bullet proof vest burst unannounced into a hotel meeting room where a police management seminar was taking place.

Before being subdued by other policemen, the gunman fired several times with a semiautomatic handgun. This was just a semiautomatic handgun. He killed two police officers—Captain Michael Tracy, 50, and Sergeant Vernon Thomas Vanderpool, 57. But then what did the police find?

Police recovered an Uzi carbine assault rifle from the gunman's car—and found a Colt AR-15 assault rifle that had been illegally converted to fully automatic mode in the gunman's home. Imagine the mass destruction that would have occurred had the gunman used either of these assault weapons in that small conference room.

And just 2 days ago, in an early morning ambush, assault weapons took yet another life.

This time it was a 45-year-old mother of two.

She was the oldest rookie in her class at the Los Angeles Police Academy. Her father was a retired detective. And recently, Christy Lynn Hamilton's classmates in the Los Angeles Police Academy voted her the most inspirational new officer in one of the largest police departments of this Nation—an honor named after the only policewoman, up to then, to have died in the line of duty. Tragically, on Tuesday, 4 days after graduating from the police academy, Hamilton became the second woman in LAPD history to give her life on the job.

She was shot and killed Tuesday morning with a semiautomatic military-style assault weapon when she was one of the first officers to respond to a call from a woman in Northridge—just where the earthquake took place—who reported that a family member had a gun.

The 17-year-old gunman—again, 17-year-old—had already killed his father, who had simply asked him to turn down his stereo. Armed with a Colt AR-15 semiautomatic assault rifle, he ambushed the police officers when they arrived at his home and opened fire at 1:20 in the morning.

Officer Hamilton had come prepared and well trained. She wore a bulletproof vest. She crouched behind her police car's door, as she had been trained to do. The bullet that killed her, however, tore through the car door, passed through her arm, skirted the armhole of her vest, and lodged in her chest. She was pronounced dead at Northridge Hospital an hour later.

This is a clear example of how police all across this Nation are simply being outgunned by grievance killers, drive-by shooters, and assassins.

Let me briefly describe the Colt AR-15 that killed officer Christy Hamilton. It is a semiautomatic copy of the M-16, which has served as the standard rifle of the U.S. Armed Forces and many other countries' armies around the world. Several million automatic, and several hundred thousand semiautomatic, copies of this gun have been produced over the last 30 years. At least one version has a collapsible stock that facilitates concealability.

Now I ask you, should this weapon, the civilian model of a military gun designed and used to kill large numbers of people in close combat, be available legally over the counter, as it is in many States across the Nation? I believe that the answer is clearly "No," and that it is time to stop the flow of these weapons to the streets of America once and for all.

I know that every Member of this Senate extends their deepest sympathy to the family, friends, and coworkers of Christy Hamilton. It is true, the most dangerous job in the world today is being a police officer in a major city. In fact, the Los Angeles metropolitan area has lost eight police officers in just the last year, alone—all killed in the line of duty.

Officer Hamilton's murder, and the dozen other recent assault weapon incidents that I described earlier, make one thing very clear.

Nobody should say that semiautomatic assault weapons are not killing people. Nobody should say that these guns are not increasingly being used by young people throughout this Nation. And nobody should say that these guns do not figure in crime in America, because they do.

Mr. President, I am hopeful that—like the Senate—the House of Representatives will pass legislation to stop the future manufacture of assault weapons. The President has said that he fully supports such a measure and will sign one. I believe that Congress owes it to Officer Christy Hamilton, every other victim of an assault weapon, and to the American public who overwhelmingly support such a bill, to give the President that opportunity.

I thank you, Mr. President, and I yield the floor.

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

ASSAULT WEAPON INCIDENTS

[Partial Listing]

Date	Location	Gun(s)	Incident
Oct. 25, 1993	Indianapolis, IN	AK–47	Retaliatory gang shooting 50-shot fusillade kills teen and wounds 7 year-old watching TV at home.
Oct. 26, 1993	Waterbury, CT	TEC–9	Botched drive-by shooting leads to 10 mile high-speed police chase.
Oct. 30, 1993	El Cajon, CA	AR–15	"Child-hating" sniper kills woman and 9 year-old child in parking lot; wounds 5 others.
Nov. 1, 1993	Newbury, NH	1927A–1	Grievance killer slays 2 and wounds a third in attack on tax collector's office with "Tommy" gun replica.
Nov. 1, 1993	Houston, TX	AK–47	Teenage boy killed at Halloween party by rival gang members.
Nov. 23, 1993	New Orleans, LA	AK–47, MAC–11	Jealous husband kills 4 month-old twin girls in crib, 8 year-old sister, and their mother before wounding children's 10 year-old brother in the head and committing suicide.
Dec. 17, 1993	Hugo, OK	MAK–90	Two killed and 3 wounded in Wal-Mart parking lot attack with AK–47 rifle variation.
Dec. 30, 1993	Dekalb County, GA	MAC–11	A 13 year-old girl intentionally wounds her step-grandmother with two shots to the abdomen.
Jan. 23, 1994	St. Paul, MN	AK–47	17 year-old kills another teen in dispute over stolen stereo.
Jan. 29, 1994	Buffalo, NY	AK–47	A 16 year-old and his 14 year-old accomplice commit carjacking.
Jan. 31, 1994	Seattle, WA	AR–15	Teacher killed in early morning ambush on middle school grounds.
Feb. 7, 1994	Minneapolis, MN	AR–15	Fugitive from Detroit murder investigation apprehended with small arsenal.
Feb. 14, 1994	Torrance, CA	Uzi, AR–15	Car and home of masked killer of 2 police officers at motivational seminar yield, respectively, Uzi carbine and AR–15 illegally modified to fire as fully-automatic machine gun.
Feb. 22, 1994	Los Angeles, CA	AR–15	Drug-abusing 17 year-old kills LAPD rookie in 4th day on job, and his father, with gun from father's collection; fatal bullet passed through police car door and part of officer's "bullet-proof" vest; officers from three cars pinned down by hail of bullets.

REFORM OF THE SOCIAL SECURITY DISABILITY PROGRAM

Mr. COHEN. Mr. President, yesterday, I, along with Senators DOLE, KASSEBAUM, DOMENICI, THURMOND, KOHL, LUGAR, CHAFEE, WARNER, GRASSLEY, STEVENS, and BENNETT, introduced legislation to stop the flow of millions of Federal dollars into the hands of illegal drug users, many of whom are simply using the money to turn around and buy either more drugs or alcohol.

It is our intent to reform the Supplemental Security Income and Social Security Disability Program so as to encourage the actual treatment of those who are addicted to either alcohol or drugs, to get tough on those who manipulate the system, and to send a very strong message that the Federal Government no longer is going to be handing out checks to drug dealers, addicts, and others who are not seriously dedicated to helping themselves through the path of rehabilitation.

To explain the dimensions of the problem, currently, under Supplemental Security Income—or SSI—and our Social Security disability systems, there are roughly 250,000 known addicts and alcoholics. Of those 250,000, only 78,000 are required to seek treatment for rehabilitation from their particular addiction.

Of those 78,000, only approximately 9 percent are known by the Social Security Administration to be receiving treatment. So, in essence, out of the 250,000, only about 3 percent are known to be seeking treatment for their particular addiction.

The word on the street is that the Social Security disability programs are an easy source of cash for drugs and alcohol and that once the Government checks start to flow, the Government rarely, if ever, checks up to see if the addict is going to treatment or to be sure that the benefits are not being used to buy more drugs. This, in essence, means that out of the $1.4 billion in benefits going to addicts and alcoholics, $1.1 billion is being paid without any supervision or monitoring on the part of the Federal Government.

What is clear is that tax dollars are being used to support illegal drug habits. I will give you one example.

Earlier this month, a drug bust took place in Williamsport, PA. It netted at least 28 packets of cocaine with a cutting agent for mixing cocaine, along with direct deposit receipts from Social Security disability checks. According to the local district attorney, two of the three suspects allegedly had been receiving Social Security benefits for their drug addictions but were not in any treatment program.

We also found, after a year-long investigation, conducted by the minority staff of the Senate Aging Committee, that in some cases, over $20,000 is being paid in lump-sum benefits to drug addicts and alcoholics. Many of these recipients are taking that $20,000 check and spending the money on drugs and alcohol, resulting in very dangerous consequences, including even death, to the claimants. Even when the benefits are paid to a third party, the money often finds its way back into the hands of the addicts or into a local bar or drug house.

I will give you another rather outrageous example, Mr. President. A liquor store owner in Denver was selected by the Social Security Administration to serve as a "responsible representative payee" for 40 alcoholics. He received $160,000 a year from the Government to, in essence, run a tab for them. Under the Social Security Supplemental Income Program, those individuals who are addicted are required, number one, to seek treatment, and they are also required to have a representative payee. In this particular case, and quite a few others, the representative payees are either drug addicts themselves, or bartenders who are running tabs of $160,000 a year.

Something is wrong with the system because the message is, right now: Show us that you are a hardcore drug addict and the Government is going to pay you, and as long as you continue to either shoot up or drink up, the money is going to keep coming. Then, even if you tell us you are breaking the law to get your drugs, we are going to pay you. And finally, once we start the checks, they will probably never stop coming.

One of the other most graphic cases of abuse that I can point to is that some of the addicts are, in fact, engaged in the sale of drugs in order to continue to feed their habit. For example, as I indicated when I offered an amendment to the emergency supplemental appropriations bill just about 10 days ago, the ninth circuit recently ruled that a drug dealer was entitled to receive SSI benefits because his drug dealing was not "substantial gainful activity." Under current SSA rules, an applicant is not eligible for benefits if he or she engages in substantial gainful activity.

The Ninth Circuit Court of Appeals found the drug dealer eligible for benefits—which could have amounted to a $19,500 lump sum payment plus monthly benefits.

The court reasoned that because he really only worked at dealing drugs for about 20 minutes a day, he was not engaged in substantial gainful activity. In other words, because it took only 20 minutes and he was not initiating the deals, but they were coming in to him, no heavy lifting was involved. Therefore, that individual was allowed to continue to receive disability insurance payments for his addiction at a time when he admittedly was engaged in the sale of illegal drugs. Something is wrong with this system.

Far from proposing reform, which is considered to be heartless, what we want to do is reform the system to help those who are in fact addicted, get the treatment they need and deserve and stop feeding a system whereby the money is simply going into a bottle or into a needle.

Psychiatrists and drug abuse counselors have told us that the laxity in the current system violates the basic rules of drug and alcohol treatment:

Never give cash to an addict. It is like giving him or her a key to the medicine cabinet.

Let me point to a chart, Mr. President. This chart shows the dramatic increase in those who are now going on to the rolls for addiction. From 1989 to 1990, we saw 22,634 new addicts added to the rolls, another 29,429 in 1990, another 38,686 in 1991, and another 58,045 in 1992. We have seen a 150 percent increase in the number of addicts going on the rolls just in the last 4 years, and yet most are not receiving the treatment that is required.

What we seek to do in this legislation is to stop the cash from flowing into the pockets of drug dealers and into the veins of drug addicts. Specifically, the bill would do the following. It would require that any individual who received disability benefits must undergo appropriate treatment for substance abuse if it is available. It sets up a strict disability review process for those whose disability is based on substance abuse. It requires representative payees for substance abuse recipients to be Government agencies or other nonprofit agencies or facilities that will not be subject to coercion or manipulation by the substance abusers. It requires that lump sum benefits payable to abusers on SSI or SSDI be paid to a representative payee—again, a Government or nonprofit agency. It requires the establishment of an agency to monitor treatment in each State, and it requires that any proceeds derived from criminal activity to support substance abuse shall be considered to be substantial gainful activity.

Mr. President, the amendment that I offered 10 days ago to the emergency supplemental was accepted by unanimous vote. It was dropped in the House-Senate conference. Apparently, the House conferees wanted the opportunity to take up legislation of their own in a more comprehensive fashion. In the meantime, millions of dollars continue to flow to drug abusers and alcoholics who are not getting treatment. We would put a stop to that.

It toughens penalties for fraudulent statements or misrepresentations made by applicants or recipients to obtain SSI or disability insurance benefits and by others who assist in such fraudulent activities. The Secretary of Health and Human Services is also given authority to exclude from all HHS programs anyone who defrauds the disability system.

Mr. President, far from abandoning substance abusers, this proposal stresses treatment and rehabilitation, and it closes the loopholes in the system that now invite abuse. Right now, the program is failing both taxpayers and substance abusers. We need to protect both.

Mr. President, I cannot urge my colleagues enough to focus on this problem. It seems to me that we are absolutely doing a disservice to the people who are addicted and to the taxpayers who are helping to support them. This legislation would apply to SSDI as well as SSI disability programs because, Mr. President, we are told the disability insurance fund will run dry next year. It will then have to turn to the Social Security Retirement Trust Fund to be replenished. If we are going to do that, we have to assure the American taxpayers that their money is being spent for the purpose for which it is intended—rehabilitation and treatment—and not more booze and not more drugs.

I thank the Chair and request unanimous consent that the text of the bill be included at the conclusion of my remarks.

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

S. 1863

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 "Social Security Disability and Rehabilitation Act of 1994".

SEC. 2. REFORM OF MONTHLY INSURANCE BENEFITS BASED ON DISABILITY INVOLVING SUBSTANCE ABUSE.

(a) SOCIAL SECURITY DISABILITY INSURANCE.—

(1) IN GENERAL.—Section 223 of the Social Security Act (42 U.S.C. 423) is amended by adding at the end the following new subsection:

"Limitation on Payment of Benefits by Reason of Substance Abuse

"(j)(1)(A) Notwithstanding any other provision of this title, no individual whose disability is based in whole or in part on a medical determination that the individual is a drug addict or alcoholic shall be entitled to benefits under this title based on such disability with respect to any month, unless such individual—

"(i) is undergoing, or on a waiting list for, any medical or psychological treatment that may be appropriate for such individual's condition as a drug addict or alcoholic (as the case may be) and for the stage of such individual's rehabilitation at an institution or facility approved for purposes of this paragraph by the Secretary (so long as access to such treatment is reasonably available, as determined by the Secretary), and

"(ii) demonstrates in such manner as the Secretary requires, including at a continuing disability review not later than one year after such determination, that such individual is complying with the terms, conditions, and requirements of such treatment and with the requirements imposed by the Secretary under subparagraph (B).

"(B) The Secretary shall provide for the monitoring and testing of all individuals who are receiving benefits under this title and who as a condition of such benefits are required to be undergoing treatment and complying with the terms, conditions, and requirements thereof as described in subparagraph (A), in order to assure such compliance and to determine the extent to which the imposition of such requirements is contributing to the achievement of the purposes of this title. The Secretary may retain jurisdiction in the case of a hearing before the Secretary under this title to the extent the Secretary determines necessary to carry out the preceding sentence. The Secretary shall annually submit to the Congress a full and complete report on the Secretary's activities under this paragraph.

"(C) The representative payee and the referral and monitoring agency for any individual described in subparagraph (A) shall report to the Secretary any noncompliance with the terms, conditions, and requirements of the treatment described in subparagraph (A) and with the requirements imposed by the Secretary under subparagraph (B).

"(D)(i) If the Secretary finds that an individual is not complying with the terms, conditions, and requirements of the treatment described in subparagraph (A), or with the requirements imposed by the Secretary under subparagraph (B), or both, the Secretary, in lieu of termination, may suspend such individual's benefits under this title until compliance has been reestablished, including compliance with any additional requirements determined to be necessary by the Secretary.

"(ii) Any period of suspension under clause (i) shall be taken into account in determining any 24-month period described in subparagraph (E) and shall not be taken into account in determining the 36-month period described in such subparagraph.

"(E)(i) Except as provided in clause (ii), no individual described in subparagraph (A) shall be entitled to benefits under this title for any month following the 24-month period beginning with the determination of the disability described in such subparagraph.

"(ii) If at the end of the 24-month period described in clause (i), the individual furnishes evidence in accordance with subsection (d)(5) that the individual continues to be under a disability based in whole or in part on a medical determination that the individual is a drug addict or alcoholic, such individual shall continue to be entitled to benefits under this title based on such disability.

"(iii) Subject to clause (iv), if such an individual continues to be entitled to such benefits for an additional 24-month period following a determination under clause (ii), clauses (i) and (ii) shall apply with regard to any further entitlement to such benefits following the end of such additional period.

"(iv) In no event shall such an individual be entitled to benefits under this title for more than a total of 36 months, unless upon the termination of the 36th month such individual furnishes evidence in accordance with subsection (d)(5) that the individual is under a disability which is not related in part to a medical determination that the individual is a drug addict or alcoholic.

"(2)(A) Any benefits under this title payable to any individual referred to in paragraph (1), including any benefits payable in a lump sum amount, shall be payable only pursuant to a certification of such payment to a qualified organization acting as a representative payee of such individual pursuant to section 205(j).

"(B) For purposes of subparagraph (A) and section 205(j)(4), the term 'qualified organization'—

"(i) shall have the meaning given such term by section 205(j)(4)(B), and

"(ii) shall mean an agency or instrumentality of a State or a political subdivision of a State.

"(3) Monthly insurance benefits under this title which would be payable to any individual (other than the disabled individual to whom benefits are not payable by reason of

this subsection) on the basis of the wages and self-employment income of such a disabled individual but for the provisions of paragraph (1), shall be payable as though such disabled individual were receiving such benefits which are not payable under this subsection."

(2) CONFORMING AMENDMENTS.—

(A) Section 205(j)(1) of such Act (42 U.S.C. 405(j)(1)) is amended by inserting ", or in the case of any individual referred to in section 223(j)(1)(A)" after "thereby".

(B) Section 205(j)(2)(D)(ii)(II) of such Act (42 U.S.C. 405(j)(2)(D)(ii)(II)) is amended by striking "legally incompetent or under the age of 15" and inserting "legally incompetent, under the age of 15, or a drug addict or alcoholic referred to in section 223(j)(1)(A)".

(b) SUPPLEMENTAL SECURITY INCOME.—Paragraph (3) of section 1611(e) of the Social Security Act (42 U.S.C. 1382(e)) is amended to read as follows:

"(3)(A)(i) No person who is an aged, blind, or disabled individual solely by reason of disability (as determined under section 1614(a)(3)) shall be an eligible individual or eligible spouse for purposes of this title with respect to any month if such individual's disability is based in whole or in part on a medical determination that the individual is a drug addict or alcoholic, unless such individual—

"(I) is undergoing, or on a waiting list for, any medical or psychological treatment that may be appropriate for such individual's condition as a drug addict or alcoholic (as the case may be) and for the stage of such individual's rehabilitation at an institution or facility approved for purposes of this paragraph by the Secretary (so long as access to such treatment is reasonably available, as determined by the Secretary), and

"(II) demonstrates in such manner as the Secretary requires, including at a continuing disability review not later than one year after such determination, that such individual is complying with the terms, conditions, and requirements of such treatment and with the requirements imposed by the Secretary under clause (ii).

"(ii) The Secretary shall provide for the monitoring and testing of all individuals who are receiving benefits under this title and who as a condition of such benefits are required to be undergoing treatment and complying with the terms, conditions, and requirements thereof as described in clause (i), in order to assure such compliance and to determine the extent to which the imposition of such requirements is contributing to the achievement of the purposes of this title. The Secretary may retain jurisdiction in the case of a hearing before the Secretary under this title to the extent the Secretary determines necessary to carry out the preceding sentence. The Secretary shall annually submit to the Congress a full and complete report on the Secretary's activities under this subparagraph.

"(iii) The representative payee and the referral and monitoring agency for any individual described in clause (i) shall report to the Secretary any noncompliance with the terms, conditions, and requirements of the treatment described in clause (i) and with the requirements imposed by the Secretary under clause (ii).

"(iv)(I) If the Secretary finds that an individual is not complying with the terms, conditions, and requirements of the treatment described in clause (i), or with the requirements imposed by the Secretary under clause (ii), or both, the Secretary, in lieu of termination, may suspend such individual's benefits under this title until compliance has been reestablished, including compliance with any additional requirements determined to be necessary by the Secretary.

"(II) Any period of suspension under subclause (I) shall be taken into account in determining any 24-month period described in clause (v) and shall not be taken into account in determining the 36-month period described in such clause.

"(v)(I) Except as provided in subclause (II), no individual described in clause (i) shall be entitled to benefits under this title for any month following the 24-month period beginning with the determination of the disability described in such clause.

"(II) If at the end of the 24-month period described in subclause (I), the individual furnishes evidence in accordance with section 223(d)(5) that the individual continues to be under a disability based in whole or in part on a medical determination that the individual is a drug addict or alcoholic, such individual shall be entitled to benefits under this title based on such disability.

"(III) Subject to subclause (IV), if such an individual continues to be entitled to such benefits for an additional 24-month period following a determination under subclause (II), subclauses (I) and (II) shall apply with regard to any further entitlement to such benefits following the end of such additional period.

"(IV) In no event shall such an individual be entitled to benefits under this title for more than a total of 36 months, unless upon the termination of the 36th month such individual furnishes evidence in accordance with section 223(d)(5) that the individual is under a disability which is not related in part to a medical determination that the individual is a drug addict or alcoholic.

"(B)(i) Any benefits under this title payable to any individual referred to in subparagraph (A), including any benefits payable in a lump sum amount, shall be payable only pursuant to a certification of such payment to a qualified organization acting as a representative payee of such individual pursuant to section 1631(a)(2)(A)(ii).

"(ii) For purposes of clause (i) and section 1631(a)(2)(D), the term 'qualified organization'—

"(I) shall have the meaning given such term by section 1631(a)(2)(D)(ii), and

"(II) shall mean an agency or instrumentality of a State or a political subdivision of a State."

(c) EFFECTIVE DATES; AUTHORIZATIONS.—

(1) IN GENERAL.—Except as provided in paragraph (2), the amendments made by this section shall apply to benefits payable for determinations of disability made 90 or more days after the date of the enactment of this Act.

(2) CURRENT DETERMINATIONS.—

(A) IN GENERAL.—With respect to any individual described in subparagraph (B), the Secretary of Health and Human Services shall provide during the 3-year period beginning after the date of the enactment of this Act for the application of the amendments made by this section to such individual with the time periods described in such amendments to begin upon such application.

(B) INDIVIDUAL DESCRIBED.—An individual is described in this subparagraph if such individual is entitled to benefits under title II or XVI of the Social Security Act based on a disability determined before the date described in paragraph (1) to be based in whole or in part on a medical determination that the individual is a drug addict or alcoholic.

(3) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as may be necessary to carry out the purposes of the provisions of, and the amendments made by, this section.

SEC. 3. PRIORITY OF TREATMENT.

The Secretary of Health and Human Services, through the Administrator of the Substance Abuse and Mental Health Services Administration, shall assure that every individual receiving disability benefits under title II or XVI of the Social Security Act based in whole or in part on a medical determination that the individual is a drug addict or alcoholic be given high priority for treatment through entities supported by the various States through any substance abuse block grant authorized under law.

SEC. 4. ESTABLISHMENT OF REFERRAL MONITORING AGENCIES REQUIRED IN ALL STATES.

The Secretary of Health and Human Services shall, within 1 year of the date of the enactment of this Act, provide for the establishment of referral and monitoring agencies for each State for the purpose of carrying out the treatment requirements under sections 223(j)(1) and 1611(e)(3)(A) of the Social Security Act (42 U.S.C. 423(j)(1) and 1382(e)(3)(A)).

SEC. 5. PROCEEDS FROM CERTAIN CRIMINAL ACTIVITIES CONSTITUTE SUBSTANTIAL GAINFUL EMPLOYMENT.

(a) SOCIAL SECURITY DISABILITY INSURANCE.—Section 223(d)(4) of the Social Security Act (42 U.S.C. 423(d)(4)) is amended by inserting the following after the first sentence: "If an individual engages in a criminal activity to support substance abuse, any proceeds derived from such activity shall demonstrate such individual's ability to engage in substantial gainful activity.".

(b) SUPPLEMENTAL SECURITY INCOME.—Section 1614(a)(3)(D) of the Social Security Act (42 U.S.C. 1382(a)(3)(D)) is amended by inserting the following after the first sentence: "If an individual engages in a criminal activity to support substance abuse, any proceeds derived from such activity shall demonstrate such individual's ability to engage in substantial gainful activity.".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to disability determinations conducted on or after the date of the enactment of this Act.

SEC. 6. CONSISTENT PENALTY PROVISIONS FOR SSDI AND SSI PROGRAMS.

(a) FELONY PENALTIES FOR FRAUD.—

(1) IN GENERAL.—Subsection (a) of section 1631 of the Social Security Act (42 U.S.C. 1383a) is amended by striking "shall be guilty of a misdemeanor and upon conviction thereof shall be fined not more than $1,000 or imprisoned for not more than one year, or both" and inserting "shall be guilty of a felony and upon conviction thereof shall be fined under title 18, United States Code, or imprisoned for not more than five years, or both".

(2) REPRESENTATIVE PAYEES.—

(A) SSDI.—Subsections (b) and (c) of section 208 of such Act (42 U.S.C. 408) are amended to read as follows:

"(b)(1) Any person or other entity who is convicted of a violation of any of the provisions of this section, if such violation is committed by such person or entity in his role as, or in applying to become, a certified payee under section 205(j) on behalf of another individual (other than such person's spouse or an entity described in section 223(j)(2)(B)(ii)), shall be guilty of a felony and upon conviction thereof shall be fined under title 18, United States Code, or imprisoned for not more than five years, or both.

"(2) In any case in which the court determines that a violation described in paragraph (1) includes a willful misuse of funds by such person or entity, the court may also require that full or partial restitution of such funds be made to the individual for whom such person or entity was the certified payee.

"(3) Any person or entity convicted of a felony under this section or under section 1632(b) may not be certified as a payee under section 205(j).

"(c) For the purpose of subsection (a)(7), the terms 'social security number' and 'social security account number' mean such numbers as are assigned by the Secretary under section 205(c)(2) whether or not, in actual use, such numbers are called social security numbers."

(B) SSI.—Subsection (b)(1) of section 1632 of such Act (42 U.S.C. 1383a) is amended by striking "(other than such person's spouse)" and all that follows through the period and inserting "(other than such person's spouse or an entity described in section 1611(e)(3)(B)(ii)(II)), shall be guilty of a felony and upon conviction thereof shall be fined under title 18, United States Code, or imprisoned for not more than five years, or both."

(b) CIVIL ADMINISTRATIVE PENALTIES.—

(1) SSDI.—Section 208 of the Social Security Act (42 U.S.C. 408) is amended by adding at the end the following new subsections:

"(e) For administrative penalties for false claims and statements with respect to which an individual or other entity knows or has reason to know such falsity, see chapter 38 of title 31, United States Code.

"(f) In the case of the second or subsequent imposition of an administrative or criminal penalty on any person or other entity under this section, the Secretary may exclude such person or entity from participation in any program under this title and titles V, XVI, XVIII, and XX, and may direct that such person or entity be excluded from any State health care program (as defined in section 1128(h)) and any other Federal program as provided by law."

(2) SSI.—

(A) IN GENERAL.—Section 1632 of such Act (42 U.S.C. 1383a) is amended by adding at the end the following new subsections:

"(c) For administrative penalties for false claims and statements with respect to which an individual or other entity knows or has reason to know such falsity, see chapter 38 of title 31, United States Code.

"(d) In the case of the second or subsequent imposition of an administrative or criminal penalty on any person or other entity under this section, the Secretary may exclude such person or entity from participation in any program under this title and titles II, V, XVIII, and XX, and may direct that such person or entity be excluded from any State health care program (as defined in section 1128(h)) and any other Federal program as provided by law."

(B) CONFORMING AMENDMENT.—The heading for section 1632 of such Act (42 U.S.C. 1383a) is amended by striking "FOR FRAUD".

(c) EFFECTIVE DATE.—The amendments made by this section shall be effective on or after the date of the enactment of this Act.

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

The assistant legislative clerk proceeded to call the roll.

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

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

TOBACCO AND CHILDREN

Mr. HARKIN. Mr. President, this morning the Surgeon General issued the 23d Surgeon General's Report on Smoking and Health, but the first, as far as I can recall, looking specifically on tobacco and children. The Surgeon General's report highlights the shocking extent to which our youngsters are now exposed to and use tobacco. As this report pointed out, fully one-third of all American youngsters now smoke or use smokeless tobacco.

Mr. President, I rise today to speak about this and about America's tobacco in our children and how we parents and grandparents are unwittingly subsidizing their addiction to this often lethal product.

There is, I believe, a great consensus in our Nation that smoking is bad for our kids and bad for our future, and yet we keep subsidizing the problem to a considerable degree.

The Surgeon General pointed out in her report this morning—and I will quote from some parts of it—"There has been a continuing shift from advertising to promotion largely because of banning cigarette ads from broadcast media." Clearly, the Surgeon General's report goes on to say, "young people are being indoctrinated to tobacco promotion at a susceptible time in their lives."

The Surgeon General's report continues:

Current research suggests that pervasive tobacco promotion has two major effects. It creates the perception that more people smoke than actually do, and it provides a conduit between actual self-image and ideal self-image. In other words, smoking is made to look cool. Whether casual or not, these effects foster the uptake of smoking, initiating for many a dismal and relentless chain of effects.

Mr. President, nearly 2 years ago I began an effort on the floor of the Senate to lower the tax deductibility of tobacco advertising. Since that time, the problem has only gotten worse, and the American taxpayer is still coughing up about $1 billion a year as a silent partner in subsidies to promote smoking.

My legislation, which is cosponsored by Senators BRADLEY and BINGAMAN, will cut in half the taxpayer subsidy of tobacco promotion and will use 40 percent of the resulting revenues to finance a program of counteradvertising aimed at lowering the incidence of smoking especially among children. This measure would raise about $1.9 billion over the next 5 years, and of that amount, $764 million would go into counteradvertising to reach young people about the effects of smoking.

The need for this legislation has been made even clear by the Surgeon General's report this morning. Since we offered our amendment last fall, the tobacco companies and their slick promoters have come up with a new gimmick that is sure to entice more of our children to smoke.

They have started what I have called the merchandise clubs in which you get cash to buy all sorts of gifts simply by buying cigarettes.

Let me show you what your tax dollars are paying for in this advertising. First of all, Mr. President, we have to say hello again to our old friend, Joe Camel. Joe Camel, of course, is very cool. And now what Joe Camel has is these clubs, and he has C notes. And if you smoke a certain number of cigarettes, you get C notes. And when you get the C notes, of course, then you can trade them in for gifts.

Mr. President, if you do not happen to recognize Joe Camel, I can assure you are in a distinct minority. If you do not recognize Joe Camel, ask your kids because your kids recognize Joe Camel.

In a recent study published in the Journal of the American Medical Association, more 6-year-old kids can identify old Joe Camel than adults. In fact, just as many kids can recognize old Joe Camel as they can Mickey Mouse. And his name recognition has really paid off. In the 3 years since the introduction of old Joe, sales of Camel cigarettes to children under 18 went from $6 million to $476 million per year. So the kids know old Joe. He is around.

Well, now he has the Camel cash catalog. Here is his brochure. Here is the latest one right here. It is the official Camel Cash Catalog, volume 4. I got this one out of Rolling Stone magazine, of course, which is targeted to young people. What old Joe Camel says is this. You smoke cigarettes, you get C notes, and you get two C notes on each pack of new Special Lights, and with these C notes of course you can buy all kinds of gifts—keyrings, wristwatches, sweatshirts, beach bags and sunglasses. Well, you name it. You can buy all kinds of things with Joe Camel's C notes.

Let me just tell you what it means. See, if you are smooth enough as Joe Camel says, if you have 175 C notes, you can get a fish and game club camouflaged thermos for 175 C notes. That means you only have to smoke 3,500 Camel cigarettes and then you can get that. At around $1.90 a pack, that is $332.50 for the thermos. It looks like a GI Joe thermos. You can get a cigarette lighter. For a cigarette lighter you have to smoke 400 cigarettes.

For young women who have not been able to identify with old Joe Camel, we have a new character now. We have Josephine. It is not old Josephine. It is young Josephine. So when you look in the Camel ads, there is old Joe Camel and there is his female counterpart.

Mr. President, I thought this ad was particularly striking. It is a promotion

for Camels. You have old Joe Camel in there, and you have Josephine. It is a great big place with a lot of young people in there socializing, shooting a little pool. They are talking. There is a band playing over here. This is a band playing, and young people are dancing. Just about everyone has a cigarette in their hand. All the men, and all the women have cigarettes in their hands. But there is no smoke in there. I find that fascinating; that you can have probably about 100 people in a nightclub all smoking cigarettes and there is absolutely no smoke. So maybe this is the answer to our ozone problem in America. If everyone smokes, they will clean up the air.

Well, this is the kind of advertising that Camels are doing with old Joe cigarettes, to get young people hooked. It is cool. You can socialize. You are part of the crowd if only you smoke old Joe Camel cigarettes. If that is not enough, you get the C notes, and here is volume 2. You can just buy all kinds of nice things with the C notes from Joe Camel cigarettes.

I do not mean to pick just on old Joe Camel. He has some partners in this. Let us look at the Marlboro Adventure Team. If you do not happen to like old Joe Camels, you can smoke Marlboros. They have an official gear catalog. You can be a part of the Marlboro Adventure Team . What they do is they have miles. You go so many miles. If you go the distance, they say, you get all of these things. You can turn them in. You can buy all kinds of gear from your Marlboro Adventure Team.

Then, again for women, if you do not like Marlboro, they have Virginia Slims. The Virginia Slims, they have a new clothing that you can wear. They call it a "* * * fashion collection with a street-wise attitude" from Virginia Slims. So for 225 of these certificates you get from smoking Virginia Slims, you can get a top-of-the-line leather backpack. Most kids have backpacks that they take to school. All you have to do is smoke 4,500 Virginia Slim cigarettes, send in your little seals that come on the package. That is about $427.50 for the cigarettes. Then you can get a nice leather backpack that you can take to school.

So this is the kind of advertising that is going on. This is exactly what the Surgeon General's report talks about on page 8. I will read from that. The Surgeon General says, "Since reports from adolescents who begin to smoke indicate they have lower self-esteem and lower self-image than their nonsmoking peers, smoking can become a self-enhancement mechanism. The positive functions that many young people attribute to smoking are the same functions advanced in most cigarette advertising."

That is what the Surgeon General's report says. Let me read that again. "The positive functions that many young people attribute to smoking are the same functions advanced in most cigarette advertising"—socializing, having fun, outdoor activities.

"Young people are a strategically important market for the tobacco industry," says the Surgeon General. "Since most smokers try their first cigarettes before age 18, young people are the chief source of new consumers for the tobacco industry which each year must replace the many consumers who quit smoking," and of course the many who die from smoking-related related diseases.

The Surgeon General's report goes on to say, "Cigarette advertising frequently use human models for human-like cartoon characters to display images of youthful activities; independence, helpfulness, and adventure seeking. In presenting attractive images of smokers, cigarette advertisements appear to stimulate some adolescents who have relatively low self-images to adopt smoking as a way to approve their own self-image."

Mr. President, these advertising campaigns are outrageous. They even violate the industry's own cigarette advertising code. The cigarette advertising code said, "well, we don't need to be regulated. We will adopt our own code." They adopted a code, and their own code says that, "Cigarette advertising shall not represent that cigarette smoking is essential to social prominence, distinction, success or sexual attraction."

Here it is right here, the tobacco industry's voluntary cigarette advertising code: "* * * shall not represent that cigarette smoking is essential to social prominence or sexual attraction."

"Cigarette advertising shall not depict as a smoker any person participating in, or obviously having just participated in, physical activity requiring stamina or athletic conditioning beyond that of normal recreation."

So what are we to make of the Marlboro Adventure Team? We are here today to say to the tobacco companies that it is time to call a halt to this. These ads make a great case for our amendment, and the Surgeon General's report I think really tops it off.

These campaigns of old Joe Camel are all part of over $10 million a day, $4 billion a year, that tobacco companies put into pushing their product. And you and I are helping to subsidize them because it is all tax deductible. At a time when the Government is spending $114 million a year to stop people from smoking, the American taxpayers are providing a $1 billion-a-year subsidy to promote smoking, especially among young people.

So today, along with the Surgeon General's report, we should call upon the cigarette companies to cease and desist with these promotions. We should pass this legislation to take away the tax deductibility of advertising for smoking. Every day that we fail to act another 3,000 of our children start smoking. Every day we fail to act 1,200 more people die of smoking-related illnesses. And every day we fail to act, over $200 million in decreased productivity is lost in our economy due to smoking.

So it is time to say goodbye to Joe Camel. It is time to get over the Marlboro Adventure Team. What we really need is some truth-in-advertising, Mr. President. These are the kind of ads that I would be running.

There was one run by the St. Louis Area Cancer Coalition sponsored by the American Lung Association. On the left you see a very attractive young female. On the right you see that same female with a lot of wrinkles, and aging marks.

The ad says, "I started smoking to look older. It worked." If we saw more ads like that in Rolling Stone Magazine and in the publications that go out, maybe we would send a clearer message to young people—that smoking is not necessary for social prominence, it certainly is not healthy, and this is what it is going to do to you.

I say the best way to get to that point is take away the tax deductibility for advertising for tobacco, and maybe we will not see Joe Tobacco around anymore. I think the Surgeon General in the 23d report has focused on this issue for the first time, on smoking and youth and what it means to young people to have these advertisements out there and how it hooks them on smoking. It is time to call a halt to it. It is time to make sure our young people get the facts.

The PRESIDING OFFICER (Mr. FORD). The Senator's time has expired.

EXTENSION OF MORNING BUSINESS

Mr. LEAHY. Mr. President, I ask unanimous consent that morning business be extended to 12:30 under the usual conditions and that I be recognized for not to exceed 13 minutes.

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

RUSSIAN AID

Mr. LEAHY. Mr. President, I want to speak about the former CIA agent who has been arrested as a spy here in the United States, charged with spying for Russia, and before that for the former Soviet Union. I want to speak about it in my capacity as the chairman of the subcommittee that has to deal with foreign aid and will have to present legislation to the United States Senate this year regarding foreign aid to Russia.

Having said that, Mr. President, I want my colleagues to know I am deeply disturbed by the exposure of such a

senior CIA official, who turns out to have been—if the facts are right in the indictment—a long-time spy for the former Soviet Union and then for Russia. I used to be the vice chairman of the Intelligence Committee, and I know what a penetration of the CIA of this magnitude can mean. Enormous damage has been done. Millions of dollars will be spent to try to determine what the damage is and, even then, this country will never know with certitude the extent of the damage.

I think the administration, and I know the intelligence community, and certainly the oversight committees here in the Congress will take a thorough look to find out how badly our capabilities have been damaged. But for years to come, because of this spy case, whoever is in charge of our intelligence apparatus will have to live with the knowledge that they are not absolutely sure of what they are basing things on.

But at the same time, Mr. President, as terrible as the spy case is, I greatly regret the connection some people in this body are making between this spy case and the Clinton administration's policy of providing aid to Russia. Anyone who is surprised by the fact that espionage continues, even though the cold war is over, does not know much about what goes on among the major nations of the world. Spying is a fact of life in international relations. Rivals do it to us; friends do it to us; and we do it to them. It went on long before the cold war, and it will go on long after the cold war.

Some who stand up now and seem surprised about it make me think about the character in "Casablanca" played by Claude Raines, who comes into Rick's Cafe and says, "I am shocked to find out gambling is going on here," as he pockets his winnings from that night.

As to Russian aid, I ask Senators to keep in mind the real reasons why we decided last fall to provide a major aid package to Russia. First and foremost, we are trying to help Russia become a democracy. Why? Because we Americans believe democracy is the best form of government and because history shows that democracies do not fight each other. The aid we are giving Russia is not a gift; it is an investment in our own national security. If we can help the forces for democratic reform win out in the power struggle now underway in Russia, we will have done far more to protect our national security than buying several more aircraft carriers or 100 more B-2 bombers or hundreds more intercontinental missiles.

Supporting reform through aid to Russia is not different in purpose than the nuclear arms control negotiations several administrations, Republican and Democratic, carried on with the former Soviet Union. We wanted nuclear arms control agreements because it increased our security by reducing the threat to the United States. It was not done as a favor to the Soviets. And we kept on with those negotiations despite many ups and downs in United States-Soviet relations over the years. The reason we did so, despite confrontation and crisis, is because of a broad understanding that reducing Soviet nuclear weapons helped our national security.

Spies were discovered here in the United States, just as some of ours were discovered there during the negotiations, but they went on just the same. Afghanistan was invaded, and the negotiations went on just the same. Why? Because we knew it was in our best interest.

The same idea is at work here in the policy of Russian aid. The President, joined by a strong bipartisan consensus in Congress, adopted a policy of supporting the forces for democracy in Russia. That is a policy that has to be carried out for several years. We are not going to see success in a few months or a year. A revolution is being waged in Russia today, one fought in the political and economic areas rather than on the battlefield. We have chosen to help one side in that struggle—the side trying to build democracy.

We should not let the spy case go on without vigorous action to prevent a recurrence in the future. We should protest and try tc root out whoever is involved. We should send them out of this country, and we should arrest them if we can. But, Mr. President, there has been one major error made by everybody who has talked about the aid we are spending to Russia. Everybody talks about cutting off aid to the Russian Government.

Mr. President, one fact that has been missed by practically everybody who has talked about this, written about this, commented on this, is that no aid money goes to the Russian Government. Let me underline that: No aid money goes to the Russian Government. The vast bulk—over 75 percent of our Russian aid package—goes directly to the private sector. It never reaches the hands of Russian Government officials. It is aimed at building a private sector in the Russian economy and bringing thousands of young Russians to the United States in exchange programs or cleaning up the environment or feeding the old, poor, and vulnerable sectors of the population. It is aimed at training farmers, economists, bankers, business men and women, and the thousand and one other things necessary to overcome the 70 years of communism.

The remaining aid, less than 25 percent, is used to provide technical assistance in building effective, workable democratic institutions at the Russian federal governmental level. None of that aid goes directly to the Russian Government. It is provided primarily to U.S. companies and individuals with special expertise, who are contracted by the Agency for International Development.

So it is not a question of cutting off aid to the Russian Government. There is none to cut off. We can cut off some aid to the Russian people, and if we do, we stop helping the very things in Russia we want to win in this struggle: The democratic reformers and those who are trying to build a free-market economy.

I would rather see the United States in economic competition with a democratic Russia with a strong economy than to see us go back to the days of competition with a totalitarian government with enough nuclear power to destroy us and the rest of the world, even as we destroyed them. We are safer and the world is safer if we can help democracy really take hold in Russia.

So I urge my friends in the Senate to keep the national interests foremost and not to succumb to the temptation to make a partisan issue out of our policy on Russia. It is too important for our country to exploit for partisan advantages. I remind people: Do not act shocked that there are spies in the world. I am glad when we catch them. I hope if there are other Russian spies in this country—and I fully expect there are—we will catch them very soon. But let us not think that the national intelligence networks of our country, or any other country, suddenly folded up and went home when the cold war ended.

Finally, I know foreign aid is not popular with many Americans today. But I also know that the American people support the support of democracy and free market reform in Russia.

Our aid is not a gift to the Russian Government. It is an investment in our own national security. It is an investment in the security of the rest of the Democratic world. And we, as the leader of the Democratic world, have that responsibility.

Mr. President, I yield the floor.

Mr. JOHNSTON addressed the Chair.

The PRESIDING OFFICER. The Senator from Louisiana.

Mr. JOHNSTON. Mr. President, what is the pending business?

The PRESIDING OFFICER. We are in a period for morning business with Senators recognized therein for up to 10 minutes.

Mr. JOHNSTON. Mr. President, would it be in order to speak on the balanced budget amendment at this point?

The PRESIDING OFFICER. The Senator may speak on any issue he desires during morning business. He has 10 minutes in which to do so.

EXTENDING MORNING BUSINESS UNTIL 2 P.M. TODAY

Mr. FORD. Mr. President I ask unanimous consent that the time for morn-

ing business be extended until 2 p.m. today, under the same conditions and limitations.

The PRESIDING OFFICER (Mr. DORGAN). Is there objection?

The Chair hears none. It is so ordered.

THE BALANCED BUDGET AMENDMENT

Mr. JOHNSTON. Mr. President, I rise in support of a balanced budget but against the balanced budget amendment. The reason is that I believe this amendment, if passed, would have precisely the opposite effect of that for which it is intended. The amendment is not to go into effect, according to its terms, until 1999 at the soonest, and more probably somewhat later because it would take somewhat longer for the States to ratify the amendment.

In my judgment, if this amendment passed, the effect would be to postpone any real action on bringing the deficit down, pending the ratification of the amendment. In effect, Senators and Congressmen who voted for the amendment would be able to beat their breasts and say, "I voted for the balanced budget amendment," and therefore they would not need to do anything about the tough work of reducing the deficit.

Mr. President, to adopt this amendment is to take the general over the specific, the marginal steps toward budget reduction over real steps, to take an exhortation over a command. By that I mean, Mr. President, we have in place at the present time under the Gramm-Rudman-Hollings bill the machinery which is calculated to balance the budget. All Congress needs to do is set those limits for spending on a glide path that leads to a balanced budget.

Mr. President, that Gramm-Rudman-Hollings machinery is very specific. It is enforced by a whole series of points of order. Its definitions are very specific and very exacting. And, as my colleagues know, it constitutes a legislative straitjacket on spending.

Now, to be sure, the Gramm-Rudman-Hollings bill has not brought us to a balanced budget. And that is not because of the machinery of the Gramm-Rudman-Hollings bill. That is because of a number of things:

First of all, because of the failure of the will of the Congress to set the limits.

Second, because of the inability to estimate what the economy is going to do. It is one thing to estimate that the rate of growth next year is going to be 3 percent. It is another thing for the economy actually to grow at that rate.

It has also been caused, Mr. President, by various accounting gimmicks which have been used in the past. But the gate has been closed for those kinds of accounting gimmicks.

So, Mr. President, if this Congress is serious about balancing the budget, if it is serious indeed about reducing the deficit, then what we ought to do is put in place a series of step reductions leading to a balanced budget at some specific time in the future, beginning with fiscal year 1995.

Mr. President, the silence is deafening about the proponents of this amendment proposing anything for fiscal year 1995. Do they propose that we spend less in 1995 than the President's guidelines, than the President's limits? The answer is a deafening "No." They do not propose any action for this year.

Any real action is to be put off, I submit to you, to sometime in the next century. Let things rock along in the meantime. If angry constituents write and say that you have done nothing to balance the budget, then all you have to do, Mr. President, is point to the fact that you have the balanced budget amendment.

Mr. President, I hear from many of my colleagues that the American people want the balanced budget amendment. Indeed, I have seen polls, I have seen polls in my own State, that say people want the balanced budget amendment.

But then you ask people, as I have in polling at home, do they want cuts in Social Security? Overwhelmingly they say, "No cuts in Social Security." You ask, do they want cuts in Medicare or Medicaid, and the answer overwhelmingly is "no." And if you put taxes on the list, the answer is always a resounding "no" on new taxes. If you want to cut retirement programs, the answer is "no." If you want to cut defense, the answer is "no."

What the American people, or at least those who say they want a balanced budget, want is a painless balanced budget; that is, a budget that is balanced by eliminating fraud, waste, and abuse.

Mr. President, those who would mislead themselves in believing that a balanced budget, and particularly the steps that would lead to a balanced budget, is sought by the American people are only kidding themselves. I think the buzzards would come home to roost if this matter was really passed and the court really began to order these cuts that it would take to have the balanced budget. I think there would be the biggest turnover in Congress you have ever seen.

What we really need is for the American public to be involved in this business of balancing the budget and to understand what it really takes, and to be involved with it in making the tough decisions to balance that budget. I, for one, am willing to do that, but it is going to take some cuts and some taxes. And not just some little taxes. It is going to take some big taxes in order to get this budget balanced.

Mr. President, we are caught on the horns of a dilemma. On the one hand, if this matter is really binding, if the court is really going to order that the budget be balanced, then it is the worst of all possible worlds. If it can be avoided, it is also a very bad situation because it would lead to disrespect for the Constitution, it would render nugatory a provision of the Constitution, and it is hard to say whether it would be altogether avoided.

I believe when push came to shove, and when all of a sudden, in the year 2000, if that is the year of its taking effect, suddenly we had to cut $200 billion from the deficit, I believe the Congress would summon up the 60 votes that it would take to do so. But you will notice that this amendment is skewed in favor of taxes. The reason I say it is skewed in favor of taxes is it takes 51 votes to increase taxes, but it takes 60 votes in order to spend more than you take in. So where is the natural majority going to come? It is going to come in favor of taxes.

Those who have a dream that by passing this amendment, you are somehow going to eliminate fraud, waste, and abuse, all of those easy cuts that nobody cares about—they do not involve Social Security, they do not involve somebody's medical provisions—they can forget that. They better get ready for a big tax increase, because you can increase taxes under this amendment by 51 votes whereas it takes a full 60 votes to spend more than you take in.

If we got to the situation where the court was going to order a cut, how would the court determine what cuts to order? I contend that the court would order taxes and cutting in retirement programs—spell that Social Security—and let me explain why I believe that is so.

It takes an enormous amount of bureaucracy to understand exactly how the Federal Government works, how it spends money, and how you would budget money. Let us say, for example, that you would want to cut the Corps of Engineers—which happens to be one of the agencies that is under my appropriations subcommittee. If you wanted to cut the Corps of Engineers, the court could not simply say to order a 6 percent cut in the Corps of Engineers, because all functions cannot be cut by the same amount. For example, contractual obligations have to be paid 100 percent. Property purchases, if you are going to purchase property to build a levy, for example—which the Corps of Engineers must do—must be paid 100 percent. You do not go out and make an offer for a piece of property or condemn a piece of property and pay only 90 percent; you have to pay 100 percent.

So then the question would come, how would the court know how to cut the Corps of Engineers? And the answer is, they would not, because they would not know what could be cut and what could not be cut.

They could cut employee salaries, perhaps. Could they close the division?

Or would they close a district? Or would they simply cut employees across the board—those needed and those not needed?

Or would they discontinue whole projects? Would they, for example, say the Corps of Engineers has 10 projects and we are just going to stop garrison diversion, for example? They could pick that out if they knew about garrison diversion. How would they know about garrison diversion? Or the Red River project? Or flooding on the Mississippi River? The answer is, they would not know and they would not have the machinery to find out. All they would have is a lawyer who would come up and argue a case on a legal principle, but they do not have the machinery to tell them how to cut. So what are they going to do? I can tell you what they would do, in my view. It is very clear.

They know about transfer payments. You do not have to be an expert to cut Social Security payments. You just enter a simple order and say we are going to cut Social Security payments or retirement payments by *x* dollars—so much per person, so much percentage per person. It is a mathematical thing. The appropriations and the outlays are 100 percent. It is easy to do.

The same thing is true for taxes.

Mr. President, this is an invitation to the court to order cuts in Social Security and the retirement programs, and to order taxes. How can it be otherwise? How is the court going to know? For example, let us say there is a *Trident* submarine being built that costs $1 billion. They cost more than that, but let us assume they cost $1 billion. The first year into that contract the court is not going to know what the termination costs are. They are not going to know how many of those people they can fire immediately in order to save money. They have no way of knowing how to run the Federal Government, and they have no machinery for bureaucrats or Senators to go and give them that information because they do not have the staff to do that. I think each Justice has three or four law clerks, and they are skilled in the law. They are dealing with death penalties and habeas corpus, and all that.

Mr. President, I think it is very, very clear the enforcement mechanism here really involves taxes and Social Security and other retirement payments.

I hear rumors, here on the floor, that there is going to be some amendment which would deprive the court of the power to enforce the amendment. Would that not be a new and interesting wrinkle for the Constitution of the United States, a constitutional amendment which could not be enforced? Mr. President, we might as well put a sense-of-the-Senate resolution into the Constitution. That is silliness. That is a perversion of the Constitution. If it is worthy of being in the Constitution, then it must be enforced. And if it must be enforced, then you have to know how to enforce it.

Mr. President, we are told on the State level all of the States live under balanced budgets. Two things are wrong with that statement. The first thing is, States define their balanced budget in a totally different way than the United States does. If the United States defined its balanced budget as the States do, we would be balanced too, because they take their capital budget and they do not consider it in the budget, and they only deal with the operating budget on the State level. Every State in the United States would be unbalanced and would be in red ink—all of those who come up and beat their chests and tell us how responsible they are—they would all be unbalanced if they had the same bookkeeping methods that we have.

Would we change to that level of bookkeeping method? I do not know. You can read the language, as I can. The Congress is given the power and the mandate to enforce the article—that is the amendment—by appropriate legislation. Is that appropriate? We would have to wait for the court to tell us. I do not know how long it would take them to figure out whether that is appropriate, to differentiate as the States do between operating budgets and capital budgets. But I assume the Congress would have that power—which means the Congress would have the power, even if the court could enforce it, as they can under the present language—the Congress would have the power to write itself out of the amendment. And I would suppose that would happen.

The second thing wrong with saying that States operate under balanced budgets is that there is a whole body of law by which States avoid balanced budget requirements, even as to their operating budgets. They create taxing districts. They create—in Louisiana at one time, they created the Board of Liquidation of the State Debt. You know, that was separate so it did not involve going through these constitutional prohibitions. I myself was involved in litigation with respect to the Dome Stadium of Louisiana. The issue there was not the balanced budget, but it was a kindred question. The Constitution provided that no bond issued under the Dome Stadium constitutional amendment could be secured by the faith and credit of the State.

It said it just as clear as it could be. And yet they had this method, they created a stadium district which leased the property to the State and the State leased it immediately back, the amount of the lease being the debt service on the bonds. The Supreme Court said that is OK. It was a totally fictitious transaction, but it avoided this constitutional prohibition about the bonds bearing the faith and credit of the State.

Mr. President, you can look in the law books and there is a whole wealth of law about these kind of devices where States have avoided constitutional prohibitions. Would the Congress do that? I do not know, Mr. President. I am saying if they did not do it, then the effect would be to cut Social Security retirement payments and raise taxes. I think the American public would be shocked. Those people out there who say they want a balanced budget amendment, do you think they have in mind the kinds of taxes which it would take?

I calculated recently that it would take more than a doubling of the personal income tax in order to balance the budget this year—more than a doubling of the personal income tax to balance the budget this year. Is that the way we would balance the budget? I do not think it would be a good idea.

I think, in the first place, in addition to having a revolution out there among the people, among the voters—some of those who are for this amendment—I think you would also put this economy into a deep depression, more than a recession. I do not think there is any way you could balance the budget in 1 year. Indeed, if you balanced it over 5 years, you cannot do so without some real pain, some real revenues and some real cuts.

That is what the Clinton reduction plan was all about. It was real pain and real taxes and a lot of people said there were not enough real cuts.

I would like to see what the plan is, the so-called glide path between here and that balanced budget that my friends, the proponents of this amendment, have in mind. Do they have nothing in mind? Are they just going to throw the ball up and wait and see what happens? I think that is it. They will say, "Well, we passed the amendment, now somebody do something about it."

Mr. President, this quest for the magic asterisks, for the painless cut is nonexistent, it cannot happen. There is no such thing. It never has been and never will be that you can cut budgets without cutting budgets, without eliminating things or that you can raise taxes without extracting that money from someone. It just does not happen. Why does someone not tell us what they have in mind and let us vote on it? At least let us get started this year.

If those who are for the balanced budget amendment are really serious about it, I challenge them to put up a budget resolution and a spending plan that begins this year—let us say 5 years. The amendment says it takes effect not before 1999. It is 1994. Give us a 5-year plan and start off with this coming fiscal year with a 20-percent cut. If you are serious, show us where that 20 percent is going to come from, keeping in mind now that the first 20

percent is a lot easier than the last 20 percent. It is like losing weight. That first pound you lose is a lot easier to lose than 20 pounds from now when you are already skinny.

So let them at least give us a start with that first 20 percent in fiscal year 1995. What is it going to be? No, not Social Security. Everyone says, "No, we do not want to touch that radioactive issue called Social Security." Are we talking about civil service retirement? "No, that is akin. That should not be touched." OK, I agree. Taxes? "Oh, we already have too many taxes, retroactive taxes, big increase in taxes; we do not want those."

What the American people want is to cut fraud, waste, and abuse. Mr. President, if fraud, waste, and abuse existed in the amount some people think it does, we would have no problem and it would have been accomplished a long time ago.

This amendment leads inexorably to taxes and big taxes and cuts in Social Security and big cuts in Social Security, and it leads to those cuts that would be ordered by the court because that is all the court would know how to do.

The court does not have an army of hundreds who can interface with the people who are running these agencies. They do not. They have two and three or four law clerks is all they have. It is justice. They do not know how to do anything except cut transfer payments which are outlayed at the 100-percent rate; that is, you can tell exactly where that money is going and you can tell where that tax money is going.

So, Mr. President, those of my colleagues who believe as I do that the Congress needs to face up to its responsibility and cut budgets and say where we are going to cut budgets, and if it is necessary to raise taxes say which taxes we are going to raise and how much and what kind of bill, then I say it is time for the Congress to take that responsibility, and those who are not willing to do that, Mr. President, this balanced budget amendment is no answer to the problem. It is simply going to make the problem worse.

Mr. BYRD. Mr. President, will the Senator yield?

Mr. JOHNSTON. Yes, I yield.

Mr. BYRD. Mr. President, I congratulate the distinguished Senator from Louisiana on the statement that he has just made and also on the stand that he has taken. He mentions the danger, the utter folly of doing something here that would allow the courts, that would result in the courts interjecting themselves into the balancing of Federal budgets.

Does he not also feel that the amendment not only runs the terrible risk of having the judiciary in this country get involved in levying taxes and appropriations, but also, under the amendment, the President, be he Republican or Democrat or Independent, the Executive will decide matters of taxation and appropriations as well, the power of the purse?

The President's advisers would certainly advise him, I should think, not as they have heretofore, that he "has the inherent power as Commander in Chief," but once this amendment is welded into the Constitution, would they not then say, "Well, Mr. President, the Constitution now says that outlays shall not exceed receipts. Therefore, you now have a Constitution that says you have impoundment, rescission, and item veto powers."

He would say, "Well, you must have forgotten, Mr. Senior Counsel. You must have forgotten the 1974 Impoundment Act. That says I cannot impound money."

His counsel would say, "Oh, that was just a statute. Now we have the Constitution which trumps the statute. Now, Mr. President, you have the obligation to make outlays and receipts balance. You now have in the Constitution an amendment that says that you have the power, you have the inherent power, to impound money, to line-item veto, to rescind funds." I would add, may I say to Senator JOHNSTON, you not only have the judiciary, but also the executive branch which would aggrandize legislative powers. And furthermore, if the judiciary were somehow to be excluded by an amendment here, then the pressures would be all the greater on the Chief Executive.

Then his counsel would say, "Well, now, Mr. President, you have in the Constitution an amendment that says the judiciary cannot do it." They are powerless under the language of this amendment. They are powerless to do anything about taxation or to do anything about cutting funding.

"Now, Mr. President, the pressure is even greater. The responsibility is even greater on you. Your duty is even greater to cut funds for defense, for Social Security, for veterans' compensation, for military pay, for military retirement, for Federal employees' pay, Federal employees' retirement. You have the whole field now. You can choose wherever you think you need to, but you have to do something. You took an oath, Mr. President, to uphold the Constitution. And you have that duty.

"Congress, they all honor the Constitution, too, but Senator so-and-so wants to raise taxes in order to make outlays and receipts balance. But another Senator wants to cut the military. And then there is another group of Senators that want to cut domestic discretionary. Then there is another group that want to cut Social Security and veterans' benefits. They all want to honor this new constitutional amendment, but we have no mechanism to coordinate their differences and come up with a majority.

"So, Mr. President, you took the oath. And that Constitution is the basic law of the land. That is positive law. It is higher than any statutes. You have that responsibility."

My question then, may I say to my friend, Senator JOHNSTON—he is quite right about the courts and not only the possibility but the likelihood of the courts intervening in this—does he not also feel that the danger to the constitutional system of checks and balances and separation of powers is just as great when the executive gets into this situation and takes the steps that his advisers would tell him to take, and to keep his oath as President to uphold the Constitution he too would be saying what taxes ought to be increased, what taxes ought to be line-itemed out of revenue bills, what taxes ought to be negated, what funds ought to be cut, what funds ought to be impounded, what funds ought to be rescinded? Is that not the case?

Mr. JOHNSTON. Mr. President, my distinguished colleague with his piercing legal mind and his reverence for the Constitution has identified one of the core problems, which is that this amendment would not just rewrite budgetary matters in this country; it rewrites the whole formulation of the balance of power.

Now, what the extent of power of the Executive would be under this amendment, the full limits of that we cannot know. We would have to wait for years for the Court to decide about whether the President has the impoundment power, the impoundment duty; how can he exercise that; must he do so across the board or can he go in and eliminate individual projects; can he, for example, take all the money out of Social Security or must he treat all the retirement programs alike? This would be enormous power and discretion in the Executive.

The people out there say, well, we vote for the President and we can talk to the President. I wonder how my constituents who call me up and call their Congressman up—and they are able to get us and able to write us—would feel about writing the President to come out and fix a levee on the Red River. I wonder how they would feel about calling the President to get a Federal building or whatever in their district.

The point of the matter is that the President with his power of the bully pulpit, with his enormous knowledge, particularly this President, about everything that goes on cannot know all that detail and the people could not get to him. It would be an imperial—not just an imperial Presidency; it would be an Executive power that rewrites the Constitution. It would be greater power than the President of France has. I guess the President of France has among the democracies probably more unfettered authority to do things than most anybody.

Now, some people might like that. But, Mr. President, I say to my colleague that it would totally rewrite our Constitution, to rearrange that kind of power. It would be the Supreme Court not only ordering, in my judgment, increases in taxes and cuts in Social Security, because those are the only things that they have the ability to understand—I do not mean the smarts to understand; I mean they do not have the staff to understand how these other agencies work—but in addition to ordering those taxes and those cuts in Social Security, they would be acting as a referee on the limits of power of the President under this new amendment.

The PRESIDING OFFICER. The Chair advises the Senator from Louisiana that under the consent agreement Senators are recognized for up to 10 minutes in morning business. The Senator from Louisiana has just consumed his 10 minutes.

Mr. BYRD. I thank the distinguished Senator. I see the distinguished Senator from Kansas [Mrs. KASSEBAUM] is in the Chamber. I would pursue this further but for now I will not.

Mrs. KASSEBAUM addressed the Chair.

The PRESIDING OFFICER. The Chair recognizes the Senator from Kansas.

Mrs. KASSEBAUM. Mr. President, I ask unanimous consent to speak for up to 10 minutes.

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

Mrs. KASSEBAUM. Mr. President, I rise in strong opposition to the proposed constitutional amendment to balance the budget. This is an issue we have debated before. I opposed it then. I oppose it now. I may be wrong, Mr. President, but at least I have been consistently wrong. I still believe this remains a sham. I would like to go through a little bit of the history of the debate that I think is revealing and consider three events.

In 1982, the Senate passed a constitutional amendment to balance the budget by 69 votes. It failed in the House of Representatives at that time. Only 2 years later, I helped lead an effort on the Senate floor to freeze Federal spending across the board for 1 year. This included the COLA's, it included everything for just 1 year. We got 33 votes. That is revealing, I think, Mr. President, that 69 Senators would vote to declare in the Constitution that the budget should be balanced but fewer than half that many would vote even to temporarily stop the growth of the budget.

To put it another way, two-thirds of the Members of this body thought amending the Constitution was less painful than to freeze spending.

In 1986, the Senate again voted on a balanced budget amendment, this time narrowly rejecting it with 66 votes in favor. One year later, I again helped propose a 1-year budget freeze. This time we got only 25 votes. Nearly two-thirds of the Senate would amend the constitution but only one-fourth would freeze the budget for 1 year.

Two weeks ago, the Senate voted on a package to cut $94 billion in Federal spending over the next 5 years. This Kerrey-Brown amendment would have been painful. It would have reduced certain Medicare payments, deferred cost-of-living adjustments for military retirees. It would have cut our own pay and cut or eliminated dozens of other Federal programs. It was too painful for most Senators and it got only 31 votes, including mine.

Today, we are again preparing to vote on a balanced budget amendment to the Constitution of the United States.

I predict that, once again, a vote to promise restraint will win more than double the support of a vote to restrain.

Mr. President, there is an enormous gap between what we say must be done and what we are willing to do. I do not know of one Senator—not one—who said, "I would have voted for that budget freeze or for that Kerrey-Brown package if only a constitutional amendment had told me to." No, Mr. President, Senators opposed those measures because they were too politically painful. But those were pin pricks compared to the pain that will be needed to balance the budget now. Let me describe that pain.

The tough choices necessary to balance the budget today go far beyond merely freezing the growth of Federal programs, as we proposed in 1984 and 1987. It will require deep cuts or steep new taxes. In the reconciliation law passed last August, Congress promised to find roughly $430 billion in deficit reduction through 1998. Beyond that, the Congressional Budget Office has issued an illustrative scenario showing that we would need roughly $580 billion in additional deficit reduction to balance the budget by 2001, which will be the requirement under the balanced budget amendment. These numbers closely parallel a separate projection made by the Congressional Research Service. In other words, we must find $1 trillion in deficit reduction over the next 6 years to balance the budget by 2001.

Yet, let us not forget the Kerrey-Brown amendment that we voted on only 2 weeks ago. It would have cut $94 billion over 5 years—one-tenth of what will be needed to balance the budget by this amendment's target date. And it got only 31 votes.

The White House has turned this painful truth into scare tactics. In hearings last week, administration witnesses testified of gloom-and-doom hardship that would befall citizens if this amendment passes. The administration has issued frightening State-by-State accounts of tax increases and service cuts that could result.

These scare tactics describe the tough choices necessary to balance the Federal budget. That is not the issue here—the issue is whether to amend the Constitution. The President opposes this amendment because he fears it might work; I oppose it because I am convinced it cannot.

Many support this amendment out of frustration. If this will not work, they ask, then what will? I do not have an easy answer to that, Mr. President, because there is none. But I do know that pandering to fears or falsely casting simple solutions does nothing to help us make tough choices.

Passing this do-nothing amendment will let us proclaim victory, vent built-up public pressure, and withdraw once again from the fight for a balanced budget. This amendment is a license to spend. It does not call for a balanced budget until at least 2001. The promise it makes today is that tough choices must be made—tomorrow. And we know from experience that in the world of the Federal budget, tomorrow never comes.

Mr. President, opposing a constitutional amendment that would call for balancing the Federal budget is risky business for those of us in public office. The amendment has taken on a symbolic significance that far surpasses any possible economic benefits.

But this debate should not be about symbolism or about political security. It should be about solving this Nation's addiction to debt and, specifically, whether amending our Constitution can wean us from that addiction. It cannot.

Let me make clear that I fully agree with my colleagues who believe that we must balance the budget and begin paying off our debt. I have worked with many of them over the years on sincere proposals to reduce spending or to reorganize and streamline programs. We have had more failures than successes, but we keep trying.

But I simply do not believe amending the Constitution will do one thing to balance the budget. If and when the Federal budget is ever again balanced, it will not be because of constitutional prohibitions against deficits. It will be because the public—and the Congress, which reacts to public opinion—stops believing in the free lunch.

Overwhelming majorities in this country oppose the steps necessary to achieve a balance budget. A majority opposes significant cuts in Social Security or other retirement programs; a majority opposes deeper cuts in national defense.

Let me just suggest, Mr. President, that we face an immediate problem because we have to find at last $10 billion in a forecasted shortfall to meet our budgeted needs in the current defense spending.

A majority opposes cuts in health care including Medicare. We cannot default on interest payments on the national debt. Taken together, these spending categories represent well over three-fourths of all Federal spending.

At the same time, a majority also opposes higher taxes to pay for these services. The numbers that majorities support just do not add up. As long as the public calls for mutually exclusive goals, we will respond. Circumvention of the balanced budget amendment will not only be possible, it will be routine.

The most obvious way to avoid making those tough choices would be to do precisely what the amendment provides—waive its provisions by a three-fifths vote in Congress. I have no doubt, Mr. President, that Congress will invoke that three-fifths provisions frequently to waive a balanced budget requirement. We need look no further than the current procedures used under the Budget Act, which allows points of order to be lodged against certain spending provisions. Yet, it is not unusual to waive those points of order simply because Senators agree with the underlying policy objectives—and we waive them by three-fifths vote, just as we would under this amendment.

Even if we do not waive the amendment by vote, Congress will find other ways to circumvent it. The possibilities are endless. As just one example, consider the manner in which States have handled their own balanced-budget requirements.

My own State of Kansas, Mr. President, has a cash-basis law, which is similar to many State balanced-budget requirements. That law is dear to my heart, not only because it has given us responsible State government but also because it was enacted when my father was Governor. Since May 1, 1933, Kansas government agencies—State and local—have been required to operate on a cash basis, incurring debt only by referendum or for expenditures made by specific items.

Let me emphasize that last part, Mr. President—Kansas can borrow money for specific projects, and we often do. Our State issues bonds for highway construction, school renovation, sewer improvements, and various other infrastructure projects. In essence, we have created a capital-outlay budget, as have many other States. Our State's operating budget must balance, but we are constantly in debt to finance long-term capital projects. That is true with most States.

I believe Congress will do much the same thing to avoid the requirements of this amendment. We will redefine "outlays"—a crucial term used but not defined in the amendment—to set up separate funds, such as for capital outlays or for the savings and loan bailout, and use word games to avoid counting those expenses. We will move items off-budget to make the numbers work on paper—but with no real effect on our indebtedness.

Indeed, we will surely move many items off the Federal budget entirely—and onto the budgets of the States. As Federal budget constraints have grown increasingly tighter over the past two decades, Congress has enacted a growing volume of legislation that orders business or State-and-local governments to act but provides no Federal money.

Within the past year there has been a backlash against these unfunded mandates. Indeed that is what they are, and they are troubling, Mr. President. Yet, nothing in this amendment prohibits this sort of mandate. I am convinced that its passing would result in a new way of passing the buck. These are but two of many ways that I think, in the creativeness and inventiveness of the U.S. Congress, that we, in the absence of political will to make tough choices, will circumvent a balanced budget amendment. And in the process, I suggest it will trivialize the trust in our Constitution.

A constitutional prohibition against deficits is not going to reduce the public demand for services or the public aversion to taxes; nor is it going to give Congress the courage to act against the mandate of the electorate. If Congress had the courage to balance the budget, and if the Nation agreed on how that should be done, we would have no need for a constitutional amendment. In the absence of such courage, an amendment would simply prove an embarrassment to our Nation.

I do not intend to sound like a scold, but I have grave reservations about this course of action, and I hope that the public will think carefully about what is involved in an action such as this proposed constitutional amendment.

I yield the floor.

(Ms. MOSELEY-BRAUN assumed the chair.)

Mr. BYRD. Will the Senator yield before she leaves?

Mrs. KASSEBAUM. Yes.

Mr. BYRD. Madam President, I have had the pleasant opportunity to serve with Senator KASSEBAUM for several years now, and I have observed her on many occasions when there were critical, controversial, very important votes in the Senate; and I have observed on many occasions that she has taken a path and chosen the unpopular approach and voted her convictions—after very careful study. I have noted that she reaches her decisions in matters of this kind after the most careful thought and reflection, weighing the pros and cons, and finally making her decision. She has the courage to stand up for her convictions, and I salute her.

There was another Senator, I believe, from Kansas, whom we often hear of as having demonstrated great courage during the impeachment trial of Andrew Johnson, and there was a Senator from West Virginia who also took an unpopular course in that instance—Peter Van Winkle. Peter Van Winkle, in voting not to convict Andrew Johnson, sealed his own political doom. He never came back to the Senate. He was never successful in politics again. I have often wondered why he has not also been recognized as one of those Senators who demonstrated great courage.

Again, here is a Senator from Kansas, who has the intellectual honesty to carefully examine a matter and then reach what she thinks is the right decision and she takes her stand, regardless of its popularity or unpopularity. I admire her and congratulate her for her courage.

Mrs. KASSEBAUM. Madam President, I will respond to the Senator from West Virginia, whose leadership on constitutional matters is of the foremost guidance to many of us and to the Nation. I just suggest that I hope both the Senator from West Virginia and the Senator from Kansas have not sealed their political doom.

I yield the floor, Madam President.

Mr. CRAIG. Madam President, let me also—although I very much disagree with the Senator from Kansas—recognize without question her integrity as a Senator and as a legislator and her commitment to the service to her State in the last good number of years.

I would have hoped she would have spoken differently and as passionately about bringing an end to a process that is accumulating in our country at such an accelerated rate that I think today we are amiss if we fail to recognize what has occurred during my tenure in the U.S. Congress, which is considerably less than the tenure of the Senator from Kansas.

When I came to the House in 1981 and the deficit was somewhere in the $40 or $50 billion range, and the Federal debt was $1.2 trillion, within about 12 months of service in the Congress it became very obvious to me that the appetite to spend here was so great that if we did not change the environment in which the budgeting process went forward, in which special interest groups preyed against us, or to us, or on us, as to expending the public Treasury for their benefits and their interests' benefits, that we some day would get into trouble in this country of a kind that we could not just summarily pass by.

I have joined in budget freezes. I, too, voted for the Kerrey-Brown amendment for a $54 billion cut. I have never in my 14 years failed to vote for a budget cut. But what is the answer then to all of that effort? The Senator from Kansas has exerted that effort, and so have I. Our credentials on being fiscally responsible are probably as good as anybody's. Here is the answer: We no longer have a $60 billion deficit; it is $200 billion. We no longer have a $1.2

trillion debt; we now have a $4.5 trillion debt.

I do believe that the day has come when we can no longer stand here and say, "but I did all the right things. I voted to cut the budget." Because history says—and history is not oftentimes written in just a decade—but in the history I have been involved in, 14 years, the writing is very clear that this Congress cannot, nor will it try to, curtail its appetite to spend. Within a very short time after I had been here, the famous Gramm-Rudman-Hollings bill passed—a pathway to fiscal sanity. I voted for it, and I suspect the Senator from Kansas did. She indicates she did not. I will be happy to yield.

Mrs. KASSEBAUM. Madam President, at the time I expressed reservations about the Gramm-Rudman-Hollings bill because it excluded some significant spending. In fact, a major portion of the spending was excluded and I felt Gramm-Rudman-Hollings would not, as a matter of fact, accomplish what it was set out to do.

Mr. CRAIG. That was a concern about Gramm-Rudman-Hollings. I voted for it because it was one of those things I could reach for on cuts, and it did for a time.

The rate of growth slowed. If you were to graph it, it would have been a slight downward dip in the rate of Federal expenditure, although budgets were still larger the next year than they were the year before. Then times got tough. Or, I should say, times did not get tough, decisions got tough. Politicians got the heat put on them and they squirmed and they took just a little more off Gramm-Rudman-Hollings than had been the year before, and we know the rest of the story.

Gramm-Rudman-Hollings is now history. It is one of about six documents that are now gathering dust on the shelves of some library as to the good intentions of a Congress failed, and the debt clock ticks.

And what is the end result? Well, many are saying the Congress will not respond until there is a cataclysmic financial event where we no longer can pay for our bonds, where we no longer can accommodate or respond to our indebtedness. And that is when Congress will change things.

Let me tell you what happened, though, that is unrecorded, that is now the wolf at the door of the average American family, because there is something happening out there as a result of this profligate spending of our Government.

Starting in 1976 the average income of the American family as it related to buying power began to decline, and it has declined every year since then.

You say: "Senator CRAIG, how can that be? Families are making more money today than they ever were."

We are talking about buying power. From 1976 to 1986, dramatic things happened in the American family. The other spouse went to work. Why? Partly because he or she wanted to and found their fulfillment in the workplace, but also because they had to because their ability to pay for that which was average to the American family was rapidly declining.

I believe and economists believe that part of that and a major part of it was that the Federal Government was consuming more and more money, making it more and more difficult as a family to survive, and not rewarding the family as it had through past tax law. And we have seen the end result—or the progressive result, it is not the end result—of a $4.35 trillion debt.

So there are very real consequences to what we do. The cataclysmic event has not occurred because we are still borrowing. We are allowed to borrow. We have not forfeited. We are not yet bankrupt. But we all know that a $200-plus billion deficit at 1980 interest rates would not be $200 billion today; it would be $500 or $600 billion. And we as a Government would be in astronomical trouble.

Alan Greenspan now once again has to use monetary policy to try to begin to manipulate the economy of this country because fiscal policy really is not working very well, and that is what we are in charge of.

Let us be cautious; let us be concerned; and let us not pass go, as we have passed go all through the decade of the eighties and now into the decade of the nineties, with one cut after another cut after another cut, most of them never passed.

We passed a great budget bill last year. I opposed a big tax bundle. Why? Because the cuts were promises. Bill Clinton did not cut $500 billion out of the budget. He promised to cut it in the outyears. It is yet to be done. It has to be done by this Congress.

Will it be done? Probably not as much as must be done to meet those budgetary targets. And even if we meet them, we are still generating over $200 billion every year in deficits.

In the Bill Clinton years, and I respect this President for his effort, but in his years as President, in the projected 5.5- to 6-year budget that he has laid before the Congress of the United States, there will be a new debt of $1.94 trillion.

Ronald Reagan gets blamed for all the debt structure that we have right now, which in his 8 years as President he generated by his budgets. He has to take the blame for it. They were his budgets. NANCY KASSEBAUM from Kansas and I either voted for them or against them, but we worked with them. They are called the Reagan years, the Reagan budgets. How much total debt did his budgets accumulate? $1.8 trillion in 8 years, versus a Bill Clinton budget of 6 years of $1.9 trillion. That is not a blame on Bill Clinton, because he inherited a debt structure that is requiring over $200 billion a year just to finance.

Let us stop passing go. Let us do not play the horror games that were played here on the floor a few moments ago about Social Security being slashed. Who says it is going to be slashed? I would not vote for that. The Senator from Kansas would not vote for that.

We have to make budget priorities, though, where we can stand here on the floor of the U.S. Congress and say, prior to passage of this amendment, that this will be cut and that will be cut. The Appropriations Committee has not acted. We do not have an appropriations bill on the floor to say where those resources would go or where they would not go.

So let us quit using scare tactics and look at the real fear, and the real fear is $4.5 trillion of debt and a $200 billion annualized finance charge.

Madam President, today in Roll Call, 250 economists endorsed the balanced budget amendment. I ask unanimous consent that that article be printed in the RECORD.

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

250 ECONOMISTS ENDORSE BALANCED BUDGET AMENDMENT

It is time to acknowledge that mere statutes that purport to control federal spending or deficits have failed.

It is time to adopt constitutional control through a Balanced Budget Amendment. In supporting such an amendment, Congress can control its spending proclivities by setting up control machinery external to its own internal operations, machinery that will not be so easily neglected and abandoned.

Why do we need the Balanced Budget Amendment now, when no such constitutional provision existed for two centuries? The answer is clear. Up until recent decades, the principle that government should balance its budget in peacetime was, indeed, a part of our effective constitution, even if not formally written down. Before the Keynesian-inspired shift in thinking about fiscal matters, it was universally considered immoral to incur debts, except in periods of emergency (wars or major depressions). We have lost the moral sense of fiscal responsibility that served to make formal constitutional constraints unnecessary. We cannot legislate a change in political morality; we can put formal constitutional constraints into place.

The effects of the Balanced Budget Amendment would be both real and symbolic. Elected politicians would be required to make fiscal choices within meaningfully-constructed boundaries; they would be required to weigh predicted benefits against predicted tax costs. They would be forced to behave "responsibly," as this word is understood by the citizenry, and knowledge of this fact would do much to restore the confidence of citizens in governmental processes.

It is important to recognize that the Balanced Budget Amendment imposes procedural constraints on the making of budgetary choices. It does not take away the power of the Congress to spend or tax. The amendment requires only that the Congress and the Executive spend no more than what

they collect in taxes. In its simplest terms, such an amendment amounts to little more than "honesty in budgeting."

Of course, we always pay for what we spend through government, as anywhere else. But those who pay for the government spending that is financed by borrowing are taxpayers in future years, those who must pay taxes to meet the ever-mounting interest obligations that are already far too large an item in the federal budget. The immorality of the intergenerational transfer that deficit financing represents cries out for correction.

Some opponents of the Balanced Budget Amendment argue that the interest burden should be measured in terms of percentage of national product, and, so long as this ratio does not increase, all is well. This argument is totally untenable because it ignores the effects of both inflation and real economic growth. So long as government debt is denominated in dollars, sufficiently rapid inflation can, for a short period, reduce the interest burden substantially, in terms of the ratio to product. But surely default by way of inflation is the worst of all possible ways of dealing with the fiscal crisis that the deficit regime represents.

Opponents also often suggest that Congress and the Executive must maintain the budgetary flexibility to respond to emergency needs for expanding rates of spending. This prospect is fully recognized, and the Balanced Budget Amendment includes a provision that allows for approval of debt or deficits by a three-fifths vote of those elected to each house of Congress.

When all is said and done, there is no rational argument against the Balanced Budget Amendment. Simple observation of the fiscal record of recent years tells us that the procedures through which fiscal choices are made are not working. The problem is not one that involves the wrong political leaders or the wrong parties. The problem is one where those whom we elect are required to function under the wrong set of rules, the wrong procedures. It is high time to get our fiscal house in order.

We can only imagine the increase in investor and business confidence, both domestic and foreign, that enactment of a Balanced Budget Amendment would produce. Perhaps even more importantly, we could all regain confidence in ourselves, as a free people under responsible constitutional government.

Dr. James Buchanan, Nobel Laureate—Economics, George Mason University; Dr. Ogden O. Allsbrook, Jr., University of Georgia; Dr. Sheila Amin, Gutierrez de Pineres, University of Arkansas; Dr. Robert V. Andelson, Auburn University; Dr. Annelise Anderson, Hoover Institution Stanford University; Dr. Martin Anderson, Hoover Institution Stanford University; Dr. Terry L. Anderson, Montana State University; Dr. Peter H. Aranson, Emory University; Dr. D.T. Armentano, University of Hartford; Dr. Charles W. Baird, California State University, Hayward; Dr. Charles Baker, Sr., Northeastern University; Dr. Badi H. Baltagi, Texas A & M University; Joseph L. Bast, Heartland Institute; Dr. Nicholas Beadles, The University of Georgia; Dr. Richard Bean, University of Houston; Dr. John H. Beck, Gonzaga University; Dr. Joseph A. Bell, Southwest Missouri State University; Dr. Don Bellante, University of South Florida; Dr. James T. Bennett, George Mason University; Dr. Bruce Benson, Florida State University; Dr. John E. Berthoud, Amer. Legislative Exchange Council; Dr. Walter Block, College of the Holy Cross; Dr. Peter J. Boettke, New York University; Dr. Cecil E. Bohanon, Ball State University; Dr. Thomas E. Borcherding, Claremont Graduate School; Dr. Samuel Bostaph, University of Dallas; Dr. Donald J. Boudreaux, Clemson University; Dr. William Breit, Trinity University (Texas); Dr. Dennis Brennen, Harper College; Dr. Charles R. Britton, University of Arkansas; Dr. Edgar K. Browning, Texas A & M University; Dr. Barry Brownstein, University of Baltimore; Dr. Herbert Brubel, Simon Fraser University (Burnaby, B.C., Canada).

Dr. Richard C. K. Burdekin, Claremont McKenna College & Claremont Graduate School; Dr. Glenn Campbell; Hoover Institution, Stanford University; Dr. P. Rao Chatrathi, College of Business & Public Administration, Old Dominion University; Dr. David K. W. Chu, College of the Holy Cross; Dr. J. R. Clark, University of Tennessee-Chattanooga; Dr. Will Clark, University of Oklahoma; Dr. Kenneth W. Clarkson, Law & Economics Center, University of Miami; Dr. R. Morris Coats, Nicholls State University; Dr. Richard B. Coffman, University of Idaho; Dr. Elchanan Cohn, University of South Carolina; Dr. John W. Cooper, The James Madison Institute for Public Policy Studies; Dr. Michael Copeland, Political Economy Research Center; Dr. John F. Copper, Rhodes College; Mr. Wendell Cox, Wendell Cox Consultancy; Dr. Mark Crain, George Mason University; Dr. Ward S. Curran, Trinity College (Hartford, CT); Dr. Albert L. Danielson, University of Georgia; Dr. Patricia Danzon, The Wharton School, The University of Pennsylvania; Dr. Audrey Davidson, University of Louisville; Dr. Otto A. Davis, Carnegie Mellon University; Dr. Ted E. Day, University of Texas at Dallas; Dr. Henry Demmert, Santa Clara University; Dr. Arthur T. Denzau, Claremont Graduate School; Dr. Arthur De Vany, University of California, Irvine; Dr. Arthur M. Diamond, Jr., University of Nebraska at Omaha; Dr. Charles Diamond, University of Louisville; Dr. Thomas J. DiLorenzo, Loyola College (Baltimore, MD); Dr. James A. Dorn, Cato Institute; Dr. William M. Doyle, University of Dallas; Dr. Gerald P. Dwyer, Jr., Clemson University; Dr. Thomas R. Dye, Florida State University, Dr. Ross D. Eckert, Claremont McKenna College & Claremont Graduate School; Dr. Michael R. Edgmand, Oklahoma State University.

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Dr. Robert F. Herbert, Auburn University; Dr. Dale M. Heien, University of California, Davis; Dr. John M. Heineke, Santa Clara University; Dr. Ron Heiner, George Mason University; Dr. A. James Heins, University of Illinois, Urbana-Champaign; Dr. Davis R. Henderson, Hoover Institution, Stanford University; Dr. Alan Heslop, Claremont McKenna College; Dr. Robert Higgs, Seattle University; Dr. P.J. Hill, Wheaton College (Wheaton, IL); Dr. Mark Hirschey, University of Kansas; Dr. Randall G. Holcombe, Florida State University; Dr. Steven Horwitz, St. Lawrence University; Dr. James L. Hudson, Northern Illinois University; Dr. David Huettner, University of Oklahoma; Dr. William J. Hunter, Marquette University; Dr. Laurence R. Iannaccone, Santa Clara University; Dr. Thomas R. Ireland, University of Missouri at St. Louis; Dr. Joseph M. Jadlow, Oklahoma State University; Dr. Gregg A. Jarrell, William E. Simon Graduate School of Business Administration, University of Rochester; Dr. Jerry B. Jenkins, Sequoia Institute; Dr. M. Bruce Johnson, University of California, Santa Barbara; Dr. Ronald N. Johnson, Montana State University; Dr. Thomas Johnson, North Carolina State University; Dr. David L. Kaserman, Auburn University; Dr. W.F. Kiesner, Loyola Marymount University-Los Angeles; Dr. Robert Kleiman, Oakland University; Dr. Daniel Klein, University of California, Irvine; Dr. David C. Klingaman, Ohio University; Dr. Charles R. Knoeber, North Carolina State University; Dr. Michael I. Krauss, George Mason University; Dr. David Kreutzer, James Madison University; Dr. Michael Kurth, McNeese State University; Dr. David N. Laband, Salisbury State University; Dr. Everett C. Ladd, University of Connecticut.

Dr. J. Clayburn LaForce, Anderson School of Management UCLA; Dr. William E. Laird, Florida State University; Dr. Harry Landreth, Centre College; Dr. Dwight R. Lee, The University of Georgia; Dr. Kenneth Lehn, University of Pittsburgh; Dr. Stan Liebowitz, University of Texas at Dallas; Dr. Cotton Lindsay, Clemson University; Dr. Charles A. Lofgren, Claremont McKenna College; Dr. Dennis E. Logue, Tuck School, Dartmouth College; Dr. James R. Lothian, Fordham University; Dr. Robert F. Lusch, University of Oklahoma; Dr. Rufus Ashley Lyman, University of Idaho; Dr. Paul W. MacAvoy, Yale University; Dr. Paul Malatesta; University of Washington; Dr. Yuri Maltsev, Carthage College; Dr. Allan B. Mandelstamm, Virginia Polytechnic Institute & State University; Dr. J. Stanley Marshall, The James Madison Institute; Dr. John Mathys, DePaul University; Dr. Merrill Matthews, Jr., National Ctr. for Policy Analysis; Dr. Margaret N. Maxey, The University of Texas at Austin; Dr. Thomas H. Mayor, University of Houston; Dr. Donald McCloskey, University of Iowa; Dr. Robert E. McCormick, Clemson University; Dr. Paul W. McCracken, University of Michigan; Dr. Roger E. Meiners, University of Texas at Ar-

lington; Dr. Larry J. Merville, University of Texas at Dallas; Dr. John H. Moore, George Mason University; Dr. Stephen Moor, The Cato Institute; Dr. John C. Moorhouse, Wake Forest University; Dr. Laurence S. Moss, Babson College; Dr. J. Carter Murphy, Southern Methodist University; Dr. Charles Murray, American Enterprise Institute; Dr. Gerald Musgrave, Economics America, Inc.; Dr. Ramon H. Myers, Hoover Institution, Stanford University.

Dr. Sheridan Nichols, American Enterprise Forum; Dr. William A. Niskanen, The Cato Institute; Dr. Geoffrey E. Nunn, San Jose State University; Dr. Tim Opler, Southern Methodist University; Dr. Dale K. Osborne, University of Texas at Dallas; Dr. Allen M. Parkman, Anderson School of Management University of New Mexico; Dr. E.C. Pasour, Jr., North Carolina State University; Dr. Judd W. Patton, Bellevue College; Dr. Ellen Frankel Paul, Bowling Green State University; Dr. William Peirce, Case Western Reserve University; Dr. Steve Pejovich, Texas A & M University; Dr. Sam Peltzman, University of Chicago; Dr. Charles R. Plott, California Institute of Technology; Dr. Jeffrey Pontiff, University of Washington; Dr. Philip K. Porter, University of South Florida; Dr. Barry W. Poulson, University of Colorado; Dr. Jan S. Prybyla, Pennsylvania State University; Dr. Gary M. Quinlivan, St Vincent College; Dr. Alvin Rabushka, Hoover Institution Stanford University; Dr. Donald P. Racheter, Central University of Iowa; Dr. Robert Reed, University of Oklahoma; Dr. William Reichenstein, Baylor University; Dr. Barrie Richardson, Frost School of Business Centenary College; Dr. James R. Rinehart, Francis Marion University; Dr. Mario J. Rizzo, New York University; Dr. Jerry Rohacek, University of Alaska, Anchorage; Dr. Simon Rottenberg, University of Massachusetts, Amherst; Dr. James Roumasset, University of Hawaii; Dr. Roy J. Ruffin, University of Houston; Dr. John Rutledge, Rutledge & Company, Inc.; Dr. Joel W. Sailors, University of Houston; Dr. Katsuro Sakoh, Institute for Pacific Studies; Dr. Thomas R. Saving, Texas A&M University; Dr. David Schap, College of the Holy Cross.

Dr. Loren C. Scott, Louisiana State University; Dr. G. William Schwert, William E. Simon Graduate School of Business Administration University of Rochester; Dr. Gerald W. Scully, University of Texas at Dallas; Dr. Richard T. Selden, University of Virginia; Dr. Larry E. Shirland, University of Vermont; Dr. William F. Shughart II, University of Mississippi; Dr. Randy T. Simmons, Utah State University; The Honorable William E. Simon, Former United States Secretary of the Treasury; Dr. Gene R. Simonson, California State University, Long Beach; Rev. Robert A. Sirico, CSP, The Acton Institute For The Study of Religion and Liberty; Dr. Daniel Slottje, Southern Methodist University; Dr. William Gene Smiley, Marquette University; Dr. Barton A. Smith, University of Houston; Dr. Lowell C. Smith, Nichols College; Dr. David L. Sollars, Auburn University, Montgomery; Dr. John C. Soper, John Carroll University; Dr. Frank G. Steindl, Oklahoma State University; Dr. James A. Stever, University of Cincinnati; Dr. Hans R. Stoll, Financial Markets Research Center Vanderbilt University; Dr. Richard L. Stroup, Montana State University; Dr. W. C. Stubblebine, Claremont McKenna College & Claremont Graduate School; Dr. David J. Teece, University of California, Berkeley; Dr. Clifford F. Thies, Shenandoah University; Dr. Henry Thompson, Auburn University; Dr. Walter N. Thurman, North Carolina State University; Dr. Richard Timberlake, University of Georgia; Dr. Robert D. Tollison, George Mason University; Dr. Robert H. Trent, University of Virginia; Dr. Charlotte Twight, Boise State University; Dr. Jon G. Udell, University of Wisconsin—Madison; Dr. Hendrik van dem Berg, University of Nebraska; Dr. Terry Wm. Van Allen, Oregon Health Sciences University.

Dr. T. Norman Van Cott, Ball State University; Dr. Charles Van Eaton, Hillsdale College; Dr. Karen I. Vaughn, George Mason University; Dr. Richard Vedder, Ohio University; Dr. George J. Viksnins, Georgetown University; Dr. Warren R. Wade, North Park College; Dr. Richard E. Wagner, George Mason University; Dr. Alan Rufus Waters, California State University, Fresno; Dr. Bernard L. Weinstein, University of North Texas; Dr. John T. Wenders, University of Idaho; Dr. E. G. West, Carleton University (Ottawa, Canada); Dr. Lawrence H. White, University of Georgia; Dr. G. C. Wiegand, Southern Illinois University; Dr. Thomas D. Willett, Claremont Graduate School & Claremont McKenna College; Dr. Walter E. Williams, George Mason University; Dr. Michael K. Wohlgenant, North Carolina State University; Dr. Alexander Worniak, Catholic University of America; Dr. Gene C. Wunder, School of Business, Washburn University; Dr. Thomas L. Wyrick, Southwest Missouri State University; Dr. Bruce Yandle, Clemson University; Dr. Keith M. Yanner, Central University of Iowa; Dr. Steven Ybarrola, Central University of Iowa; Dr. Jerrold L. Zimmerman, William E. Simon Graduate School of Business Administration, University of Rochester; Dr. Thomas S. Zorn, University of Nebraska.

Mr. CRAIG. Madam President, those economists are representing almost every major economic school in the United States. They are not politicians. They are not legislators. They are not crafters of a constitutional amendment. That is not their business. Their business is to crunch numbers, to look at the whole of the U.S. economy in a microsense or macrosense and say: Here is what it is, and here is what it is going to do.

What they are saying is that we are in trouble, and they are endorsing a balanced budget amendment. Why? As a court of last resort. Maybe some of them are there. But I think most of them really do recognize the fact, as the Senator from Kansas and I recognize, that what we have done is not working, that there is without question, without any measurement of the mind or the imagination, the fact that we have failed and we are continuing to fail. And the debt gets bigger and the obligation on future generations becomes astronomical.

Even this administration admits that a child born in 1994 must pay 82 percent of his or her gross pay over their lifetime to finance Government. That is a testimony of tragedy. Without question, it is. And so, we are a Third World nation. Oh, we have beautiful Government buildings and we have millions of Federal employees. But the average taxpaying citizen could well begin to live as if he or she were living in a Third World nation, with no ability to spend and no ability to provide a roof over their head, and most importantly no ability to say to their children: You are going to live in a world, in an environment that was better than the one I lived in, because that has always been the promise of every generation of Americans, to be able to say we have made a better world for our children.

Today, we are not doing that. The world we craft out of the public policy that is created on the floor of this Senate is saying that the world will be worse—not that we do not care, not that we are not going to try to have a new health care system, not that we are not going to try to address the people who are out on the streets and the people who are truly in need—but for the masses who pay the bills, the world will be worse. Or it will be less from a standpoint of opportunity, from a standpoint of the future that we would want to hand to our children.

This is not just a technical constitutional amendment. In my opinion, this is an expression of phenomenal compassion. This is an expression that this Congress, after over 200 years, will have learned that it too makes mistakes and owns up to them and admits them and turns to the taxpayers and says, "You know as a Representative under the Constitution, you are the ones in charge, and we are going to give you the power to assume that charge again."

So while all of that is being debated, we are going to be wringing our hands and saying the Court can do this or this or that, or the Executive cannot or will not or should not or could not.

Who cares? I care about the future. And those who have brought this amendment to the Senate, Senate Joint Resolution 41, care that we will plan for a future world in this country that is greater than the one we left.

I yield back the remainder of my time.

The PRESIDING OFFICER. The Senator from North Dakota.

Mr. DORGAN. Madam President, I ask unanimous consent to speak for 10 minutes as if in morning business.

The PRESIDING OFFICER. Without objection, it is so ordered. The Senator has that right.

THE BALANCED BUDGET AMENDMENT

Mr. DORGAN. Madam President, I mentioned on the floor yesterday that I have a special reverence, as I am sure everyone here does, to the Constitution. During our debates on constitutional measures, such as this balanced budget amendment, I have been very reluctant to change the Constitution in any way.

Every time somebody says, "Let's have a constitutional amendment," we have a lot of folks who say, "Sign me up. Where is the wagon? I'll jump on."

It does not matter what the amendment is about. People like the idea of changing the Constitution.

To give one example, one of the toughest votes I cast in Congress was a vote on flag burning. It was not tough morally—I knew what was right and I did what was right. It was tough politically.

Somebody burned a flag somewhere, and he did it in front of the TV cameras. He got a lot of coverage, which I suppose was his goal. His case went to Court, and the Court determined that a law that prohibited flag burning was unconstitutional.

So in the House of Representatives, the question was: Should we change the U.S. Constitution to prohibit flag burning? Is there anybody who is not disgusted when somebody burns the American flag? I do not think so. We all are disgusted by that.

But it was a tough vote because the vast majority of the American people demanded that we change the U.S. Constitution to prohibit flag burning. I voted against that change.

I point that out because this has been a troublesome period with respect to the question of how and when do you change the Constitution.

We must, however, today consider that question in the context of trying to improve our economic future.

We look at where we are economically and we discover that we are deep in debt. I do not think anybody denies that the current debt load in this country is deeply troubling. We have been adding to it at an alarming rate every year. We will, by the year 2004 have at least an $8 trillion public debt. In 1980, it was less than $1 trillion. But to repeat, in the year 2004 we will have a public debt of over $8 trillion.

Now, that is the honest debt. They will say it is less than that if you deduct the assets that we are accumulating in Social Security, and other trust funds for future years. We want to save that money to use it when we need it. If you take that and reduce the deficit, which you should not do because that is dishonest budgeting, then you can show a lower debt. But the honest public debt will be $8 trillion 10 years from now.

Also, we are living in a time when the American people have a great distrust for institutions. The media spends most of the week showing us the blemishes and the difficulties of institutions, especially the problems of Congress. And people say to us, "We want you to be more responsible in fiscal policy. Shape up. Balance your budget. Behave. Do what we do as a family or as a business."

And yet, after saying this, the American people then send other signals. People want all the spending. Do you think they want deep cuts in Medicare? No. Do they want cuts in Social Security? No. Do they want cuts in their favorite programs? No. They want somebody else to have the cuts, but they will fight to preserve their own interests.

They say, "We don't like Government. We don't like taxes. But, of course, we want a good school to send our kids to. If our house is on fire, we want the fire department to respond quickly. We sure want a police force that is good and responsible and well trained."

So there is a contradiction in our country.

Let me bring it down to one case, a Medicare case. A doctor told me awhile ago in North Dakota, "I have a patient that has been drinking all of his life. It destroyed his liver and he is going to die. He is on Medicare and now wants a liver transplant. He said he is still drinking. Should I, as his doctor, try to get him a liver transplant paid for with Medicare funds?"

About 6 months later, I saw the same doctor. The doctor said to me at the time, "If I do not try to get him a new liver, he will either sue me or go to another doctor."

Someone was drinking himself near to death, destroying his liver, demanding a new liver paid for by Medicare.

So I saw the doctor later. I said, "Whatever happened to that case? Did the fellow get a new liver?"

He said, "Yes."

I said, "Is he still drinking?"

"Sure."

This case illustrates our problem. Is there any limit to what people want spent when it is for them, or their families, or their communities? We as a country, have an appetite for spending. That desire simply manifests itself in Congress, but it does not originate here.

People want us to increase funding for the Veterans Administration, Medicare, Medicaid, the farm programs, and more.

If people want these programs, and yet we are spending more on these programs than we have in revenue, what do we do? How do we reconcile that?

In physics there is the law of inertia. A body in motion stays in motion. A body at rest stays at rest.

That law would suggest that we just keep plugging away. The problem is, if we keep doing what we are doing, we are never going to deal with this crippling debt.

I do not want my kids by the year 2004 to look at the size of the public debt and say, "Do you know, Dad, you participated in all of this. This country is $8 trillion in debt." Eight trillion dollars.

I do not want to leave my children with this problem.

So the question is, what do we do?

Will the constitutional amendment to balance the budget balance the budget? No, not by itself, of course not. It will not change the deficit by one penny. But, it will require the President to submit a balanced budget and Congress to enact a balanced budget.

Will that be tough? It will be excruciatingly tough. Can it be done? I do not know. Should we do something to see if we can change the inertia of our country? Of course, we should.

To sum up, I do not relish this discussion about changing the Constitution. And yet we must find ways to change what has been happening with this country's fiscal policy. I have for a decade described it as a dangerous and irresponsible fiscal policy. I have not changed my mind on that.

I compliment this President. I supported this President in some tax increases and spending cuts that a lot of the American people did not like. A lot of people in this body did not vote for it. But, even after the deficit reduction bill, all of the numbers demonstrate we have not yet conquered our financial problems.

Lastly, as my colleagues know, I will try to offer an amendment to remove the Social Security computation under this constitutional amendment offered by Senator SIMON.

In the 1983 Social Security reform bill we began to build surpluses in the Social Security trust fund because we are going to need them when the baby boomers retire.

If we allow those surpluses to be used continually to offset operating budget deficits, we will not be honest. We must in my judgment perfect this constitutional amendment to balance the budget at least in this respect: By being honest with the American people about how we are using the Social Security funds. We should put the Social Security funds aside in a trust fund. They ought to be saved for the purpose for which they are collected and they ought not be under any condition used to show as an offset against the operating budget deficits.

The commonly used budget deficit figures that we now use are not accurate. Those numbers are the deficits after you subtract the Social Security surplus. The deficit is really about $70 billion higher than is now quoted on the floor of the Senate. I do not mean to be a bearer of bad news, but that is a fact and it is time all of us recognize that and respond to it. My amendment will allow all of us to respond to that under the constitutional amendment offered by Senator SIMON.

As soon as the floor situation permits, I intend to offer that amendment. I hope my colleagues will support that amendment for the reasons I have discussed.

BALANCED BUDGET AMENDMENT

Mr. DECONCINI. Madam President, I want to comment on the statements of the Senator from North Dakota. I agree with him that the bad news is

really upon us. The history of the Senator when he was in the House has clearly demonstrated he was foretelling that bad news for a long time.

Relating to his amendment on Social Security, I have the greatest desire to see that we deal with it. But I have to say in this process, it has not been without a great deal of compromise. The constitutional amendment that I offered over 17 years ago was an amendment that had some Social Security protections but it also had an automatic tax that would go in effect, across the board, on income to offset any deficit that existed at the end of the year. I remember the senior Senator from Louisiana at the time, Senator Long, ridiculing that and making quite a point of how unworkable that would be.

I felt very strongly about it, that a price had to be paid when Congress did not respond responsibly to a deficit. To me the best way to do that was with a constitutional provision that would increase your taxes if the Congress did not balance the budget. Anyway that fell by the wayside. The only reason I raise it is because I have agreed, in this process, to try to find a road, to try to build a coalition, that would pass this amendment.

The Senator from Illinois, Senator SIMON, has worked a long time, as have many others, trying to forge a coalition of at least 67 Senators who would support a balanced budget constitutional amendment that will bring some sanity to the deficit expenditures that we have had over the last 30-some years. I do not think anything is so ironclad it cannot be considered for some modification. But I think it is important that we attempt to build on this coalition the Senator from Illinois has so carefully put together. He has not done this in an autocratic or dogmatic way. Just the contrary, he has extended himself time and time again in an effort to ensure that everybody has input and that we consider everyone's position. Yet it is necessary to build a coalition in order to get 37 votes. The Senator from Utah, Senator HATCH, has been supportive of this effort, as well.

Having managed the bill in 1982 from the Democratic side, and the Senator from Utah handled it on the Republican side, it was an interesting process. We had some very attractive amendments that were offered. They were defeated. They caused some political consternation I am sure. But the point was we needed to pass a constitutional amendment, we needed to get enough votes to carry it over to the House. Unfortunately, in that case it was defeated by the House.

I think we have to be very careful. We should not shut the door completely but we need to be cautious on opening the door. The constitutional amendment before us has gone through the Judiciary Committee, has gone through public hearings, and has tremendous support throughout the country. People who are paying attention to this issue understand what is in this amendment. Those opposed to it are certainly exploiting, in my judgment, every word that is in there to try to point out an example of how it will not work.

We know from 200 years of arguments before the Supreme Court over the interpretation of constitutional provisions, just how much you can exploit or represent the interpretation of certain clauses and certain words. To me, we need to pass this balanced budget amendment and to do it as soon as we can.

Deficit spending is nothing more than a continuation of a mortgage, a mortgage that our children and grandchildren, and perhaps their children are going to have to pay unless we do something this year. Even if we do it this year, the debt is $4.5 trillion. That is a lot of money and I will not go into the details of how many stacks of money or how far such a debt would reach to the sky, because we have heard all that. Later in the debate I will have some charts to point out some of the significance of how bad this debt is.

We are saddling future generations with a burden they will never be able to dig themselves out of if we do not do something and do something now.

In 1980, for instance, interest on the debt was $75 billion. In 1983 that number had increased 400 percent, to $295 billion. By 1996, interest on the debt is expected to exceed Social Security payments as the single largest Government expense in the budget of this Government. And right now, every single day, our Government is spending $800 million—that is right, Madam President—$800 million on interest payments alone.

I remember coming to this body in 1977, and I remember at the end of President Carter's term the debt was something in the neighborhood of $994 or $995 billion. There was a tremendous campaign throughout this country lodged by then Governor Reagan of California, concerned about how this debt had grown.

I think our enormous debt has brought the country down. The increase in the debt under 8 years of President Reagan, and then 4 years of President Bush where that debt, as bad as it was in 1978 and 1979, of nearly $1 billion, has grown almost five times that amount, in 13 years. That is not something we can be proud of. Some people might say—well, the country has not been brought down. It has not been destroyed. But indeed it has been damaged severely. The standard of living here in this United States is not what it was 20 years ago, we know this just by how many people within a family have to work today to maintain the economic standards that they need.

Since coming to the Senate I have continuously sought and supported a constitutional amendment to balance the budget. I have not done this for political reasons, though in my State it is popular. I have done it because I truly believe the Congress will not do it, the Presidents that we have in the future will not do it. Not that they are not well-intended, and not that there will not be efforts to do so. This President has brought to the floor of this body, and the House, a package we passed where we actually reduced the growth of the deficit. To my recollection this is the only time in my term of office where we have actually seen a real reduction in the growth of the deficit. But nothing is long term even under the Clinton proposal. Yes, health care, if adopted as proposed by the Clinton administration, might continue the downward trend of the deficit. But those are big "if's". We must not allow the debt to skyrocket as it has in the last 25 to 30 years.

What kind of legacy, Madam President, are we leaving for our children? As the debt stands now a child or young adult on average can expect to pay well over $100,000 in extra taxes to cover interest payments on the debt during his or her lifetime.

Each year that we run a $200 billion deficit, another $8,000 is added to that figure. Over the last 20 years, the net annual interest payment has risen from $14 billion in 1970 to over $180 billion in 1990, money which could have gone to vital domestic programs or to pay off the Federal debt. Much too much of Government spending is needed to pay off past debts instead of investing in our future.

Despite the need to control deficit spending, collectively, however, Congress lacks the necessary self-discipline to balance the budget. I do not know who could argue differently.

Congress has attempted on several occasions without success to control deficit spending through legislation. The only solution remaining, in my judgment, is a constitutional amendment. We tried to control it through the Gramm-Rudman-Hollings sequester approach. We revised it again and again when it was too tough to meet the deficit targets; we could not do it. In its place, we enacted the 1990 budget summit agreement, which was really a disaster because we started off with figures and the numbers that were not really what the true figures turned out to be.

The amendment before us today is a simple amendment. There is nothing here that would establish any permanent level of expenditures or taxes. There is nothing here that would prevent the Congress from approving any particular item of expenditure or taxation.

We, collectively, not just those who oppose this constitutional amendment, have not been able to balance the budget and nobody can dispute that fact. There is no plan out here that will put this country on sound fiscal ground and bring a balanced budget. We are kidding ourselves to think that there is.

This amendment would simply mandate that total spending of the United States for any fiscal year not exceed total revenues for that year unless 60 percent of the Congress approves specific amounts of deficit expenditures. I cannot think of a better solution than to force this body to balance the budget and, if you cannot get the 60 votes for deficit spending, well and good. Then you have to cut spending or raise taxes to bring about a balanced budget. This amendment would require the President to submit a balanced budget, thus placing the responsibility for honest budgeting on both the executive and legislative body.

The Senator from Nebraska, Senator EXON, has argued this point so well on the floor, time and time again, that the President should submit a balanced budget. I happen to be a strong supporter of that provision.

The requirement for a balanced budget could be waived in time of war or military conflict. However, under the amendment, it will take a majority of the full membership of each House to raise taxes. We all know how unpopular that is. I do not see any reason not to require a constitutional majority to raise taxes. A balanced budget amendment demands accountability. In an effort to strike a balance between flexibility and enforceability, this amendment allows the Congress in times of recession or national emergency, to authorize specific deficit spending or increase taxes. However, they must go on record as having voted to do so. The voters can then decide if their representatives in Congress are serious about fiscal responsibility.

At present, Members avoid accountability through deficit spending, failing to make the tough political decisions required to choose between too many programs competing for too scarce dollars.

Critics argue that the amendment lacks the necessary enforcement mechanism and claims that Congress' tendency to manipulate deficit reduction laws such as Gramm-Rudman, in the context of a constitutional amendment, would result in the trivialization of the Constitution. However, elevating a balanced budget requirement to the level of a constitutional amendment provides the necessary teeth to ensure that concrete steps are taken to balance the budget.

The President and the Members of Congress are sworn to uphold the Constitution. Failure to abide by the amendment would constitute a violation of public trust. I think the American public will react strongly if Congress just manipulates the figures, as we have done previously. The American people will decide through their electoral process whether the Congress and the President have lived up to the Constitution of the United States. We have seen Presidents and Members of Congress voted out of office because of accusations, and because of valid charges, that they have not lived by the Constitution to which they are sworn.

The ultimate proof that a balanced budget amendment can work is in the experience of almost all States, which have some constitutional provision limiting their ability to incur budget deficits. Consequently, more States run budget surpluses than deficits.

While the economic demands and available resources may be different for States and the Federal Government. The overall success of State constitutional budget limitations illustrates that a balanced budget amendment can provide the incentive and discipline necessary to place our Nation on the road to fiscal responsibility.

This amendment and the whole idea of a constitutional amendment to balance the budget has been the subject of countless congressional hearings and numerous articles. The Senate approved such an amendment in 1982 and in 1986, the Senate failed by one vote to pass a balanced budget amendment.

Gramm-Rudman was used as the reason to defeat the amendment. Members were urged to give Gramm-Rudman a chance. Well, Gramm-Rudman didn't work.

Clearly the public wants a balanced budget amendment to the Constitution. 32 States have passed resolutions calling for a balanced budget amendment convention. Only 2 more States for a total of 34 are needed. Unfortunately, 3 States have passed resolutions of rescission because of concerns over the possible scope of any constitutional convention. However, the legality of these rescission resolutions is questionable.

Despite the apparent success of the State effort, it does not seem likely that the magic number of 34 will be forthcoming any time soon. Therefore, it is up to the Congress to get the process moving.

After passage in both Houses, three-fourths of the States must ratify the amendment before it can be incorporated into the Constitution.

Our bottom line is immersed in red ink. Drastic action is needed. However well intentioned we may be in trying to reduce the deficit we have failed.

A constitutional amendment is needed because legislative rules can always be waived and the next Congress can always reject the procedures and/or laws of its predecessors. If Congress adopts and three-fourths of the States ratify, this amendment will become part of the fundamental law of the land impacting on generations far into the future.

I urge my colleagues to support Senator SIMON's amendment. It is time to say no to deficit spending and reimpose fiscal responsibility into the budget process.

Mr. SARBANES addressed the Chair.

The PRESIDING OFFICER. The Senator from Maryland.

BALANCED BUDGET AMENDMENT: RISK OF PROMOTING INSTABILITY

Mr. SARBANES. Madam President, I believe that adding a balanced budget amendment to the Constitution of the United States would be economically impractical, indeed under some circumstances dangerous and constitutionally irresponsible.

The amendment would have the very substantial risk of promoting instability, retarding economic growth, and shifting the basis of our democracy from majority to minority rule.

The amendment raises unanswerable questions concerning implementation. It would invite either fiscal paralysis or court intervention in the conduct of economic policy.

Madam President, the Constitution is the guiding charter of our Government defining the basic structure of our democracy and the political and civil liberties of our citizens. It does not establish specific policies out of a belief that those policies should be shaped by the people and their elected representatives in the times in which they live. Because the Constitution distinguishes between universal principles and the specific policies of the day, the Constitution has endured for over two centuries, despite dramatic changes in American society.

The Federal budget, on the other hand, is rewritten on a yearly basis to address evolving national goals. During the eighties, both the budget and the process by which we made economic decisions fell short of what was required. Large deficits, which should not have been experienced, increased. That is a problem that needs to be addressed.

The question is not whether you want to get deficits down. The question is how do you go about doing it. It is a little bit like the question, if you have a headache, do you shoot yourself in the head in order to get rid of your headache? I submit the balanced budget amendment to the Constitution has that aspect to it.

There is nothing in the existing political arrangements that prevents the President and the Congress from addressing the Federal budget deficit. In fact, we did just that last August with a major deficit-reduction program which is working. It has changed the trend line of the Federal budget deficit and put it on a downward path for the first time in over a decade, which is

transforming the economic situation in this country.

The deficit-reduction package which was passed last August and which has paid such dividends regarding deficit reduction and economic growth would not have been passed if this amendment was law.

My colleague who just spoke said that this provision has a requirement in it that any taxes would have to be passed by a constitutional majority of the Members of the House.

No bill to increase revenue shall become law unless approved by a majority of the whole number of each House by rollcall vote. However, we did not have a constitutional majority for the President's economic plan because the votes were split 50–50. The deciding vote was made by the Vice President.

It is not the Constitution that needs changing. What needs to be done is for the President and the Congress, working together, as they have just done successfully, to enact a program which will bring the budget deficit under control.

Let me just address what I consider to be the main defects in this proposal. First, a balanced budget requirement in the Constitution which had to be followed at all times could have a devastating impact on the economy during an economic recession. In fact, the application of this measure during an economic recession might well drive the economy into a depression.

When we go into an economic slowdown, people lose their jobs, no longer pay taxes into the Treasury, and draw support payments from the Treasury. The disparity between receipts and outlays widens in a recessionary period. The outlays go up and the receipts go down by the very nature of the economic turndown.

If at that point you further seek to cut back, you will only succeed in driving the economy further down, and you will transform a recession into a depression.

In fact, the lower economic growth would create higher deficits. Each 1 percent added to the unemployment rate is about $50 billion added to the deficit. So, the whole exercise might be counterproductive; you would be engaging in an effort of trying to balance the budget, the consequence of which would be to drive the economy further down from recession into depression. The consequences of recession and depression is an increase in the deficit, not a decrease.

This amendment would severely limit the ability of the Government to address economic downturns and it might well doom our country to a series of depressions—not just recessions but depressions.

Second, this proposal to alter the Constitution does not recognize the important economic distinction between consumption and investment spending. Running deficits to pay for today's consumption, while leaving the bill for future generations, is not responsible conduct. But borrowing now to pay for capital investments that increase future economic growth may make sense.

Under this balanced budget amendment, you would have to pay for all investment entirely in one fiscal year. If households followed such a budget strategy, only a tiny minority of American families would own houses, cars, or major appliances.

Most businesses borrow prudently to enhance their business, expand their sales, and strengthen their economic enterprise. If they fail to do so, their competitors will do so and gain a market advantage over them.

People say that the ordinary family has to balance its budget every year, so should the Federal Government. The ordinary family does not balance its budget every year. The year it buys a house, it takes out a mortgage, it is in tremendous imbalance. Yet, if the income flow projected for the future and the cost of the mortgage and the home is all within reasonable means, everyone regards that as a wise and prudent step because you go ahead and acquire the home and then you pay it off over the next 20 to 30 years. That is how most Americans operate, and it works very well indeed.

Now, one of the superficial appeals of this amendment is that it appears to be doing something about balancing the budget without any pain. There are no specific spending cuts or tax increases in this proposal. You are just going to put a provision into the Constitution without providing any indication of how the deficit reduction should be achieved.

There are a number of ways to make it work. One way to make it work is for the Congress to enact legislation to carry out what the amendment says. Of course, the Congress can enact that legislation without the amendment, just as we did last summer.

In addition, this amendment will have a serious impact on Social Security. It is no wonder people on Social Security are apprehensive regarding this amendment. They ought to be apprehensive because, I submit to you, one of the prime targets, once you put this balanced budget amendment in the Constitution, will be the Social Security System. The amendment specifically includes Social Security in its calculations of receipts and outlays. In my view, the Social Security surplus ought to be kept for Social Security recipients. That is to whom it is committed and it ought not to be used in some effort to achieve this balanced budget amendment.

Now, the amendment does have a so-called escape clause which allows it to be waived by a three-fifths vote in both Houses. Two-fifths plus one in one House can thwart any action. I have never heard of a constitutional principle that is waivable. The Constitution is a statement of fundamental principle, not matters to be waived away. Other constitutional principles of free speech, individual rights, equal protection cannot be waived by a three-fifths vote of both Houses. In fact, this is an admission that this is not an enduring principle but a matter of current judgment.

In effect, what this amendment would do is shift the balance of power from majorities to minorities in our society, violating the democratic principles upon which our Government is based. It would effectively give control of fiscal policy to a minority in one House or the other.

None of the proposals contain any detail concerning how such provisions would be implemented or enforced. Fiscal policy is a complex task which would likely be disrupted or paralyzed by struggles over implementing a vague constitutional balanced budget requirement. If, in fact, outlays exceeded revenues, if revenues fell short, would we have to bring the whole Government to a halt toward the end of the fiscal year, stop paying benefits to Social Security, abrogate contracts under the Agriculture Stabilization Program? There are no answers in this amendment.

It is almost certain that this lack of clarity would lead to court involvement in both defining and implementing economic policy. You now have a constitutional requirement, and the courts have been consistently prepared to fashion remedies in order to implement constitutional requirements so that they are not rendered meaningless. So this amendment offers a real opportunity for the courts to get into the job of managing fiscal policy.

Let me just turn very quickly to the analogy that is made with the States. People say, the States balance their budgets; the Federal Government ought to balance its budget.

If the States kept their budgets on the same basis the Federal Government keeps its budget, they, in fact, would not be in balance. Most States have an operating budget and a capital budget, and the capital budget is funded by borrowing, by selling bonds in the marketplace. We do not do that at the Federal level. We do not separate out a capital budget, which represents long-term investment in the future where we borrow the money because we are going to have the use of the asset for 20, 30, 40 years and pay it back over that period of time.

In conclusion, let me just say that the Constitution is a relatively brief general statement defining the political structure of our Nation and the civil liberties of our citizens. It has endured for two centuries because it focuses on universal principles, and in thinking about amending the Constitu-

tion we should proceed with great caution.

The desire to put this amendment in the Constitution is frequently justified in the name of political expediency. It is put forward as a response to the deficit. But it is not a response to the deficit. We would still have to enact the tough measures on spending and revenues that are necessary to bring down the deficit, just as we did in August.

This amendment is yet another promise to do something about the deficit in the future masquerading as a tough choice today. We do not need any more masquerades. We need to take the issue head on.

Instead of a constitutional amendment, the President and the Congress should continue to work together for deficit reduction. We have seen we can make a significant impact on the deficit by working together.

Let me close with this observation. Much of today's alienation of voters with their Government comes from the practice of passing so-called "hollow laws," laws which purport to change things but which through loopholes and waivers result in nothing really happening, unlike the tough deficit reduction measure we passed last August.

If hollowing out the law creates political cynicism and alienation, imagine what hollowing out the Constitution would do.

I urge the defeat of this resolution.

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

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

The legislative clerk proceeded to call the roll.

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

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

EXTENSION OF MORNING BUSINESS

Mr. MITCHELL. Mr. President, I ask unanimous consent that morning business be extended until 3 p.m. under the same terms and conditions.

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

Mr. GRASSLEY addressed the Chair.

The PRESIDING OFFICER. The Senator from Iowa [Mr. GRASSLEY] is recognized.

Mr. GRASSLEY. Mr. President, I will speak on the constitutional amendment on a balanced budget, and I would like to have my remarks placed in the RECORD where any debate on that subject may have taken place during the course of today's legislative session.

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

Mr. GRASSLEY. Mr. President, I support, along with Senator SIMON, the chief sponsor, Senate Joint Resolution 41, the balanced budget amendment to the Constitution. I think it is very vital that Federal deficit spending be controlled. Of course, we always put this argument in an economic context, saying that an unbalanced budget is not good for the economy. And I think deficit spending has gone on long enough now, 25 years in a row. Even more essentially, there are very good moral reasons that we ought to have a balanced budget. I think those override even the economic arguments for a balanced budget amendment.

We are borrowing from our future, and that of our children and grandchildren, when we deficit spend. I think we must put an end to this practice. And because every other means has failed to produce a balanced budget, we must enact an amendment to our U.S. Constitution, just as well over 40 States have for their individual constitutions.

A balanced budget amendment fits appropriately within the design of the original document. I do not accept the arguments of those who say that an amendment of this type is contrary to what the constitutional writers may have intended, because it seems to me that they took this into consideration in the writing of the preamble when it sets out not law, but the purpose of the Constitution.

> We the People of the United States, in Order to form a more perfect Union, establish Justice, insure domestic Tranquility, provide for the common defence, promote the general Welfare, and secure the Blessings of Liberty to ourselves and our Posterity * * *

There is that word "posterity." It is a word we do not hear much anymore. We run our Government as if the only thing relevant for consideration is what is in today's newspapers: In other words, living for today and not worrying about tomorrow. We consider the consequences of our acts in short timeframes. Rarely do we take into account the real, longterm effects that our actions will have on posterity's ability to enjoy the blessings of liberty as this generation has.

Among the blessings of liberty that our constitutional system has maintained is a standard of living that rises with each successive generation. Keys to this enhanced economy have been productivity, growth, and investment. In recent years, productivity and investment and the savings rate have declined. The 25-year continuous string of unbalanced budgets has contributed to these economic results. I do not think it coincidental that the stagnation in average wages over the last 20 years has been accompanied by high Government budget deficits.

Moreover, economic growth in the last 25 years of continuing deficits has fallen short of the prior 25 years. Budget deficits have been running up to fund our current consumption. Again, living today and paying for it tomorrow.

The effects of these deficits already are negatively affecting our budget. When we last balanced the budget—that was way back in 1969—9 cents of every dollar of Federal spending went to payment of interest on the national debt. Now, however, 26 cents of every dollar goes towards paying the interest on the national debt. And we have seen in the President's budget document that future generations can pay somewhere between 71 and 89 percent of income just to fund the interest.

We cannot have that. Not only is that bad economics, but most importantly, it is going to steal from future generations' ability to experience growth and job creation. We receive nothing for the payment on interest on the national debt. But we force future generations to pay an even greater proportion of the budget in interest unless we act.

Moreover, we will have to tax future generations at an incredibly high rate just to pay the interest on the national debt, if nothing is done. The figures vary depending upon the assumptions made. Future generations will pay the vast majority of their lifetime earnings in Federal taxes. Two-thirds, three-quarters, or even as high as I have already said.

It is unacceptable that we live high on the hog by masking the real costs of programs and leaving future generations to pay these costs, and also future interest costs. That was not done to us by the generations that preceded us. We owe our future generations the same respect.

I am concerned that some people think that the deficit and the national debt are issues of declining importance. While it is true that the deficit will fall this year, we cannot afford to declare victory and stop worrying about the deficit. When I say it falls this year, I mean that because we were anticipating a $190 billion deficit, some people would say "only"—and I put that in quotes—it is "only" a $170 billion deficit. But whether it is $190 billion or $170 billion, it is still a tremendous cost to unload onto the young people today.

It seems to me that as we look at this issue of a constitutional amendment requiring a balanced budget, that we ought to keep in the back of our minds that there is not a plan out there by anybody, including the President, that can show us with certainty that we are going to have a balanced budget at any time. We can go out 20 years and nobody is willing to say we will have one. That is bad policy in itself. But it does demonstrate, and it ought to demonstrate, the need for this constitutional amendment.

Obviously, even this administration's estimates of the deficit will show rising deficits and greater deficits than what

I just mentioned of $170 billion to $190 billion in future years, starting in 1998. I also believe that the administration's interest rate forecasts on what the interest on that deficit will be are too low. Higher interest rates, of course, are going to mean even a greater portion of the budget spent on interest on the debt. Moreover, deficits themselves increase interest rates in the long run, and higher interest rates harm renters, home buyers, and business people of all sorts, particularly, very capital-intensive industries like the family farmers in my State.

Deficit spending has produced other negative consequences as well. Last week, at hearings held on the amendment in the Judiciary Committee, the former Chief Actuary for Social Security testified that deficit spending has led to lax Government accounting. If the balanced budget amendment were enacted, he testified, Congress would have to examine Government accounting. And, according to his testimony, one account at the Department of Defense has been mismanaged for 30 years. The State Department has lost account of billions of dollars worth of property. The Comptroller General said that some Government bills are being paid twice. A balanced budget amendment will force us to take a tough look at Government accounting, as well as Government spending. This, obviously, is all to the very good, because we will, in the process, root out wasteful spending. Rooting out waste is one of the best ways to make headway against the deficit.

Since the deficit itself is a significant problem, why not just cut the deficit now? Why bother to enact a constitutional amendment to balance the budget? Well, it is because we tried a lot of other ways, and no other way seems to work. We know that Congress has passed statutes to reduce the deficit. I just think of working with the former Senator BYRD from Virginia in the late 1970's. He got through this body a law saying, "Congress shall not spend more than it takes in in future years." I think that was in 1978. I worked with him in the House to get that through the House of Representatives. What good did that do? We had Gramm-Rudman, and we saw all sorts of ways of trying to get around that. We saw the deficits rise even after the 1990 budget deal when we were supposed to have a balanced budget by today.

We cannot ever eliminate the deficit if we continue on our present path. If we are to reduce the deficit, we must put a binding obligation on Congress to balance the budget gradually, until the deficit is eliminated early in the next century. Those who believe we can cut the deficit down to zero without this amendment should offer an effective plan that will accomplish that result. There is none out there from the Congress, and none out there even from the White House.

The recent rejection in the House of Representatives late last fall of the Penny-Kasich resolution only confirms that Congress will not cut spending to reduce the deficit unless forced to do so by the constitutional stipulation.

We have heard it said that section 6 of the amendment, which gives Congress the power to enforce a statute, is inconsistent with the claim that statutes alone will not end deficits. But there is no contradiction, Mr. President. Many amendments are given life by provisions extending to Congress the power to enforce them. The 14th amendment contains one constantly used by the Congress.

Implementing legislation is necessary to make the balanced budget amendment function fully. But the difference between statutes enacted under this amendment and Gramm-Rudman is that the Constitution then will demand that these new statutes be adhered to, unlike earlier legislation lacking the constitutional imperative.

We cannot allow some opponents of this amendment to argue that the only way that the budget can be balanced under the amendment is through serious draconian budget cuts. This has been the strategy of the administration. I would like to examine that argument just for a minute.

The Attorney General, Janet Reno, testified last week that the balanced budget amendment would cause cuts in Federal funds to fight crime. She said that if this amendment became effective immediately, offenders would have to be released from Federal prisons. The parade of horribles included cuts of 4,400 FBI agents and 1,100 DEA agents.

She testified that without these FBI agents to match community policing funds, "It is going to be a long, long time before we get violent crime under control."

But during the last administration, some would have referred to this as a "Willie Horton" strategy: You and your families will be harmed by the convicted felons if somebody's political opponents are victorious.

There are many flaws with this testimony, and I am very disappointed that the Attorney General testified in this fashion.

First, the amendment will not take effect—but maybe it ought to—before 2001. It is irrelevant what cuts might or might not have to be made in order to balance the budget in 1 year. We can do it gradually, without inflicting that kind of pain. And no one should believe these scary scenarios that have no basis in fact.

Additionally, it is astonishing that the Justice Department opposes the balanced budget amendment based on these supposed spending cuts. The administration itself, I might add, is proposing to make cuts in law enforcement. These are the same kinds of cuts the Attorney General said would have to be made if we had the constitutional amendment—cuts she used as an argument against the constitutional amendment. These cuts are being proposed right now by this administration, even in the absence of the amendment, because the administration has already proposed cuts in prison construction, refusing to spend money for prisons that has been voted for by the Congress. Just look at the administration's 1995 budget. It calls for cuts in the DEA and FBI personnel—the same cuts in fighting crime that Janet Reno says would come if we had this constitutional amendment.

Despite the tough crime rhetoric, the administration is cutting essential personnel in the Nation's fight against organized crime, drug trafficking, and other Federal crimes. It is cutting prosecutors and is cutting prison spending.

How can its arguments against the balanced budget amendment on the grounds that it will reduce law enforcement spending be given any weight? There is no truth that passing the balanced budget amendment will necessarily mean enormous cuts in Federal law enforcement. Nor will the administration successfully accuse the amendment of creating severe cuts in law enforcement. It is the administration that itself today is asking for cuts in law enforcement.

So, Mr. President, we do need this constitutional amendment to balance the budget. We can only balance the budget, in my judgment, if we pass this constitutional amendment. The American people are watching to see if we can make this commitment. The quality of the existence of the future generations is at stake. We cannot afford to fail again. We must enact this constitutional amendment to balance the budget.

I feel some certainty about what I say because I served in the State legislature of my State, where there is a constitutional amendment requiring a balanced budget. I thought it brought a great deal of discipline to that legislative body whether it be controlled by Democrats or Republicans.

So I think that it will bring the same sort of fiscal discipline to this body, as we are a body of men and women sworn to uphold the law, and we will carry that law out.

I yield the floor.

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. METZENBAUM. 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 Senator from Ohio.

Mr. METZENBAUM. Mr. President, the Senator from Ohio is informed that we are in morning business; the limitation of time is 10 minutes. I ask unanimous consent the Senator from Ohio be recognized for not to exceed 15 minutes.

The PRESIDING OFFICER. The Senator is recognized for 15 minutes.

Mr. METZENBAUM. I thank the Chair.

(The remarks of Mr. METZENBAUM and Mr. SIMON pertaining to the introduction of S. 1866 are located in today's RECORD under "Statements on Introduced Bills and Joint Resolutions.")

Mr. SIMON. Mr. President, if no one seeks the floor, I suggest the absence of a quorum.

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

The bill clerk proceeded to call the roll.

Mr. LEVIN. 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. LEVIN. Mr. President, I ask unanimous consent that I be allowed to proceed in morning business for 15 minutes.

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

BALANCED BUDGET AMENDMENT

Mr. LEVIN. Mr. President, the major issue that we are discussing these days is the balanced budget amendment, and I want to spend a few minutes discussing my thoughts on that amendment.

I think everybody in this Chamber would agree that deficits are harmful; that the mountain of debt we have built up is nothing less than shameful. Surely, the Senator from Illinois and others are right on that issue. On whatever side of this constitutional amendment people happen to fall, I would think there is equal strength in feeling that the deficits we have allowed and the debt we have built up as a result of those annual deficits is something which has weakened our economy and is disgraceful in terms of representative government.

There is something else that would also be a terrible mistake, though, and that would be to place an illusion or gimmick in the Constitution to pretend that we are addressing something which cannot be addressed successfully in the way it is proposed. It can only be addressed through congressional and Presidential will.

So there would be great harm in telling the public now, in 1994, that 5 years from now something is going to happen on the deficit when in fact whether or not anything happens 5 years from now is still going to depend on congressional and executive will. It is not going to happen automatically. It is going to require us to take actions just the way it requires us to take actions now.

Mr. Reischauer, who is the Director of the Congressional Budget Office, said the following about that issue. First he said that "a large reduction in Government borrowing is highly desirable." And I would think 100 of us would agree with that. But then he went on to say that "a balanced budget amendment on its own does not advance the chances for lowering Federal borrowing."

In his testimony he put it another way, that "a balanced budget amendment in and of itself is not a solution. Rather, it is only a repetition in an even louder voice of an intention that has been stated over and over again during the course of the last 50 years."

"In an election year," he said, "it would be a cruel hoax to suggest to the American public that one more procedural promise in the form of a constitutional amendment is going to get the job done. The deficit cannot be brought down without making painful decisions to cut specific programs and raise particular taxes. A balanced budget amendment in and of itself will neither produce a plan nor allocate responsibility for producing one."

That is the head of the CBO who gave us that wisdom, and I think he is right.

This constitutional amendment relies on the Congress to act to implement it. That is the bottom line. This is the same reed that proved so weak in the 1980's when Congress and the President amassed these deficits. We had opportunities to reduce the deficits, such as 1986, when we closed tax loopholes and chose not to use the revenue that we produced for deficit reduction. But last year this same Congress, which had been so weak in the eighties, finally got some strength and some backbone and passed the President's deficit reduction plan.

But nothing is going to change in that regard. The President and the Congress are going to have to act to implement the requirements of this constitutional amendment or nothing is going to happen. It is the same Congress and the same President which right now have that responsibility and finally exercised it last year after a decade or more of not exercising it.

If congressional weakness is the reason for this amendment—and it is—then Congress will use the loopholes in this amendment to evade the responsibility which it sets forth. My greatest fear, and I have many fears about this amendment, my greatest fear is that it will take us off the hook until 1999 when it could become effective at its earliest, and the deficit will become worse until then because we can always say, "Oh, heck, it"—the deficit-reduction budget amendment—"will take care of our problems starting in 1999." We will not have the pressure on us until then because it will do the job for us in 1999. So as a result of having the pressure off us, off the hook until 1999, we will pile up greater deficits than we otherwise would. Then what will happen in 1999? Not much, because when this deficit-reduction budget-balancing amendment takes effect, if it ever does, there is not much of a hook. There are plenty of loopholes right inside that balanced budget amendment.

Again, let me quote from Mr. Reischaeur's testimony about those loopholes. This is what he said about a year and a half ago.

> Probably the most important difficulty with the balanced budget rule is that it offers many opportunities for avoidance or evasion. The President and the Congress could get around an apparently rigid balanced budget rule primarily in three ways. The first involves using timing mechanisms and other budget gimmicks to achieve short-run budget targets, including such actions as shifting pay dates between fiscal years.

And we have done that one.

> Accelerating or delaying tax collections, delaying needed spending until future fiscal years, and selling government assets.

The second way, he points out, to evade the balanced budget constraint might be to base the budget on overly optimistic economic and technical assumptions. That is the second way.

Boy, have we done that one. That is the rosy scenario that Senator CONRAD and others were talking about yesterday. We had "Rosie the Riveter" in World War II. If this amendment passes, we will also have "Rosie Scenario" in the Constitution. And we have done it—these rosy scenarios.

David Stockman wrote a book about rosy scenarios and what they did in the eighties. Murray Weidenbaum, who was the Chairman of the Council of Economic Advisers, was tasked with coming up with a budget. And they cooked the numbers. Rosy scenario was born right there in the executive wing. They asked him where the numbers came from, after he came up with these rosy scenarios, these projections as to what the growth rate would be, what the interest rate would be, what the revenues would be, what the unemployment rates would be; all rosy to make the budget look better than it really was.

This is what David Stockman says.

> Somebody finally taunted Professor Weidenbaum. "What model did this come out of, Murray?" Weidenbaum glared at the inquisitor for a moment, and he said, "It came right out of here," and with that he slapped his belly with both hands, "My visceral computer." He smiled.

Never before or since——

Stockman wrote—

> has a single belly slap produced such devastating results. The new Weidenbaum forecast added $700 billion in money, gross national product, over 5 years to our previous consensus forecast.

With that visceral computer, that rosy scenario, $700 billion was added to the projection as to what the gross national product would be over what they

previously had, by consensus, forecast, believed the gross national product would be.

* * * and nearly $200 billion in phantom revenues tumbled into our budget computer in one fell swoop. The massive deficit inherent in the true supply-side fiscal equation was substantially covered up, and eventually——

Stockman wrote—

it would become the belly slap that was heard round the world.

What does the amendment before us say about estimates and rosy scenarios? It says we can use them. Section 6 of the amendment says that "Congress shall enforce and implement this article by appropriate legislation which may rely on estimates of outlays and receipts." Section 1 holds out the promise that we are going to balance income with outlays. But section 6 says that we can comply with section 1 by the use of estimates. That is what we did in the 1980's. That is exactly what we did in the eighties. We used estimates. Here are some of the estimates.

In 1981, our estimates were off by $58 billion; 1982, our estimates were off by $72 billion; 1983, our estimates were off by $91 billion; and on and on. In 1990, they were off by $119 billion —$119 billion in 1990. But that is OK. We can rely on estimates we are told. You talk about a loophole. This one is big enough to drive a $119 billion deficit through. That is how big this loophole is.

And then we are told in the report of the Judiciary Committee, well, these estimates are supposed to be in good faith. Who is going to decide that? Is that going to go to a court as to whether or not Congress adopted a good-faith estimate? And are the sponsors of the resolution telling us that when we made these estimates in the 1980's they were not in good faith? Was the 1981 estimates, which were $58 billion off, were they made in bad faith? Most of the Members of this body voted for that. And every year through the 1980's, same thing. Were they bad-faith estimates? Is someone going to make that judgment now looking back? Or is a court going to make that judgment then looking forward?

Maybe we ought to add a little provision, a little language to section 6 and say that Congress may rely on estimates of outlays and receipts provided that the estimates allowed are not based on Murray Weidenbaum's visceral computer. Maybe we ought to put that in the Constitution to prevent the kind of shenanigans that went on during the 1980's. But do not believe for 1 minute that those shenanigans cannot happen again. But this time the evasion will not be a political evasion trying to fool the people. It will be an evasion of a Constitution which we are supposed to be living under.

This now will become a loophole right in the Constitution itself. The sponsors of the amendment say: But it will take a 60 percent vote to increase the debt limit, so if our estimates are too rosy, if we follow the 1980's model of estimates, in order to evade the constitutional requirement, if the choices are too tough and we use that particular evasion, then we can fall back on another requirement of the constitutional amendment before us, which is that the debt limit can only be increased by a 60 percent vote in the Senate.

Well, history has proven that that is a weak reed to rely on, because by the time you vote or not vote to increase the debt limit, you are voting whether or not to bring down the Government of the United States. If we do not pay our debts, we are done economically. That is not a realistic way to produce any reliance on the section 1 promise of this amendment. We are not going to produce compliance by that provision because the choice is to use a nuclear weapon on the economy of this country. If we do not pay our debts, this country's economy is finished. So it is not a realistic alternative to simply point to the debt limit increase with a 60-vote requirement as the back up in case the rosy scenario is used, as it was almost every year during the 1980's.

So, Mr. President, I must say I am amazed that a constitutional amendment is offered because of the lack of confidence in the Congress, when the very language of this amendment, by its very terms, relies on Congress to implement the amendment and when there are so many loopholes that are open if the Congress and the President choose to use those loopholes. I have just discussed one today—just one of many—and that is the rosy scenario loophole, which is very obvious. We are experts at that.

Mr. President, this amendment has a double problem. It lets us off the hook until 1999. It gives us an excuse, if we choose to use it—and we have used it too often—not to act until the outyears, because by its own terms it will not be effective until 1999 at the earliest. The history of the politics of deficit reduction is such that Congress and the President, if they are let off the hook, will in fact take the easy way out. That is a very, very bad road to follow. I hope that we will not. I hope we will have the courage and wisdom to realize that the same Congress and the President which this amendment rely on to implement it are here now, and the deficit needs to be reduced now, and that we cannot have a loophole-filled constitutional amendment based on the ability of the Congress to use the rosy scenario, the estimate, as we did in the 1980's, as the way to balance the budget.

There is only one way now, or in 1999, or 2099, and that is willpower. I hope we show it and defeat this constitutional amendment and show the will to reduce the deficit with the hard decisions now.

I yield the floor.

Mr. CRAIG. Mr. President, I ask unanimous consent to speak as in morning business.

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

THE BALANCED BUDGET AMENDMENT

Mr. CRAIG. For the last several days, I have been on the floor talking about options that are available to us and the reality of what we are about in the consideration of a balanced budget amendment to our Constitution. I thought for a little bit of time this afternoon I would share with my fellow Senators an editorial that appeared in U.S. News & World Report on June 1, 1992, which I think is so very profound. Many of the arguments I have made, and Senator SIMON of Illinois and Senator HATCH and Senator STROM THURMOND have made as it relates to the very important debate that is at hand.

Let me read from that editorial:

In one of his pithier observations, Winston Churchill once said that "Americans can be counted on to do the right thing, after they have exhausted all other options."

The politicians of this country have now exhausted a raft of different options to bring Federal finances under control—deficit limits, tax increases, caps on domestic spending, cuts in defense spending—but the Nation's budget remains shamefully out of whack.

This editorial goes on, and we will leave this on the floor for other Senators to share. But it draws some very profound conclusions. So let me read the concluding paragraph:

But we can no longer flinch from reality; we can no longer afford the illusion that we can borrow our way to prosperity. President Bush, who shares responsibility with the Democratic Congress for the dreadful state of our finances, should now work with Capitol Hill to ensure that an amendment to the Constitution is carefully and wisely drawn, that the country is fully informed of the consequences, and that we move forward immediately—to restore our financial solvency. Somehow 49 out of our 50 States have learned to live within laws requiring balanced books; surely Washington can do the same.

The person who wrote this is David Gergen, a man who is becoming well known around Washington in his relationship to the Clinton administration. I agree with what he said. I guess my only reaction to it is: Oh, what a difference a day and a dollar can make. But more important, I wish David Gergen would whisper very loudly in the ear of his boss that he was not only right in June of 1992, but that this statement is phenomenally valid today as we deal with this issue.

So for a few more minutes let me discuss, once again, as I did the other day, the very essence of the amendment that has been 10 years in the crafting. This amendment was not dreamed up

in just a few hours in the leadership's office of the Republican or Democratic leadership here in the Senate. This amendment has been before the Judiciary Committee time and time again in full hearings; constitutional scholars from across this land have looked at this amendment, have argued every point of it; there is a full committee report out. While it is meager, there are volumes and volumes behind it that back up every section that we have assembled in Senate Joint Resolution 41.

Let us look at it section by section once again:

Total outlays for any fiscal year shall not exceed total receipts for that fiscal year, unless three-fifths of the whole number of each House of Congress shall provide by law for a specific excess of outlays over receipts by a rollcall vote.

In our terminology, a rollcall vote means a recorded vote. So, in other words, we have provided what is the very concern that many Senators have expressed here today, that in times of extraordinary circumstances—and there are those times in the history of nations.

Two weeks ago, we voted on an extraordinary circumstance, and that was money for Los Angeles or the Los Angeles basin after it had been rocked by a devastating earthquake. That particular vote passed this Senate by the three-fifths required in section 1 because it was an extraordinary event. It was not the screwing in of light bulbs or the vacuuming of carpets, the day-to-day operations of Government. It was a cataclysmic or extraordinary situation.

Section 2. States held by the public shall not be increased, unless three-fifths of the whole number of each House shall provide by law for such an increase by a rollcall vote.

When we look at this amendment, it is important that we look at section 1 and section 2 together because they are in sync, and it is important to understand them in the whole and not in the separate.

What we are saying is that when the extraordinary event comes along, that there is an opportunity, if we choose not to raise taxes, to pay for it, but to recognize an alternative funding mechanism that we can in fact deficit spend. But we also say that it must be an extraordinary event, that it cannot come daily, that we should not be doing our—if you will—O&M budgets, the operation and maintenance budgets of our Government, in deficit. Today, we are doing that. Today we borrow over $200,000 annually, at least under the current budget scenario, and it can be argued just to keep the lights on, just to vacuum the carpet, just to remove the snow. That is bad business. That is bad budgeting. That is financially risky.

Section 3. Prior to each fiscal year, the President shall transmit to the Congress a proposed budget for the United States Government for that fiscal year, in which total outlays do not exceed total receipts.

That is what Presidents should do.

Now, should President Clinton do it next year if this becomes constitutional law? The answer is no, because all of us are realistic enough to understand that he could not do it next year, that it is going to take a reasonable period of time of the Congress and the executive working together to bring this budget into balance. And we will say, when we finally reach a final vote on Senate Joint Resolition 41, that that should occur by the year 2001.

So anybody who stands on the floor today and says we are going to destroy Social Security, we are going to have to cut $200-plus billion out of the budget next year either is ignoring the obvious; they are blind; or they did not pass the first grade in reading, because that is not what this amendment says at all.

This amendment is very clear that we will work through a 6-year scenario to arrive at a balanced budget, and it is also assumed that when a President submits a balanced budget, he will also submit a revenue statement. He will do exactly as Bill Clinton did just a few weeks ago when they sent their budget to the Hill. Not only are there total expenditures in it, but there are estimated receipts.

We have just heard the Senator from West Virginia and others talk about the impossibility of estimating receipts. We do it every day. We have done it for years, and we will continue to do it.

The only difficulty here, and they do not like it nowadays, if this is to pass, is that there is no fallback anymore. You have to be a lot better at doing what you are doing. You cannot say: If we miss it by a few billion, we will just go out and borrow the money. If you do that, it would take a three-fifths vote. In other words, we have to be better bookkeepers and better accountants and figure our estimated receipts in a much better way. Many State governments do it, and they are extremely accurate. Why cannot our system be more accurate? Well, it can, if that is our dedication.

Section 4. No bill to increase revenue shall become law unless approved by a majority of the whole number of each House by a rollcall vote.

That is a constitutional majority. That is 51 votes. It is a rollcall vote. It does not happen in the dark of night with the yeas or the nays. It is: Stand up and be counted for. And the reason it is important that we say stand up and be counted for is that the ultimate pressure, the ultimate decider of who is or is not being responsible under the Constitution, is not this Congress, nor is it the judiciary. It is the individual voter in your State or my State, Mr. President, who is going to say, "Senator CRAIG violated the amendment." That is why we want a rollcall vote, so that Senator CRAIG and every other Senator here can be held accountable.

Today, when we handle the finances of this Nation, there is always a good reason for having done what we did or did not do. The accountability is very tough for the average citizen. And it is not by coincidence that this amendment is not our law; it is the people's law. It is the Constitution. So we ought to clearly allow them to understand the mechanism at hand so it is their instrument by which to judge the performance of the individual Members of the U.S. Congress.

Section 5. The Congress may waive the provisions of this article for any fiscal year in which a declaration of war is in effect. The provisions of this article may be waived for any fiscal year in which the United States is engaged in military conflict which causes an imminent and serious military threat to national security——

And that is not just a judgment by the President.

and is so declared by a joint resolution, adopted by a majority of the whole number of each House, which becomes law.

In other words, it is serious business. We have engaged our men and women in uniform by a vote of the U.S. Congress, and in that case, as we always have done in times of war, spent in an extraordinary way not only for the safety and security of those men and women whom we have asked to engage in the ultimate form of foreign policy, war or military action, but because we have also recognized that we are investing in our Nation's freedom and, therefore, it is legitimate in that instance to spend in an extraordinary way. We did that in World War I, and we paid for it. We did it in World War II, and we paid for it. But something happened after the Korean war. We quit paying for our wars. We kept deficit spending and borrowing.

This amendment brings us back to the kind of rationality that gave us the economic stability coming out of our first two World Wars. That is part of the responsibility of this amendment.

Section 6. The Congress shall enforce and implement this article by appropriate legislation, which may rely on estimates of outlays and receipts.

Oh, my goodness. We heard a phenomenal amount of debate about estimates and receipts the last few days. The President is going to do it in his budget. We do it every year now.

Some will argue we were $20 billion off. I will tell you the reason we were $20 billion off. There were no consequences to being off. All we did was borrow the difference. If you miss it, so what? The "so what" ended up being $4.5 trillion worth of debt and $200 billion worth of deficit on an annualized basis. So the "so what" now makes a lot of difference. It does not mean we cannot do it better. We will do it better. But it does not mean we have to do

it. It is not a mystical game. It is not in smoke-filled rooms. It is a reasonable and responsible process.

This morning, I entered into the RECORD the statement by 250 economists around the country who believe it can be done in a responsible and rational way based on this amendment. So that section is responsible and it is reasonable.

Section 7. Total receipts shall include all receipts of the United States Government except those derived from borrowing. Total outlays shall include all outlays of the United States Government except for those for repayment of debt principal.

I think we are going to hear some interesting debate in the coming hours of the remainder of this week and into next week about taking certain items off the budget—removing them from the budget, putting them on autopilot. Is it wise? Well, that was the demise of Gramm-Rudman. We took just a few things off. And it worked pretty well for a little while. Then we took a little more things off when decisions got tough, and it fell apart. And the very pressure we had, the downward pressure on spending that Gramm-Rudman had produced for us went away.

There are some who are going to offer an amendment, I believe—or amendments—that would suggest that we take certain items off budget, and they will say if we do not, Social Security will be cut and slashed and destroyed.

I have never yet seen this Congress, in tough, decisionmaking environments, ever touch Social Security. They protect it because they believe it is a responsible covenant and agreement with the American people. Money has been invested in its trust funds, and it ought to be honored and respected. But why should it be off budget when it becomes such a major portion of consideration of the finances of Government? Of course, it should not be, and under this amendment it would not be.

Section 8. This article shall take effect beginning with fiscal year 1999—

We know there is an amendment out there that the authors of this resolution have accepted that will take that to the year 2001.

That is the 6-year window of implementation. That is when we move back up to the section that says that the Congress will be responsible for enforcing and implementing by legislation and doing so by estimating receipts and outlays or outlays and receipts.

Now some will say—and we have heard the argument before—where are you going to make the cuts? Well, we are suggesting, first of all, you create the environment in which cuts have to be made or revenues have to be raised before you begin that argument. We are not talking about a budget process here. We are talking about an arena in which a budget process goes forward. And, yes, we are going to have to rewrite the budget rules of our Government because under this amendment to our Constitution, they must change significantly.

Senate Joint Resolution 41 is nearly 12 years now in the making. It has been looked at by constitutional scholars from all over the United States. It has been debated at least three times on the floor of this Senate and four times on the floor of the House. And it has been adjusted and crafted and changed a little bit in the course of that time to make it a more responsive document.

This is the product, the work product. Probably this effort has been given more time than any other piece of legislation that will come to the floor of the U.S. Congress this year. And it is deserving of that time because it is our Constitution. It is the law of the land. It is that document that we so love to talk about and are so proud of, that our Founding Fathers, in some divinely inspired way, crafted, that has guided us and directed us for so long.

But we also recognize that it is a document that, with time, can accept change—27 changes to date, and this would be the 28th amendment to the U.S. Constitution. So it is not a document that is rigid, unbinding, or unmalleable. Our Founding Fathers knew that it should be, that you had to change over time just a little bit because society would change. But once you have crafted an amendment and placed it in the Constitution, you would make it extremely difficult to change it once again.

So it is not unusual—and you heard Senator BYRD and me discussing the majoritarian approach the other evening, the three-fifths vote; a tremendous vote it will take here on the floor to even send an amendment out to the States. Our Founding Fathers clearly wanted to protect this document, and so do we.

And so, in the course of the next few days, as we continue this debate, let us recognize the importance of the work at hand, the time involved, the dedication, and the scholars who were involved with all of us in crafting this amendment.

It is simple. It is clear. It is a clarion directive to the budgeting processes of our Government but, most importantly, to developing the fundamental right that I believe is inherent within the budget, and that is the right of every American citizen to be unburdened by the deficits and debt generated by its Government in a profligate way.

So we are debating a fundamental right. And once embodied in the Constitution, I believe it will be every bit as strong a right as any of those embodied in the first 10 amendments or any other portion of our Constitution.

I yield back the remainder of my time.

REMEMBERING LEGENDARY NEWS PHOTOGRAPHER GEORGE TAMES

Mr. DOLE. Mr. President, I rise today to pay tribute to a Washington legend who passed away yesterday. George Tames was an award-winning photographer, a giant in the news business, and a fixture for years at the White House and on Capitol Hill. He was also a friend.

Most people may not have known this native Washingtonian, but they certainly knew George Tames' work. For more than 40 years, readers of the New York Times saw life in Washington, and 10 Presidents, through the lens of George's camera. Many of his finest photographs are contained in George's 1990 memoir "Eye on Washington: Presidents Who Have Known Me."

And many of us were fortunate enough not only to know George's extraordinary work, but to know the man behind the camera. The key to George's success—aside from his tremendous talent—was the charm, wit, and ability to tell a good story that earned him unusual access, everywhere from the Oval Office to Capitol Hill.

But perhaps the greatest tribute to George came from his colleagues and sometime competitors. Cornell Capa, a former Life magazine photographer, once said of George Tames: "He's the champion. He beats everybody."

Mr. President, I am proud to have known George Tames, and I am proud to have pictures he took hanging in my office. I know all my colleagues join me in sending our most heartfelt sympathies to George's wife, Frances, and to their five children.

Mr. SIMPSON addressed the Chair.

The PRESIDING OFFICER. The Senator from Wyoming.

Mr. SIMPSON. Mr. President, I ask unanimous consent that I be allowed to proceed as if in morning business.

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

PHOTOGRAPHER GEORGE TAMES

Mr. SIMPSON. Mr. President, I, too, want to say a word about George Tames, who has gone from us now. He was a remarkable man. I met him when I first came to the Senate in 1979. He was the ace photographer for the New York Times, a very genial man, with bright eyes and a wide open face. He had a sparkling wit. He loved to talk about his heritage and his life in America. His family name was a contraction from an Old World name, and I cannot recall it, but it was quite a lengthy one.

He was not merely a skilled photographer. He was a decidedly positive human being. He was a real pro, and fun to be with, too! He had an "eye," and, of course, that is why he was so renowned in his profession. He will be greatly missed. He was truly a great photographer and was recognized by all

of his peers for his extraordinary abilities.

So for me, I am very pleased that our lives came together, and our paths crossed. It was my pleasure to have come to know him, and I extend my sympathy to his loved ones.

BALANCED BUDGET CONSTITUTIONAL AMENDMENT

Mr. SIMPSON. Mr. President, I wish to support the constitutional amendment to balance the budget as proposed by my very able colleagues, Senators SIMON, HATCH, CRAIG, and others.

Over the years I have been involved in this one, we have taken all the hard shots that they can fire at us. I can remember when we started, Senator HEFLIN, Senator DECONCINI, Senator THURMOND, Senator HATCH, when I was in my first year on the Judiciary Committee.

The arguments in favor of and against this amendment have, it seems, been repeated time and time again in this Chamber. I do not even have in front of me a large stack of remarks now because we have all heard everything. But I wish to commend Senator SIMON. He is persistent, genial, persevering, and he needs all these qualities together with his journalistic background that enables him to persevere here and to take on the hysteria which we often find in the opposition.

We now have the AARP geared up fully. There are 34 million people in the American Association of Retired Persons. I have said all this before. You need to be 50 years old and have $8 and then you can become a member. You must have a common love of airline discounts, automobile discounts, and pharmacy discounts in order to prevail properly.

This organization has the power, once again, to not only knock off the balanced budget amendment, but health care reform, or anything else they gear up to do in. But the saddest part of it is that 95 percent of their members have no idea what their principal function is or their philosophy.

I have looked into their organization. I will be doing more of it in this Chamber. I will not take time now, but just to tell you again that they are a remarkable "nonprofit organization" that has a $9 billion cash flow, the old AARP. They have their own law firm to which they pay $2.5 million of retainer per year, with one of the founders involved there.

They have a little manual that goes out to their field people that if the field people cannot ascribe to the basic philosophy of the AARP as in the manual in headquarters, they are subject to immediate dismissal. They have a yield on their investments of $37 million. Imagine what the principal would be on those investments. Seven percent yield, 6, what do they receive?

Ask for their forms. Read them. They receive 4 percent of every single penny they place with Prudential Life Insurance or Prudential anything or any insurer; they receive 4 percent of the premium into their own coffers. And they receive a $80 million grant from the Federal Government for reasons that must be totally unknown to any sensible taxpayer because of that kind of cash flow.

If you were to look at their proposals for the future in America, it provides that this Government would be required to spend in excess of $600 billion in the next 7 years to satisfy the basic legislative proposals or programs of the AARP.

I will be going into much more with regard to that organization in the future. Someone should because, as I say, they have the power to destroy whatever we try to do with regard to health care. And I saw them come into action these last few weeks. They are now fully geared up, along with the Committee for the Preservation of Social Security and Medicare, another group who are still looking to take care of the notch babies which would only cost $200 billion or so, and it would all come out of the Social Security funds.

So here we now see them saying that people are going to lose their Social Security payments. They even picked a figure from the sky somewhere as to what folks would lose. I think it is egregious. Certainly Americans should begin a probe of this group and see just exactly, as we would do with any legislator or anyone in public life, what it is they do, from whence do they spring, and how do they make their money, and what do they do with their money other than provide these remarkable things to seniors and to their staff and to their field people at salary levels which would boggle the mind.

Well, other than that feeling there about that, of which I have now rid myself—any arguments I would repeat have been heard time and time again. I will not ask my fellow colleagues to listen to yet another repetition of the arguments so well advanced by my colleagues.

But I would instead wish to address my remarks to the nature of the debate itself. As so often happens around this Chamber, it is easy for individuals on one side of the debate to subtly impugn the motives on the other side. "Inconsistency" is something that we so often detect in the reasoning of others although, indeed, hardly ever, nearly never in our own positions. Inconsistency is often, of course, a polite way of alleging hypocrisy or worse, but I bring this up because I have heard it said that proponents of the balanced budget amendment, and I am one of them and have been from the beginning, have been "inconsistent."

It has been said that the Senators who favor the balanced budget amendment at the same time are the ones who refused to cast votes in favor of spending cuts. I heard this charge. I asked myself, "Could this be so?" It certainly would cast doubt on the sincerity of the amendment's proponents if it were. So I decided to find out for myself.

There are a great number of organizations around this village that track the voting records of the Members of Congress from every philosophy. I was in touch with one of them, the National Taxpayers Union Foundation, and I wanted an index of every vote. I am not talking about cosponsorships—I am talking about every vote cast by Senators in this body, weighted by how much money we were voting to spend. I did not want some isolated instance here, some single anecdote to hurl at a colleague on the other side of the aisle, or my own side of the aisle like, "Remember when you voted for the Super Collider?"

That proves nothing. We have all been there. We have all voted to spend money at one time or another on things very near and dear to us without a qualm, and we will continue to do that forevermore.

But I wanted to find out what were the total spending habits of those Senators who supported this balanced budget amendment, and to compare them with the opponents of the amendment. So I took as my reference July 1, 1992, the cloture vote on the balanced budget amendment. On that date, 56 Senators voted in favor of cloture to cut off debate so that we could proceed to vote on the amendment, and 39 Senators voted in opposition. Then I looked up the spending records in the Second Session of the 102d Congress of the 56 Senators who voted for cloture, and of the 39 Senators who voted against cloture.

The National Taxpayers Union tabulates every vote cast in this body, not cosponsorships, and weights it according to how much money we are then voting to spend.

Let me quote from their pamphlet: "We analyzed every rollcall vote taken during the Second Session of the 102d Congress and selected all votes that could affect the amount of Federal spending." They produce an index on that basis. The better your record in voting to cut spending, the higher your rating on a scale of 1 to 100.

What I found, and I must tell my colleagues, is that the statement made here on the floor the other day is totally and simply wrong. There was an assertion made that the proponents of the amendment do not vote to cut spending. That was made in not only the forum here, but also in a different forum. In fact, that statement could not be more wrong. It is directly and wholly refuted by the facts. Just the opposite is true.

It is true, in fact, that the supporters of this amendment are the Senators

most likely to cut spending. Let us be very clear and up front about this. Fifty-six Senators voted to invoke cloture on the balanced budget amendment when it was last considered. The average "spending cut" score of these Senators was 54.6. This is the average "spending cut" score of those 56 Senators—54.6. The 39 Senators who voted against cloture, effectively voting against the amendment, obviously, had a score of 26.4, less than half as impressive or as good as the proponents. In fact, the opponents' collective score gives them an "F" grade on the National Taxpayers Union Foundation scale, putting them as a group in the "big spender" category.

So let us be very clear that this supposed internal inconsistency simply does not exist. The National Taxpayers Union Foundation ranks the various Members of the Senate according to how much they vote to spend, and I list the Senators who most consistently voted to cut expenditures: Senators SMITH, BROWN, CRAIG, SYMMS, and my colleague from Wyoming, my old friend, MALCOLM WALLOP. Every one of those Senators voted in favor of the balanced budget amendment, every single one of them.

Of the Senators who are listed as the biggest spenders, I will not give their names. I will not list them here, but every single one of them voted against the balanced budget amendment. Their names are in the literature to be reviewed, if anyone would wish to.

So I just think it is important to try to stay with the facts. The correlation at the extremes is absolutely perfect with what we see with spenders versus those who wish to cut the budget.

Then let us all remember. At least I was here in armed combat when we did the amendment in May of 1985 where we voted to get rid of 23 agencies of the Federal Government, voted to freeze the entire Federal Government except Social Security, which we could allow to rise only 2 percent. Everything was to be frozen in place. The vote was 50 to 49.

I can tell you, I call that heavy lifting. Oddly enough, that was a bipartisan vote. Our colleague, the Senator from Nebraska, the close friend of the Senator now occupying the chair, was the controlling vote. We all remember Senator Ed Zorinsky, a very wonderful addition to this place and a very principled man. He took a tough vote. It was a tough, tough time for those of us that took that vote because in the next general election six of the people in my party who voted that way were blown away by the electorate.

All the various interest groups, like the one I just named in the origin of these remarks, did the 30-second spots or helped pay for them, and said: "There is the slob that cut your Social Security;" this is the slob that took your veterans' benefits; there is the guy that took your railroad retirement; this is the person who did this and this and this and this.

Who is to do the heavy lifting? We do not do it here. This amendment may be shock therapy. But it would be the kind that this country could use. Does anyone believe honestly that you are going to do something with a debt, which is $4.5 trillion and a budget which is $1.5 trillion, and a deficit—depending on who you choose to believe—between $167 billion and $287 billion, that it is all going to be resolved without some pain or some sacrifice from those of us here, in this Chamber? Whether it has to do with our own pension, whether it has to do with things with us and with those out there, there is going to be pain and sacrifice connected with this, or we will simply not get it done. No one needs to even guess as to how else we are supposed to do it.

But when the interest groups, whose sole function in life is to keep up their membership by terrorizing the Members, continue to range around the country distorting every facet of what we do—and many of such groups in this country now are functioning on the basis of first taking care of their executive directors, their staffs, and assuredly their pension plans, their investment proposals, their retirement proposals, and very little of the money really goes to what they say they stand for—that is now a unique and extraordinary thing in our country.

The sole purpose and the sole method then for them to continue their "good works" is to terrorize the Members by simply telling them that the Congress is inept, greedy, overreaching, picking their pocket, ripping off the trust fund, all the rest.

Please know there is no separate pot of money called Social Security Trust Fund. When are we going to quit listening to that garbage? The money presently in the reserves of the Social Security System is, by law, to be invested in the securities of the U.S. Government. That means T bills, that means U.S. Treasury securities, it means savings bonds. There is no separate "fund." We do not rob the fund. There is no fund to rob. If this Government ever had a pot like that they could dig into, and the tabulated "reserves" I think are about $200-some billion now—we would have discovered a new door on Fort Knox.

All of the Social Security money is invested in Federal securities. The Federal securities are purchased by people in real life. They are purchased by union pension funds. They are purchased by teachers' funds. They are purchased by the AARP, probably. And they are valid obligations of the Federal Government, backed by the "full faith and credit" of the Federal Government.

Then when those are purchased, the interest on those issues is paid from the General Treasury. It is not paid from some separate kitty. It is not paid by the Social Security Trust Fund. That interest is paid by the taxpayers of the United States of America separately.

So let us put that one to bed. I hear it all the time. I do know who spreads it. Indeed I do. But let us put that one away because that is another hysterical move to try to petrify the American taxpayers and the members of the special interest groups.

Keep that all in perspective as we get into the debate—that this is the truth about Social Security and that we have never continually raided the Social Security "fund." One time in my 15 years here, I think for 72 hours, there was an intrusion into the Social Security fund. We quickly remedied that and allowed that was never going to happen again and that we would not allow it to happen again, and it never happened again.

So there is much more that I will say in the days and the weeks to come as we deal with the really tough issues of the day. I have been honored to be selected to be on the Entitlements Commission as appointed by the President. It consists of a remarkable group of Democrats, Republicans, liberals, conservatives, businessmen, and special-interest-group personnel, and there is not one of us that does not know, who needs to be taught in any way, what the problem is. We all know what the problem is: It is whether we will ever do something about it.

I do hope we will not continue to hear that there is some great hypocrisy rampant in the land among those supporting the balanced budget amendment or some inconsistency between the proponents' positions on this issue and their voting records as a whole. There is not. It is not there.

Senators supporting this amendment are, for the most part, the same Senators who have been voting to cut spending, and historically that is so. The correlation is clear, and it is quite unambiguous. I hope this might put to rest any further aspersions on the sincerity of the proponents of the balanced budget amendment.

I thank the Chair.

Mr. SIMON. Mr. President, following the remarks of my colleague from Wyoming, I would like to make a few comments and then talk about an amendment we may be voting on before too long, or will be discussing before too long. First, on what Senator SIMPSON says about those of us who are sponsoring this, there was a release by the National Taxpayers Union that took cosponsorship of legislation and added that up, and I looked like a huge spender because, among other things, I am cosponsoring two different health care bills. Total that up, and it is a huge amount.

I asked my staff to total the appropriations that we voted on and the ap-

propriations cuts last year for the total year. On that, I end up one of the top third in the Senate in terms of cuts in appropriations. It may be of interest to this body that the No. 1 person in the U.S. Senate in terms of voting for appropriations cuts is our colleague, Senator HERB KOHL, from Wisconsin, who is a cosponsor of the balanced budget amendment.

Second, Mr. President, I want to enter into the RECORD at this point a column by George Will that was printed this morning in the Washington Post. I will read the first paragraph because it kind of outlines where he is going:

Opponents of the constitutional amendment that would encourage—no more than that—balanced budgets rely on arguments that devour one another. They say the amendment is an inconsequential gimmick—and they say it would eviscerate government. They say the amendment is unnecessary because Congress can be trusted to act responsibly—and they say Congress cannot be trusted to respect the amendment if it is put into the Constitution.

Anyway, he says very clearly that we need a balanced budget.

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

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

[From the Washington Post]

ARGUMENTS OUT OF BALANCE

(By George F. Will)

Opponents of the constitutional amendment that would encourage—no more than that—balanced budgets rely on arguments that devour one another. They say the amendment is an inconsequential gimmick—and they say it would eviscerate government. They say the amendment is unnecessary because Congress can be trusted to act responsibly—and they say Congress cannot be trusted to respect the amendment if it is put into the Constitution.

The wizards in the White House, tightly in the grip of the conceit that the future is to them an open book, say the amendment would force grim choices costing the average Social Security or perhaps Medicare recipient at least $1,000 a year, and they have listed the annual cost of the amendment to each state. Vermont? $418 million. How does the White House know so much about choices the nation would make under a constitutional requirement to align revenues and outlays?

Besides, another argument made against the amendment is that instead of making grim choices, Congress would make a mockery of the Constitution. This argument, coming from members of Congress incapable of blushing, is: Trust us, not the amendment, to achieve fiscal discipline, because we are so untrustworthy we would treat the amendment as more loophole than bridle. "Emergencies" would be declared promiscuously, programs would be put "off budget," receipts and outlays would be redefined, cost and revenue projections would be cooked—in short, there would be even more of the trickery that now goes on.

Sen. Carl Levin, a Michigan Democrat opposed to the amendment, notes that it "relies on statutory definitions that can easily be changed," such as the definition of "fiscal year." He warns that Congress might redefine "fiscal year" to mean "eleven months or three years." Oh. Congress is so cynical, don't bother trying to bind it with constitutional fetters? Does Levin have such a low opinion of his colleagues that he thinks it would be easier to fiddle the meaning of "fiscal year" than to get 60 percent of both houses of Congress honestly to authorize a deficit, as the amendment allows?

The word "crisis" has become another classification used so casually that it no longer classifies. Even so, it is peculiar to say (as does Lloyd Cutler, who was counsel to President Carter) that there would be a "constitutional crisis" if an "emergency"—say, many hurricanes and earthquakes—necessitated spending that required a constitutional super-majority to authorize a deficit. If the "emergency" could not catalyze 60 percent of Congress would it really be much of an emergency?

Opponents of the amendment warn that it deprives the government of "flexibility" needed to adjust fiscal policy to stages of business cycles. Of course this argument cannot be used by opponents who say the amendment would be too porous to inhibit the government. And this argument requires faith in the government's aptitude for fine-tuning fiscal policy to "manage" the economy. And the people making this argument must explain this: Flexible government, unconstrained by a balanced budget requirement, has run deficits at every stage of every business cycle since the last balanced budget, in 1969, and President Clinton, who opposes the amendment, projects deficits far into the future.

When the deficit was around $300 billion, critics said the balanced budget requirement was ruinously Draconian. Now that the deficit has temporarily dipped below $200 billion opponents say the requirement is unnecessary. And opponents say that projections of rising deficits by the end of the decade mean that the requirement soon would be ruinously Draconian.

Yes, if Congress passes the amendment, the states, which get about 20 percent of their money from Washington, might reject it. (Thirteen states can stop an amendment. That limit on majoritarianism is more substantial than the mild requirement of a 60 percent vote to run a deficit.) Yes, Congress might respond to a balanced budget requirement by stepping up its "spending by indirection"—imposing unfunded mandates on the states, regulating business, and so on. (Last year the Clinton administration regulations filled 69,688 pages of the Federal Register, the third highest total in history, behind only the last two Carter years.)

Which is to say, the balanced budget amendment can inconvenience legislative careerists but cannot make them virtuous. Which brings us to the source of the real passion against the amendment: deficit spending is, in effect, public financing or the campaigns of incumbents, enabling them to charge only 75 to 86 cents for every dollar of government they dispense. So the vote on the amendment is a referendum on a political style: borrow and borrow, spend and spend, elect and elect.

Mr. SIMON. Mr. President, I would like to put anybody on notice that there will be an amendment offered by my friend and colleague, Senator HARRY REID of Nevada. Senator REID, in my opinion, is one of the finest Members of this body. He has shown courage; he does his homework; he is a hard worker. I have great respect for him. He is one of the people I have traveled with and have come to know, and I just have tremendous respect for him. He is willing to face new ideas.

But the amendment he is offering—no one should be fooled—is not a balanced budget amendment. I will go into more detail when we get into the debate after it is introduced, but it says: Estimated outlays have to match estimated receipts.

Now, we permit estimation in our amendment. You have to do that. But it says outlays have to match receipts; receipts have to match outlays. That is a very different thing than requiring that estimates be balanced.

Second, it says "estimated outlays of the operating funds of the Federal Government." That is suggesting that we would have a capital fund and an operating fund. We do not need that. The biggest public project program in the history of humanity was our interstate highway system. It was suggested, to his credit, by President Eisenhower. But he suggested we issue bonds for it, and to the credit of a United States Senator by the name of Albert Gore—Albert Gore, Sr.—he said: Let us increase the gasoline tax and do it on a pay-as-you-go basis. And we saved, believe it or not, over $800 billion in interest by doing it that way.

What is the biggest single project we have today? It would be a nuclear carrier. That is done over several years. That would be $1 billion, at the most. It is very interesting that GAO makes very, very clear, in study after study after study, that, yes, you should separate your investment from your consumption in the budget, but do not go to a capital budget where you use that as an excuse for deficits.

Second, things like the Congressional Budget Office are named in the amendment, or our Social Security System is named. We do not, in the Constitution, name the Department of Defense or the Secretary of Defense or the Secretary of Interior, or others, and then there is no muscle behind it. Just to make sure that games are not played in our amendment, we say that if you want to increase debt, you have to have a three-fifths majority. That puts real muscle in this thing. There is no muscle in this one. He has, for example, one provision that I would vote for statutorily. It says that Congress may, by appropriate legislation, delegate to an officer of Congress the power to order uniform cuts. I would vote for that as a statute, but we do not need it in the Constitution.

Let no one be deceived—this is designed as a way to give cover to Members of the U.S. Senate who want to both please the administration and my friend and colleague, Senator BYRD, and to go back home and say, "I voted for a balanced budget amendment." Anyone who votes for the Reid amend-

ment and votes against the Simon-Hatch amendment has not voted for a balanced budget amendment. Let no one be deceived on that score.

I know we are going to have a good debate, and I look forward to participating in that debate.

The PRESIDING OFFICER. Senator HATCH is recognized.

Mr. HATCH. Mr. President, I appreciate the cogent comments of my colleague, Senator SIMON, on this matter.

Look. We all have been in this legislative arena for a long time. When people have a tough issue, they try to get a facade amendment to pass so that people can vote for something so they do not have to vote for the real amendment.

Mr. President, that is what is happening here. The fact is that the real amendment is the Simon-Hatch amendment. Everyone hopes it will be enforced. Everyone knows it will work. Everyone knows it will put the fiscal discipline and the fiscal restraints on Congress that are appropriate under these circumstances of almost 60 years of not balancing the budget and running it into a debt of $4.5 trillion.

Mr. President, the distinguished Senator from Illinois summed up our criticisms pretty well. We will take time either tomorrow or Monday and shred this amendment alive because it does not make sense. It certainly will not be needed to balance the budget. It certainly is not a balanced budget amendment. It is a mere cover-your-backside amendment that will allow people to vote for an amendment, and then vote against the real balanced budget amendment. I do not want anyone to misconstrue it.

The amendment we have to pass is the Simon-Hatch amendment if we want a balanced budget amendment to the Constitution and we want to get it through both Houses of Congress. If we do not do that, everyone knows this is just a game and there is no question about it.

We will have more to say about it later.

Mr. President, I ask unanimous consent that my next remarks be as if in morning business.

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

DEATH PENALTY FOR ESPIONAGE

Mr. HATCH. Mr. President, the Senate crime bill's death penalty provisions provide the death penalty for, among other crimes, espionage. There are efforts underway in the other body to defeat the death penalty or attach gutting amendments that will make the death penalty virtually impossible to impose.

For years, many of my colleagues and I have been fighting for passage of a true, workable Federal death penalty that will appropriately punish and deter capital crimes against our Nation. For years these efforts have been thwarted by death penalty opponents.

As a result, there is no death penalty for espionage, and the maximum penalty Aldrich Ames faces, if convicted for selling our country's secrets—all for $1.5 million and a more comfortable lifestyle—is life imprisonment. That is the most that he would suffer. And that is taking into consideration that it appears at least 11 people who have worked for the United States have been murdered as a result of his espionage and of his treason to our Government.

The Senate-passed crime bill authorizes the imposition of the death penalty in espionage cases where "in the commission of the offense the defendant knowingly created a grave risk of death to another person." It is clear from court records that Mr. Ames compromised the safety of U.S. operatives overseas, and the prevailing wisdom is that several agents may have been murdered as a result of intelligence that he crassly sold to a foreign government.

Mr. President, when a potential turncoat calculates whether he will betray his country for profit, the prospect that he or she may be sent to the electric chair should be part of his or her calculation. The death penalty is a strong deterrent to such crimes. For crimes like espionage and treason for profit, the likelihood of such a crime being committed will be diminished if the potential punishment includes the death penalty. This is a price some criminals will not want to pay for a new Jaguar.

I believe we need an enforceable, comprehensive Federal death penalty for espionage, and we need the President's leadership on this issue. So I strongly urge President Clinton to announce his support for a Federal death penalty contained in the Senate bill.

We not only have the death penalty there, we resolve the procedural conflicts that have made it unenforceable over all these years. I cannot think of a better instance where it should be enforceable than in those cases where a person sells out his or her country, and does so for a cheap profit by putting lives in jeopardy and causing the death of other people.

I cannot determine the Ames case in advance, nor do I want to. But if the facts are as they have been explained to me by governmental law enforcement leaders, then this is an appropriate time to pass the Senate bill with the Federal death penalty intact, enforceable, and written well.

WHAT THE FCC FORGOT TO TELL AMERICA WHEN IT CUT CABLE RATES

Mr. DOLE. Mr. President, I read with interest yesterday in the Washington Post, and others papers, about the rollback of cable rates. I just want to set the record straight.

I call this "What the FCC Report Forgot to Tell America When It Cut Cable Rates."

Mr. President, the Federal Communications Commission's appetite for Government intervention has opened a big pot-hole in the information highway, and could short-change cable TV consumers. Earlier this week, the FCC announced that cable TV companies with fewer than 15,000 customers are subject to have their rates rolled back by 7 percent. This sounds good if you stop right there. It sounds very good. But no one has told the American people what they will sacrifice in the process. For starters, we should expect two things. First, it will stifle private business efforts to build the so-called information highway. And second, rapid introduction of new channels and services will not occur. In short, Americans should expect an inferior product because the cable TV legislation has stagnated competition and innovation. Unfortunately, only a few of us anticipated this outcome when Congress passed this law in 1992.

Mr. President, these rollbacks hurt more than the cable TV industry, and nobody would defend some in the industry for some of the egregious practices in the past. In fact, major communications deals have been ruined by the FCC's actions. Chairman Hundt's economist, Michael Katz, said these additional cuts won't hurt. The stock market said otherwise. Citing the rate rollbacks, Bell Atlantic last night called off its bid to acquire TCI. Originally this acquisition was valued at $26 billion and would have arguably created the most powerful and progressive communications company in the world. Bell Atlantic's stock took a nose dive when Chairman Hundt indicated last December that he would roll back rates and thereby restrict TCI's revenue stream. As my colleagues may recall, Bell Atlantic was cautious and did not strike a deal until after the FCC had set its original rate cut regulations. I can only guess that constant changing of the rules will discourage similar deals from being negotiated in the future.

The administration's says it supports the establishment of an information superhighway, but seems eager to throw up roadblocks in the way of its development. Vice President GORE's says that promoting competition will accelerate construction of the highway. He envisions the cable industry as the major competitor to the phone companies. Let us face it, that is not likely. As one of the principle architects of the cable TV bill, the Vice President is responsible for hamstringing the cable TV industry to the point that it is no longer a credible competitor. If we continue to pursue such short-sighted policies in the name

of consumer protection, Americans will never see the benefits of competition.

HAZARDS OF CABLE RATE CUTS

Mr. President, rate cuts are not a free ride. When the Commission originally rolled rates back 10 percent last September, approximately two-thirds of all consumers realized some savings. But have subscribers seen any new channel additions since then? Of course not. In fact, many have actually experienced a reduction. Why is this when there are 51 new cable channels ready to go right now? It is simple. Cable operators just can't afford them.

Updating old cable TV systems and construction of new ones have also been practically non-existent. These upgrades would accelerate the development of the information highway and create thousands of high skill, high-paying jobs—the kind of jobs Vice President GORE says he wants. But the actions of current FCC Chairman, Reed Hundt, say otherwise.

These are only a few problems that were created by the first rate cut. It seems to me that things will not improve with another 7-percent rollback. While pro-regulators have let their revisionist tendencies get the best of them, let me set the record straight. It was never Congress's intention to punish all cable TV companies, only the abusive companies.

REPUBLICAN FCC NOMINEE

Mr. President, I am also concerned that the Republican FCC seat vacated by former Chairman Al Sikes more than a year ago remains empty. This is completely unreasonable. We have been advised by Howard Paster that this would not happen. In fact, I thought the White House recognized this fact when it agreed to quickly name a nominee. That was 3 months ago. What is the hold up? After all, we have had two nominees for Secretary of Defense, and one confirmed, in the same time period, as well as countless other nominees.

7-PERCENT ROLLBACK NOT JUSTIFIED

Mr. President, in closing this brings me to another issue. How did the Commission determine that a 7-percent rollback was in order? They say a study will be released in 2 weeks which will justify everything. It seems to me that the study should have come first—before any changes were made.

For instance, it is my understanding that Chairman Hundt's office said that cable TV operators got off easy—the Commission could have ordered a 15-percent rollback. Well, if the data supported a larger rollback, why did not the Commission stand strong for the American consumer? As I have said all along, this entire debate has been more about politics than consumer protection.

CONCLUSION

No doubt about it, the cable TV bill fiasco is a vivid example of the Government tinkering with something that it clearly didn't understand. Now don't get me wrong. Consumers should get the most bang for their buck. As I said before, there were some bad practices with some cable TV operators. But when Government gouges consumers more than business, it is time for Government to get out of the way and let competition take over.

I ask unanimous consent the Washington Post article which I referred to be printed in the RECORD.

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

[From the Washington Post, Feb. 24, 1994]

BELL ATLANTIC, TCI CALL OFF MERGER—FIRMS BLAME LATEST FCC CABLE RATE CUTS; REGULATORS AND ANALYSTS SKEPTICAL

(By Sandra Sugawara and Paul Farhi)

Bell Atlantic Corp. and Tele-Communications Inc., yesterday called off their plans for the biggest telecommunications merger ever, blaming the Federal Communications Commission decision Tuesday to scale back cable TV rates.

Bell Atlantic Chairman Raymond W. Smith and TCI President John C. Malone decided to call off the deal at a meeting in New York after they failed to agree on the price that the regional telephone company would pay for the cable properties, according to a Bell Atlantic official.

Smith argued that the FCC actions reducing cable prices would significantly reduce the value of the cable properties, but Malone refused to accept the lower price. The merger initially was valued at $26 billion.

Smith had said the deal, by creating economies of scale, would speed up the arrival of the so-called information highway. This enhanced network promises to deliver services such as video on demand, interactive home shopping, video conferencing and remote education to millions of homes across the country.

On the face of it, the failure of the merger would seem to slow down this process. But some analysts said competition between telephone, cable and entertainment companies—not mega mergers—utlimately will provide these services. Consumer acceptance and willingness to pay also will be key factors in what services are provided, and when.

"There is no change in our overall vision, which is to be a major player in the communications, information and entertainment world. We're just going to do that in a different way than we planned on Monday," Bell Atlantic President James Cullen said last night.

"Of course we are disappointed, but the unsettled regulatory climate made it too difficult for the parties to value the future today," Smith said in a statement.

"Given the market and regulatory uncertainties, Ray and I concluded that this is not the time to bring our companies together," Malone said in the same statement.

But FCC Chairman Reed Hundt challenged the companies' explanation, and Clinton administration officials and industry analysts also expressed skepticism about whether regulators were to blame for the deal's collapse. The commission's cable decision "did not in any way make the future of the cable industry more unsettled," Hundt said in a statement released by the FCC. He said that instead the rules clarified the industry's future.

The cancellation of the deal may also slow the merger mania among cable, telephone and other companies, according to industry analysts, who said the high-profile Bell Atlantic and TCI deal had put other companies under pressure to find partners.

"We are going to have to rethink everything," said Robert B. Wilkes, an analyst with Brown Brothers Harriman & Co. in New York. "I think there is less likelihood that all these industries will come together."

Wilkes also said it may lessen the pressure for legislation to deregulate the telecommunications industry. But an aid to Rep. Edward Markey (D-Mass.), chairman of the House telecommunications subcommittee, said he did not expect the announcement to slow plans to pass such legislation.

"Whatever the real reason this deal fell through, no deal should survive if it is premised on a cable company charging monopoly rates," Markey said.

The companies' decision came a day after the FCC voted unanimously to cut cable companies' programming prices by 7 percent. Ten months earlier, the FCC ordered a 10 percent rate rollback.

While many analysts expect TCI, the world's largest cable company, to weather the FCC's move better than others in its business, the ruling is likely to curtail the company's monthly cash flow. That is crucial, since the price Bell Atlantic would have paid for TCI was predicated on a formula of 11.6 times the cash flow of TCI's cable systems. Cash flow is the cash available to a company before taxes and depreciation are deducted from revenue. As this cash flow declined, so did the price Bell Atlantic was willing to pay for the assets.

TCI has not estimated how much the latest 7 percent rollback will affect cash flow, but it said last fall that the initial 10 percent rollback would diminish it by 4 percent to 5 percent annually, assuming the company did not find new sources of unregulated revenue, such as increased advertising. All told, however, most analysts did not expect TCI to be severely harmed by either of the FCC's rate rollbacks.

An administration official last night discounted the claim that the FCC was to blame. "The idea that all of a sudden this shook these two giant companies to the core is hard to believe," the official said. ". . . The search for external forces may be convenient, but the real cause may lie within."

The companies had already missed several deadlines for closing the deal.

George Dellinger, analyst for County NatWest Securities, also was skeptical. "It was compounded by the cable regulations, but I don't think [Smith and Malone] can look each other in the eye and say FCC did it. . . . It was egos. It was fine print. It was power. It was price."

But Cullen flatly denied that the deal fell apart for any other reason than the FCC rate cuts. "I can tell you absolutely that could not be further from the truth," he said of speculation that factors such as ego and culture clashes played a role. "The chemistry could not have been better."

Cullen said that over the past four months, numerous issues had threatened to derail the talks, but that each of these was resolved. "It was the deal with nine lives," he said.

He said the two companies are discussing joint ventures, including the creation of a full-service network and a joint venture in programming.

The administration had in principle given the merger a green light, another adminis-

tration official said, provided that the combined company sold cable TV systems located in the Bell Atlantic telephone service area, such as Washington's District Cablevision. Those were needed so that the merged company would not have monopoly control over phone and cable systems in a single neighborhood.

However, some Washington officials and legislators have expressed concern that a wave of mergers would bring monopolistic lethargy to an emerging market that they hoped would host many companies and be vibrantly competitive.

Bell Atlantic stock, which was trading at nearly $68 a share when the deal was announced, has declined steadily since and closed yesterday at $52.75 a share. TCI shares closed at $24.25 yesterday, down from $31.37½ last fall.

Mr. DOLE. I yield the floor.

TRIBUTE TO KRISTIN HYDE

Mr. DOLE. Mr. President, I rise today to express my gratitude to a member of my staff who is leaving my office at the end of this week. As my press assistant, Kristin Hyde has been an important part of my press team for more than a year.

At a young age, Kristin has made quite a name for herself, working at the Republican National Committee, for President Bush, in the Office of the Senate Republican leader, and now Kristin is moving on to a new challenge as press secretary for our colleague, Senator JUDD GREGG.

From her duties as a spokesperson to doing all the unglamorous things that make a press office work, Kristin has been a tremendous asset to my office. Her talents will serve her well in her new position as she works with the media from her native "Granite State."

While Kristin is leaving my staff, I take some consolation in knowing she will be working in two places I know well—the U.S. Senate and the State of New Hampshire. I wish her all the best.

JUSTICE ROSEMARY BARKETT

Mr. DOLE. Mr. President, last November, Senate Republicans and Democrats put aside our partisan differences and passed one of the toughest crime bills we have ever considered.

Will this bill put an end to the crime epidemic? Of course not, not by a long shot. But after years and years of congressional inaction, and after more chaos and slaughter on the streets of America, this bill—if adopted by the full Congress—would represent a good first step in the right direction. It would be progress.

President Clinton is now on the rhetorical offensive, talking tough on crime as he tries to refashion himself as a new democrat. Although the President has not fully embraced every detail of the Senate-passed crime bill, including the $6.5 billion it devotes to incarcerating violent criminals, it appears that each day he is inching closer to an endorsement.

AN OPPORTUNITY FOR THE PRESIDENT

If President Clinton musters up enough political courage to say "No" to the liberals in the House of Representatives and throws his unqualified support behind the Senate-passed crime bill, it will be a credit to his administration and a boon for the American people.

When it comes to fighting crime, the American people do not indulge in muddled thinking: Criminals are not the victims of society, as the root-cause liberals would have us believe. On the contrary: Society is the victim of criminals. And the most effective antidote to violent crime, at least in the short-term, is to arrest the violent offenders, convict them, lock them up, and then slam-shut the revolving prison door. The simple truth is: A criminal kept behind bars will not terrorize a single law-abiding citizen. Not one.

Of course, actions speak louder than words. We can toughen the criminal laws. We can put more police on the streets. We can give more resources to law enforcement. We can keep violent criminals behind bars through truth-in-sentencing and by building more prisons. But these efforts, no matter how worthwhile, will quickly unravel if the Federal bench is dominated by judges who seek to substitute their own liberal policy preferences for a neutral application of the criminal laws.

Judges, and the rulings they make, can have an enormous impact on our criminal justice system. Like a hefty credit card bill, America is still paying the price for the Warren court years—and Warren happened to be a Republican—a period of unparalleled judicial activism during which the rights of criminal defendants were expanded and the ability of law enforcement to protect the public tragically diminished.

BARKETT RECORD DOES NOT MATCH PRESIDENT'S RHETORIC

One judicial nominee whose record of liberal activism is curiously at odds with the President's tough-on-crime rhetoric is Florida Supreme Court Chief Justice Rosemary Barkett. Justice Barkett has been nominated to fill a vacancy on the 11th Circuit Court of Appeals.

Last year, when she was first nominated, I publicly expressed some reservations about Justice Barkett's record. During the past few months, I have had the opportunity to examine this record more fully.

Justice Barkett is, no doubt, an intelligent and capable person. But, time after time during her tenure on the Florida Bench, Justice Barkett has shown a willingness to find excuses for criminal behavior and an eagerness to indulge in the criminal-as-the-victim-of-society approach that does so much to erode public confidence.

First, the death penalty. The death penalty is one area in which Justice Barkett's liberal activism has flourished.

Yes, it is true that Justice Barkett has, on numerous occasions, joined with her colleagues on the Florida Supreme Court in voting to uphold the imposition of the death penalty. But it is also true that she is the most antideath penalty member of the Florida court, having dissented more than 100 times—and often without explanation—from the court's decision to enforce a capital sentence. By contrast, Justice Barkett has never—not once—dissented from a majority decision of the Florida Supreme Court that granted relief to a convicted capital murderer.

In one case involving a brutal, racially motivated killing—Dougan versus State—Justice Barkett joined a dissenting opinion that offered the following criminal-as-a-victim-of-society analysis. Criminal as victim—do not worry about the victim, worry about the criminal. "This case is not simply a homicide case, it is also a social awareness case. Wrongly, but rightly in the eyes of the criminal defendant, this killing was effectuated to focus attention on a chronic and pervasive illness of racial discrimination and of hurt, sorrow, and rejection. His impatience for change, for understanding, for reconciliation matured to taking the illogical and drastic action for murder. The victim was a symbolic representation of the class causing the perceived injustices."

Although Dougan stabbed his victim repeatedly, shot him twice, laughed at the victim while he pleaded for his life, and sent several tape recordings bragging about the murder to the victim's mother, Justice Barkett and her colleagues insisted that the defendant had some positive qualities.

In comparing what kind of person Dougan is with other murderers in the scores of death cases that we have reviewed, few of the killers approach having the socially redeeming values of Dougan.

Is that not a great statement? There are a lot of murderers out there, but this is a good murderer so we should not do anything to him.

In another case, Foster versus State, Justice Barkett adopts the statistical-evidence defense that was explicitly rejected by the U.S. Supreme Court in McCleskey versus Kemp. In Foster, a white defendant brutally murdered a white victim. After his conviction, the defendant sought to overturn his capital sentence by claiming that the death penalty was unconstitutional since it was imposed more often on defendants whose victims were white than on defendants whose victims were black. The Florida Supreme Court rejected this argument, insisting that the defendant had to show actual, purposeful discrimination for his claim to succeed.

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In a dissenting opinion Justice Barkett concluded that statistical evidence showing a discriminatory impact in capital sentencing that can not be traced to "purposeful and deliberate discrimination" could, nonetheless, establish a violation of Florida's equal protection clause. In other words, if the numbers don't add up—and that is all—Justice Barkett could see a constitutional violation, justifying the rejection of a capital sentence.

Justice Barkett's fuzzy reasoning is almost identical to the theory behind the so-called Racial Justice Act, which the Senate has considered—and repeatedly rejected. Like the Racial Justice Act, Justice Barkett's view that statistical evidence alone subjects a capital sentence to constitutional challenge would paralyze the enforcement of the death penalty. As my colleague from Florida, Senator GRAHAM, has explained: "The very nature of the criminal justice [system] does not lend itself to statistical precision—the constitution requires an individualized determination as to the appropriateness of the death penalty, taking into account the character and record of the murderer and the circumstances of the offenses."

In other words, individual justice is what matters—not justice-by-the-numbers.

There are other examples of Justice Barkett's activism: In Hodges versus State, Justice Barkett dissented, using sloppy reasoning to oppose the imposition of a capital sentence on a person who had committed a premeditated murder of a 20-year-old witness at a criminal trial. And in another case—Porter versus State—Justice Barkett appears to argue that a spurned lover who stalks and kills his former mate almost never merits a capital sentence.

Mr. President these cases are not decided in a legal vacuum. They have real-world consequences: For if Justice Barkett's views had prevailed, convicted cold-blooded murderers would have been spared the punishment the citizens of Florida believed they deserved.

Second, search-and-seizure. A distrust of the police also runs through some of Justice Barkett's opinions.

For example, she has written a number of unduly restrictive fourth amendment search-and-seizure opinions that would hamstring the police. Two of these opinions have been reversed by the U.S. Supreme Court, and one has been criticized by it.

For example, in Bostick versus State, Justice Barkett ignored established Supreme Court precedent and ruled categorically that a police drug search of a passenger on a commercial bus violated the fourth amendment, even though the passenger had consented to the search. In her opinion, Justice Barkett compares the search to the "roving patrols and arbitrary searches conducted in Nazi Germany, Soviet Russia, and Communist Cuba." Even Florida Attorney General Bob Butterworth, a supporter of Justice Barkett, criticized her inflammatory rhetoric, saying that "such language is simply not appropriate, and we should expect more from—[Florida's] highest court." Not surprisingly, the Bostick ruling was later overturned by the U.S. Supreme Court.

Another area, obscenity and antiloitering laws. Justice Barkett has also demonstrated a hostility to criminal obscenity and antiloitering laws, even when these laws are narrowly drawn. Local communities often depend upon these laws to maintain basic standards of decency and to enhance the personal safety of their residents.

In Justice Barkett's view, criminal obscenity laws violate due process. As she explained in one of her opinions, and I quote:

> A basic legal problem with the criminalization of obscenity is that it cannot be defined * * *. Thus, this crime, unlike all other crimes, depends, not on an objective definition obvious to all, but on the subjective definition, first, of those who happen to be enforcing the law at the time, and second, of the particular jury or judges reviewing the case. Such a principle runs counter to every principle of notice and due process in our society.

In this sweeping denunciation, Justice Barkett did not even acknowledge the Supreme Court's 1973 decision, Miller versus California, which defined criminal obscenity. This definition has been approving by cited by lower Federal and State courts on hundreds of occasions.

Justice Barkett has also written opinions striking down local ordinances prohibiting loitering for the purpose of prostitution and engaging in drug-related activity. In both instances, she resorted to legal analyses that appear designed to advance her own policy preferences rather than neutrally apply existing law.

Mr. President, as Americans everywhere fear they will become the next crime statistic, it is vital that the President nominate judges to the Federal bench who view "law-and-order" as something more than just a slogan.

Slogans, of course, do not stop crime; tough law enforcement and credible punishment do. The citizens of Florida have certainly learned this lesson the hard way: Florida has one of the highest crime rates in the country. Yet, according to one analysis, 95 percent of the criminals sentenced to prison in Florida serve less than 15 percent of their sentences. So 95 percent of the criminals sentenced serve about 15 percent of their sentences.

Unfortunately, Justice Barkett too often has found excuses for criminal behavior and has substituted sociology for the neutral application of the law. Although I don't question Justice Barkett's intellect or integrity, I will vote against her confirmation. I urge my colleagues on both sides of the aisle to do the same.

Mr. President, I thank you for this time, and I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

BALANCED BUDGET AMENDMENT—UNANIMOUS-CONSENT AGREEMENT

Mr. MITCHELL. Mr. President, I ask unanimous consent that Senator REID now be recognized to offer a substitute amendment to Senate Joint Resolution 41; that the time for debate between now and 3 p.m. on Tuesday, March 1, be divided between Senators REID, BYRD, SIMON, and HATCH, or their designees; that no other amendments or motions be in order with respect to Senate Joint Resolution 41; that at 3 p.m. on Tuesday, March 1, the Senate, without any intervening action or debate, vote on Senator REID's substitute amendment; that if two-thirds of the Senators present and voting do not vote for Senator REID's substitute amendment, then the amendment shall not pass; that if Senator REID's amendment is defeated, Senator SIMON then be recognized to modify Senate Joint Resolution 41, the modification changing the effective date from 1999 to 2001 and incorporating the language of Senator DANFORTH's judicial restriction amendment, which is attached to this agreement; that there then be 4 hours for debate on Senate Joint Resolution 41, equally divided between the proponents and the opponents, with Senators SIMON and HATCH, or their designees, controlling time for the proponents and Senator BYRD, or his designee, controlling time for the opponents, with 25 additional minutes under the control of Senator GRAMM of Texas; that at the conclusion or yielding back of time, the Senate, without any intervening action, vote on passage of Senate Joint Resolution 41; that if Senator REID's amendment is agreed to, then the Senate, without any intervening action or debate, vote on passage of Senate Joint Resolution 41, as amended.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

The text of the agreement is as follows:

> *Ordered*, That during the further consideration of S.J. Res. 41, a joint resolution proposing an amendment to the Constitution of the United States to require a balanced budget, no other amendments or motions be in order with respect to S.J. Res. 41, and that all time for debate on this measure until 3

p.m. on Tuesday, March 1, 1994, shall be divided between the Senator from Nevada (Mr. Reid), the Senator from West Virginia (Mr. Byrd), the Senator from Illinois (Mr. Simon), and the Senator from Utah (Mr. Hatch), or their designees.

Ordered further, That at 10 a.m. on Friday, February 25, 1994, the Senate resume consideration of S.J. Res. 41, with the time for debate on Friday to extend until 6 p.m. and to be controlled under the provisions above.

Ordered further, That at 3 p.m. on Tuesday, March 1, 1994, the Senate, without any intervening action or debate, vote on the Reid substitute amendment, and that if two-thirds of the Senators present and voting do not vote for the Reid substitute amendment, then the amendment shall not pass.

Ordered further, That if the Reid amendment is defeated, the Senator from Illinois (Mr. Simon) be recognized to modify S.J. Res. 41, which modification shall change the effective date from 1999 to 2001, and incorporate the language of the Danforth judicial restriction amendment.

Ordered further, That there then be 4 hours for debate on S.J. Res. 41, to be equally divided between the proponents and the opponents, with the Senator from Illinois (Mr. Simon) and the Senator from Utah (Mr. Hatch), or their designees, controlling time for the proponents, and the Senator from West Virginia (Mr. Byrd), or his designee, controlling time for the opponents, with 25 additional minutes under the control of the Senator from Texas (Mr. Gramm).

Ordered further, That at the conclusion, or yielding back, of time, the Senate, without any intervening action, vote on passage of S.J. Res. 41.

Ordered further, That if the Reid amendment is agreed to, the Senate, without any intervening action or debate, vote on passage of S.J. Res. 41, as amended.

Mr. MITCHELL. Mr. President, and Members of the Senate, I thank my colleagues for their cooperation.

This agreement is the culmination of many long hours of discussion involving several Senators, those mentioned in the agreement and others. I thank each of them for their courtesy and cooperation in this process, as well as all of the other Senators who have agreed by unanimous consent to permit this agreement to be entered.

Mr. President, under this agreement, Senator REID will now be recognized to offer a substitute amendment. There will be no amendments to that amendment in order or motions with respect to that amendment. Debate will continue today, tomorrow, and Monday. It is agreed among all of the principals that the time will be equally divided by agreement among the proponents and opponents, with the time to be controlled by Senators REID and BYRD and HATCH and SIMON.

There will be no rollcall votes on this or any other matter until 3 p.m. on next Tuesday. At 3 p.m., a vote will occur on the Reid substitute amendment.

Under the agreement, in order for that substitute amendment to pass, two-thirds of the Senators present and voting will have to vote for it. If it does pass, meeting that two-thirds requirement, then, without any intervening action or debate, the Senate would vote on passage of the underlying resolution which will then have been amended by the adoption of the Reid substitute. In that event, disposition of this matter will then be concluded.

In the event that Senator REID's amendment fails to obtain the votes of two-thirds or more of the Senators present and voting, the Reid substitute amendment shall have been defeated and, pursuant to this agreement, the Senate will debate for up to an additional 4 hours, with that time to be divided between Senator BYRD in behalf of the opponents and Senators HATCH and SIMON in behalf of the proponents of the underlying Simon resolution.

There will be an additional 25 minutes under the control of Senator GRAMM of Texas. And then, we will vote on the Simon amendment, which, pursuant to this agreement, will be in the form now pending, with the exception of two modifications agreed to and specifically identified in the agreement.

The first is a modification that changes the effective date from the year 1999 to the year 2001; and the second incorporates the language of Senator DANFORTH's judicial restriction amendment in precisely the language contained in a document which will be attached to this agreement and be incorporated by reference into this agreement.

Mr. President, I believe I have stated accurately the process by which we have agreed but I invite Senator SIMON and other Senators present, first to correct me if I have in any way misstated the agreement, or if they wish to make any other comment.

Mr. SIMON. If the majority leader will yield?

Mr. MITCHELL. Yes.

Mr. SIMON. Mr. President, he has stated it properly and I commend him for pulling very disparate forces together here. We do need, as I understand what we have agreed to—we need some kind of an understanding of how long we are going to go today, how many hours, as well as tomorrow and Monday, so we can somewhat plan our schedules. I assume the leader will be suggesting something before too long about that?

Mr. MITCHELL. My suggestion is that the Senate remain in session so long as there are Senators wishing to debate on this subject. This is a very important matter. This is a grave matter. This involves amending the Constitution of the United States, an event which has occurred only a few times in our Nation's history. I do not want any Senator to in fact or in perception have been shut out or not have had full opportunity to debate. When we get to this vote on 3 p.m., no Senator will be able to say, I have not had a chance to get up and speak my piece.

I am saying right now we will stay in session this evening for as long as any Senator wants to speak. We will be in session tomorrow for as long as any Senator wants to speak. We will be in session Monday for as long as any Senator wants to speak. So that there will be full and ample opportunity for every Senator to express himself or herself on this very important matter.

I cannot predict what that timing will be and I recognize that imposes somewhat of a burden on the managers. But I hope they will agree, in view of the importance of this matter, we must be prepared to debate for so long as Senators wish to do so.

Mr. SIMON. I agree. If the majority leader will yield again?

Mr. MITCHELL. Yes.

Mr. SIMON. I agree with that. But practically, in order to work out the time, it seems to me we ought to agree tentatively on 2 hours today and 7 hours tomorrow—whatever it may be—and 4 hours or 5 hours before the vote on Monday. And then if others want to speak, it is with the understanding that we will extend additional time so long as both sides can be heard equally.

So, if it is possible for the leader or his staff to kind of pull together a rough outline along that line, I think it is desirable.

Mr. MITCHELL. I will be pleased to do that, but I am going to instruct the staff to err on the side of accommodating any Senator who wants to speak and not shutting anyone off or cutting anyone off in fact or in perception. But I will ask the staff to do that and to be of assistance to the managers as the debate proceeds.

Mr. SIMON. I thank the majority leader.

Mr. BYRD. Mr. President, will the majority leader yield?

Mr. MITCHELL. I certainly will, yes.

Mr. BYRD. I congratulate the majority leader on this agreement. I should state that those of us who oppose the Simon amendment gave up some of our rights, as did those who support it, but I think that this is the best conclusion. I think it will bring us to an earlier conclusion. I think that conclusion under the parameters of the agreement will certainly be protective of all concerned.

I would only ask, may I say to the leader, that before he sits down or immediately after he does sit down—or immediately after he gives up the floor—I would like to hear the Danforth amendment read. I would ask that the clerk read the Danforth amendment.

INTENDED AMENDMENT NO. 1470

The PRESIDING OFFICER (Mr. WELLSTONE). Without objection the clerk will report.

The legislative clerk read as follows:

Amendment numbered 1470 intended to be proposed by Mr. DANFORTH:

On page 3, at the end of section 6 add the following:

"The power of any court to order relief pursuant to any case or controversy arising

under this article shall not extend to ordering any remedies other than a declaratory judgment or such remedies as are specifically authorized in implementing legislation pursuant to this section."

Mr. BYRD. I thank the majority leader. I thank him for the fairness to all concerned and I thank him for the efforts he has put in to bringing this matter to this conclusion.

Let me say just parenthetically, I have often wondered how Shakespeare could have come to know and understand human nature as well as he obviously did, probably more so than any other man—any man other than Jesus Christ—who ever walked this planet; and how he came to understand human nature so comprehensively without having been first majority leader of the U.S. Senate. I am at a loss to explain.

The PRESIDING OFFICER. The majority leader.

Mr. MITCHELL. Mr. President, we now have gotten the agreement. I want to make a comment on the substance of the matter and I ask Senator BYRD if I could have some time off his time to make comment on this agreement?

Mr. BYRD. Yes.

Mr. CRAIG. Will the majority leader yield briefly for a comment?

Mr. MITCHELL. Yes.

Mr. CRAIG. Let me say for those of us on this side of the aisle, we appreciate the effort the majority leader has put into this and the accommodation. I think we have had a very productive debate thus far and this now gives us an opportunity to continue, but I think in a very defined way, which I think is for both sides very important since it gives us the time to effectively argue it. This Senator is prepared to stay on the floor for the balance of the day and Friday and Monday, as I think others should be. It is very important, I think, to have this debate in this timeframe.

Having said that, there is no objection on this side. I am glad we were able to work out those matters and to give other Members who had other amendments the opportunity to consider them in a constructive fashion. The Reid amendment—certainly those concerns we had—and we were led to believe it would refine the Simon amendment—have now been accommodated and we appreciate that accommodation.

Mr. MITCHELL. Mr. President, I will have much more to say on the substance of this amendment which I strongly oppose. But I want now to comment specifically on the changes that the sponsors have insisted on making to their amendment, and what I believe this means in terms of the amendment itself.

The first is of course to push it into the next century, a time when many if not most of the sponsors will not be here to face the consequences. That is the first point.

If this was such a great idea, why do those who support it want to push its implementation into the next century? The answer is obvious. This amendment is a gimmick. It is an effort to suggest action when those involved are refusing to take action. It is no coincidence that of the 55 Senators who are sponsors of this amendment which purports to balance the budget, 40 of them voted against the deficit reduction plan proposed last year, the single most important and effective action in dealing with the Federal budget deficit that this Senate has taken.

I repeat that. This amendment says we have a serious deficit problem, so serious that we have to amend the Constitution. And yet 40 of the 55 sponsors of this amendment voted against the single most important action to deal with the deficit ever taken by this Senate.

And the second modification says that this amendment cannot be enforced. The sponsors of the amendment are demanding that it be changed to make certain that it cannot ever, under any circumstances, be enforced. If the President and the Congress fail to comply with this amendment, then no one can do anything about it, and it is the sponsors who are insisting that no one be able to do anything about it, to take the only institution in our society which would otherwise have the authority to insist on enforcing this amendment and writing them out of the act, saying, as that amendment we just heard read up here says, that Federal judges can do nothing—nothing—about this matter if it is not complied with.

I can think of no single action which better characterizes what is going on here than that those who are proposing the amendment are insisting that before a vote occurs on it, it be modified in a way to make certain that it can never be enforced. That is like us passing a criminal law and saying that the district attorney has no authority to indict anyone and the jury has no authority to convict anyone and the judge has no authority to sentence anyone if they break this law.

I think that these actions of the supporters of the amendment, of the sponsors of the amendment, have exposed what is going on here in a way that no words of any opponent could have done. When the sponsors say, "We don't want to have a vote on our amendment; we won't permit a vote on our own amendment unless we can do two things: unless we can push it off into the next century and unless we can make absolutely certain, clear beyond any doubt, that if we do not comply with it, no one can ever do anything about it."

I ask Members of the Senate and I ask the American people to search their memories and search the history books and find an example when someone who proposes a law says, as an absolute requirement before they would permit a vote on their own proposal to say we have to insist, before you let us vote on our proposal, before we will let you vote on our proposal, we have to insist on language that makes certain that it cannot be enforced. And that is exactly what has happened here. The provision providing for the modification of this amendment was insisted upon by the supporters of this amendment.

They said, "We won't agree; we won't agree to this, Mr. Majority Leader, unless you let us change our amendment in a way that pushes it off until the next century and in a way that makes it certain that it can never be enforced."

Those two actions, better than any words any opponent of this amendment can utter, tell us and the American people what is going on here.

Mr. President, I yield the floor.

Mr. SIMON. Will the majority leader yield?

Mr. BYRD. The majority leader has the floor on my time. I ask, will he yield to me briefly to comment on what he just said?

Mr. MITCHELL. Yes.

Mr. BYRD. Mr. President, the majority leader has hit the nail right on the head. By extending this date, no Senator in here who supports the amendment will have the absolute assurance that he will be here to give an accounting for what has transpired as a result, in part, of his vote. So, it is a good way for us to vote for the amendment and never have to worry about having to face the music.

Second, when the barons forced King John, in the year 1215, to sign the Magna Carta, that charter said that no freeman may be disseized of property, or banished or imprisoned except by the lawful judgment of his peers and by the law of the land. That "law of the land" phrase, as Senator MITCHELL will know, he having been a Federal judge, that "law of the land" phrase is the mother of language from which has derived the "due process" phrase in our own Constitution and in the amendments thereto.

What is being done by the Danforth amendment is simply that it is a taking of due process away from those persons who might have reason to challenge this constitutional amendment in the courts to secure remedies for perceived wrongs. They will have no way of enforcing their due process rights under the Constitution if the Danforth proposal were adopted.

Mr. SIMON addressed the Chair.

Mr. MITCHELL. Mr. President, if I can make one more comment and I will yield the floor. The Senator has been at it for 3 days. He has had plenty of time to speak.

Just in case any American has missed the obvious, the terms of U.S. Senators are for 6 years. The way this amendment was drafted, it would have taken effect in 5 years. So what the

sponsors wanted to make sure to do was to change that to 7 years. Let us be clear about that. Under the original amendment, the consequences would have been felt within less than the terms of Senators. Some Senators here might actually have had to do something about the consequences of this action. By pushing it off into the next century, 7 years, the sponsors have guaranteed that no Senator now serving in the Senate will still be serving that term when the consequences descend upon this institution.

Of course, they can run if they want. Maybe some of them will seek reelection, maybe some of them will want to come back, but what this does, Mr. President, is makes absolutely certain that if, in fact, the Constitution is changed, no one here will be required to confront the consequences.

Several Senators addressed the Chair.

BALANCED BUDGET AMENDMENT

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

The assistant legislative clerk read as follows:

A joint resolution (S.J. Res. 41) proposing an amendment to the Constitution of the United States to require a balanced budget.

The Senate resumed consideration of the joint resolution.

Several Senators addressed the Chair.

The PRESIDING OFFICER. Under the previous order, the Senator from Nevada is to be recognized to offer his amendment.

AMENDMENT NO. 1471

(Purpose: In the nature of a substitute)

Mr. REID. Mr. President, I have an amendment which I send to the desk. This is on behalf of myself, Senator FORD, and Senator FEINSTEIN.

The PRESIDING OFFICER. The clerk will report.

The bill clerk read as follows:

The Senator from Nevada [Mr. REID] for himself, Mr. FORD and Mrs. FEINSTEIN, proposes an amendment numbered 1471.

The amendment is as follows:

Strike all after "Assembled" and insert the following:

(two-thirds of each House concurring therein), That the following article is proposed as an amendment to the Constitution, which shall be valid to all intents and purposes as part of the Constitution when ratified by the legislatures of three-fourths of the several States within seven years after the date of its submission to the States for ratification:

ARTICLE

"Section 1. Total estimated outlays of the operating funds of the United States for any fiscal year shall not exceed total estimated receipts to those funds for that fiscal year, unless Congress by concurrent resolution approves a specific excess of outlays over receipts by three-fifths of the whole number of each House on a roll-call vote.

"Section 2. Not later than the first Monday in February in each calendar year, the President shall transmit to the Congress a proposed budget for the United States Government for the fiscal year beginning in that calendar year in which total estimated outlays of the operating funds of the United States for that fiscal year shall not exceed total estimated receipts to those funds for that fiscal year.

"Section 3. This article shall be suspended for any fiscal year and the first fiscal year thereafter if a declaration of war is in effect or if the Director of the Congressional Budget Office, or any successor, estimates that real economic growth has been or will be less than one percent for two consecutive quarters during the period of those two fiscal years. The provisions of this article may be waived for any fiscal year in which the United States is engaged in military conflict which causes an imminent and serious military threat to national security and it is so declared by a joint resolution, adopted by a majority of the whole number of each House of Congress, that becomes law.

"Section 4. Total estimated receipts of the operating funds shall exclude those derived from net borrowing. Total estimated outlays of the operating funds of the United States shall exclude those for repayment of debt principal; and for capital investment. The receipts (including attributable interest) and outlays of the Federal Old-Age and Survivors Insurance Trust Fund and the Federal Disability Insurance Trust Fund shall not be counted as receipts or outlays for purposes of this article.

"Section 5. This article shall be enforced only in accordance with appropriate legislation enacted by Congress. The Congress may, by appropriate legislation, delegate to an officer of Congress the power to order uniform cuts.

"Section 6. Sections 5 and 6 of this article shall take effect upon ratification. All other sections of this article shall take effect beginning with fiscal year 2001 or the second fiscal year beginning after its ratification, whichever is later.".

Mr. HATCH and Mr. REID addressed the Chair.

The PRESIDING OFFICER. The Senator from Utah is recognized.

Mr. HATCH. I recognize that the distinguished Senator from Nevada does want to talk about his amendment, and I only intend to take 1 minute or 2, but I was unable to speak earlier in response to the comments of the distinguished majority leader. I feel as if they do deserve just a short response. They deserve a longer one, but I will only give a short one here today.

Frankly, to stand here and say the reason we are putting the due date when we should reach a balanced budget to the year 2001 is so we can avoid responsibility, if I interpreted the majority leader's comments correctly, would be an insult to every Member of this body because what it is saying is that none of us really is going to take a constitutional amendment seriously for the next 7 years, assuming that this amendment passes, assuming that it is submitted to the States, and let us assume that it is ratified within the average period of time that constitutional amendments are ratified. That is 20 months.

I do not think Members of this body would fail to take that amendment, once it passes the Senate, and once it passes the House, from that minute on, I do not think there is a person in this body who would not be interested in living up to his oath of office, which requires fealty to the Constitution of the United States, who would not take it seriously and who would not realize that the game is up around here, and that we have only 7 years on a glidepath to reach a balanced budget.

For anybody to stand here and say that this is a gimmick, when they realize that this would put fiscal restraint into the Constitution and into the hearts of every Member of this body, I think is wrong.

I have to tell you, I cannot imagine a Member of this body, if this resolution passes both Houses of Congress, who would not take their responsibilities very, very seriously to start that day and do what is right. I hope the majority leader did not mean that, and I will give him the benefit of the doubt with regard to it.

But the reason that the year 2001 is put in there is because we do not believe these two bodies, the Senate and the House, can reach a balanced budget amendment, even with everybody working on it, in less time than that. And it also provides for some time for ratification.

This is important. We take our oath seriously around here. There is nothing in the Constitution right now that requires a balanced budget. By the way, our amendment does not require it. It just puts the mechanism in so that we have to face the music if we do not reach it. And that is important language.

Second, I think it is important to note that the amendment will make a difference. It is not a gimmick. OLYMPIA SNOWE, Congresswoman from Maine, said if this were a gimmick, Congress would have passed it long ago and gotten rid of it, and they would not have this embroilment where we are here fighting every year trying to get a balanced budget amendment passed. Congress does that with gimmicks.

The reason we are fighting so hard is it is not a gimmick. It is something that would put the fiscal restraints on every Member of Congress to have to at least consider doing what is right around here.

Furthermore, to say that by putting our declaratory judgment language in the amendment we are preventing enforcement also could be construed as an insult to every Member of Congress, because if we are obligated to meet the terms of this constitutional amendment, that alone is enforcement, and the ballot box is going to be even more enforcement.

There will not be any more voice votes around here hiding who is breaking the budget. We are all going to have to face the music. So do not say that we should turn over the enforce-

ment to the courts of this country. It would destroy the judiciary if they had to do that. We, the Congress, have to do what is right.

Then to stand here and say that Members ought to be doing what is right anyway I think ignores 60 years of history, because we are not doing what is right.

I might also add as to that budget reconciliation of last year, 40 of us did vote against it but for very good and valid reasons. I do not agree that it was the best deficit reduction package in history. Many did not like an awful lot of the provisions in that particular package, and many still do not feel it is a deficit reduction package, but merely another tax and spend package. There were legitimate and good reasons to vote against that. I agree 40 did vote against it in this body.

There is no question in my mind that the way to enforce this constitutional amendment is by fealty to the Constitution and by having to stand for election and face the voter who might vote against you if you do not live up to your fealty to the Constitution.

I do not want the majority leader to be misconstrued. The fact is if he believes people around here are trying to escape responsibility by putting it off for a length of time that everybody around here agrees it is going to take, then that is ignoring the fealty and the responsibility and the good faith of every Member of this body. I happen to believe more in this body than that. I believe that we will do what is right if this passes. If it does not pass, we will continue doing what is wrong the way we have for 60 years.

I apologize to my good friend and colleague from Nevada, but I just had to make these comments. There are others I would like to make but I will make those Monday.

Mr. REID addressed the Chair.

The PRESIDING OFFICER. The Senator from Nevada is recognized.

Mr. REID. Mr. President, I ask unanimous consent that the Senator from Idaho be recognized for purposes of making an announcement, and that I have the floor back after that.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

Mr. CRAIG. Mr. President, I appreciate the Senator from Nevada yielding only briefly. I think we are going to engage in a very important debate with this alternative or substitute amendment.

Let me also say that just minutes ago, in 6 hours and 50 minutes, the House has just discharged their balanced budget amendment. That is the fastest discharge in the history of the House since the Speaker's discharge of the original Fair Labor Standards Act in 1938.

So for Senators who believe that this is merely an exercise in debate, this issue is now in full bloom in both Houses, the House having acted today with these issues on the floor before us.

I hope Senators will come to the floor and engage themselves in debate, whether it is for the Simon approach or whether it is for the Reid approach. This becomes, in my opinion, a most significant debate that must be resolved.

I thank my colleague for yielding.

Mr. REID addressed the Chair.

The PRESIDING OFFICER. The Senator from Nevada.

Mr. REID. Mr. President, I have supported the concept of the balanced budget amendment since coming to Congress, and even before coming to Congress. This has been something that I have worked very hard on, especially the last several weeks, to arrive at something that is meaningful but yet responsible.

The Simon amendment on its face seems to accomplish that. That is why a number of individuals thought it was the way to solve the financial problems of this country. But under the spotlight of any scrutiny, the Simon amendment will not solve any of our fiscal problems. Instead, Mr. President, as many of my colleagues and a multitude of economic experts across the country fear, this amendment, as written, and as it will be modified, will create more problems than it will solve.

As I indicated, I spent a great deal of time wrestling with this issue. I, like the speeches we have heard on this Senate floor over the years, do not want to leave a legacy of debt to my five children and my three grandchildren. I do not want to leave a legacy of debt for the children of Nevada nor the children of this Nation, because I represent, as we all do who are Members of the U.S. Senate, not only the children of our State, but we represent the individuals and the children of this country. I do not want to heap a burden of debt on any future generation of the American people.

Mr. President, let us talk about some of the things we have done fiscally in recent months. We have a huge budget. This country is growing, with over 250 million people. We now have a deficit of $176 billion, a huge amount. I do not in any way trivialize that amount of money because it is a huge amount of money. But it is the lowest deficit we have had in 9 years. It is the lowest percentage pertaining to the gross national product of debt since 1979—15 years. That is not perfect. But we have been making progress in recent years.

What has the President suggested to us—we the Members of the U.S. Senate, with our colleagues and friends in the House—what has the President told us we must do? We must eliminate entirely 115 programs. We are going to cut 300 others, by direction of the President in this budget.

For example—and I know the Senator who is presiding presently is very concerned about agriculture; the State of Minnesota is much more agriculturally bound than the State of Nevada—the President has suggested, in spite of the great agricultural power of this country, that there be a 24-percent cut in agriculture expenditures this year. That is a tremendous cut, but it is something we are demanding be done. And the cuts I am going to be talking about, Mr. President, are not cuts in increases. These are real dollar cuts.

As an example, in 1994, agriculture spending was $16.9 billion. We have been directed to cut that to $12.8 billion, 24 percent; energy, a cut of 8 percent; international affairs, a cut of 6 percent; defense—as much as it has been squeezed—we are going to squeeze it 3 more percent; science, space—something that I believe is the future of this country—are being cut 2 percent; discretionary spending will be cut by $16.5 billion to meet the spending caps that we need to make.

That is a lot of cutting. Twelve years ago, domestic discretionary spending in this country was 25 percent of our budget. Last year, it was about 12 percent. Next year, it is going to be even less.

We, Mr. President, are cutting the heart out of the programs of this country that are so meaningful—research and development at the National Institutes of Health, education. But we are doing it because there is an agreement that we need to do that.

Also in this budget is something called reinventing government, similar to the Grace Commission, done by a different individual, by Vice President GORE. Approximately 85 percent of Vice President GORE's reinventing government proposals are reflected in the budget request. That is very good, Mr. President.

So we have done a pretty good job compared to the last dozen years, when the debt was skyrocketing. We are beginning to recognize the real world that we live in.

I believe Senator SIMON's heart is in the right place. He is a fine man. I think the world of my friend from Illinois. But, as I have struggled with the arguments of those who say the amendment as written will harm the country, I have come to the conclusion, after significant thought, that they are right.

Let us see what a few of those people say. These are people who are scholars. These are not people who suddenly say, "Well, I do not like the balanced budget amendment." These are thoughtful people.

For example, Assistant Attorney General Walter Dellinger:

> In the absence of any specific mechanism for achieving a balanced budget, once part of the Constitution, it may be read to authorize, indeed mandate, extensive judicial involvement in the budget process. This would constitute a serious distortion of our constitutional system.

He also says:

Perhaps most alarming of all of the aspects of the proposed amendment is that by constitutionalizing the budgeting process, the proposal appears——

He is talking about Senator SIMON's proposal.

To mandate the extraordinary expansion of judicial authority. State and Federal judges may well be required to make fundamental decisions about spending and taxing, issues that judges lack the institutional capacity to cite in any remotely satisfactory manner.

Mr. President, we do not have that problem in my amendment.

Dellinger proceeds to say:

The failure to specify any enforcement mechanisms for the amendment could result in the transfer of power over fundamental political questions of taxing and spending to the courts.

There are individuals here, Mr. President, who in their States have had the school systems run by the courts in recent years. Why? Because governments have not lived up to their responsibilities, so the courts have taken over. If we want the courts to take over all responsibility, that is what would happen if the amendment of my friend from Illinois is passed.

Dellinger says:

It would be wonderful if we could simply declare by constitutional amendment that from this day forward, the air would be clean, the streets free of drugs, and the budget forever in balance. But merely saying those things in the Constitution does not make them happen.

That is why, Mr. President, that I could not in good conscience support the amendment of my friend from Illinois.

Prof. Charles Fried of Harvard, former Solicitor General, a scholar by anybody's calculation, said, among other things: "Majority rule is so basic a principle of our Constitution that it is nowhere stated explicitly, but it pervades the whole document."

Archibald Cox, also a professor from a prominent law school, said, "I am convinced that adoption of this amendment,"—the Simon amendment—"described by its supporters as a sign of fiscal responsibility, would intrude, be an act of congressional irresponsibility."

I believe that, Mr. President. That is why I cannot, in good conscience, support the Simon amendment.

The amendment will erode the protections of the checks and balances that the framers, in their wisdom, placed in the Constitution. My amendment does not do that.

Here are some things, Mr. President, that I think are important to consider. The amendment offered by my friend from Illinois places the courts in an unequal position of power. When the Founding Fathers developed this great Government that we have, they wanted three separate but equal branches of Government. We have done a pretty good job in maintaining that. Over the years, there has been difficulty, and part of what they built into this framework is there would be a fight for power among the three branches. The three separate branches actually advocate and fight for power. That is the way it has worked for over 200 years. We have had times in the history of this country when one branch of Government, it seems, is stronger than the other two, and there comes a balancing.

Well, if the amendment that my friend from Illinois has offered passes, it will place the judiciary in a situation where they have all of the power.

It is my understanding—and I think clearly that the sponsors of this amendment recognize that, and that is why the Danforth amendment to the Simon amendment is placed into being—but I do not think that solves the problems of the basic amendment. We have done that in, I think, a more logical, consistent way in the amendment offered by me, my friend Senator FORD, and the Senator from California.

Mr. President, we have had cyclical depressions. It happens. It has not happened in the last 70 years. We have had a few recessions, but never a depression. But, Mr. President, if you look at what has happened in the past, we have had a number of times where we have had some very significant depressions. I would like to list those here. We will not go into two centuries ago where they had a few. Let us talk about the last century. When Martin Van Buren was President, in 1837, pre-Civil War—there was a very significant depression right before the Civil War. Some scholars say one of the reasons the Civil War came about, in addition to all of the problems with North versus South, was the financial problems they had in 1857 when Franklin Pierce was President. There was another depression in 1873, when Ullysses S. Grant was President; Chester Arthur, in 1884; Benjamin Harrison, in 1893; Teddy Roosevelt, in 1907; and the granddaddy was in 1929, Herbert Hoover.

So we have had the ability in the last 70 years to do a pretty good job of making it so this country does not have depressions. We have been able to fight out of depressions and have recessions.

Mr. President, one reason we have been able to do this is because there has been a new theory in economics that has been accepted by our country and all of the economists and it has worked well—the Keynesian theory with modifications by a number of different individuals. Basically, the Keynesian theory has allowed the Government, in times of oncoming depression, to spend their way out of it. We have done a pretty good job. Remember that part of the Keynesian theory also said when you are in good times, you should save money, as we had some good times in the 1980's. But we did not do that. Instead of doing what we were supposed to do, we spent ourselves into the biggest debt in the history of the world, by far—trillions of dollars, when we should have been saving that money.

My amendment, of course, would allow us, in times of economic downturn, to do something so that the downturn does not result in a depression in this country.

Mr. President, if State-balanced budgets were drafted in the same manner that the amendment my friend from Illinois has offered, every State would go broke. Why? Because we hear this talk about States balancing their budgets, and they do. The State of Nevada has a balanced budget, and I think that is great. But they balance it by placing capital expenditures off-budget, as we have done in this amendment that I have offered. That is not allowed in the Simon amendment. The State of Illinois could not live under the amendment he is asking the United States to live under. The State of Illinois could not live by that. There is no State like Illinois that has as much unfunded pension liability. I believe that is right. If not, it is in the top tier.

Mr. President, changing the subject, and I will get back to my text in a little bit, I have just watched walk into the Chamber here somebody I want to mention, because the amendment that is now before this body—and I will talk about Social Security at some length—has a provision in it dealing with Social Security. The reason the language is in this amendment dealing with Social Security is because of my friend from North Dakota, Senator DORGAN. It is in there because I had some language in my original amendment, but I had the good fortune and the experience to sit down and talk to somebody that most of us look to as a person that really understands finances. I served in the House with my friend from North Dakota, and I looked to him then as a member of the Ways and Means Committee as somebody to seek advice from on fiscal matters. I did so here. He studied the language—as he does—that I had in my amendment relating to Social Security. He called me, and we talked. He said, "I have some language I think is better." I reviewed this, had my staff review it, and had people from the Budget Committee look at it, and he was right. So that is the reason that I was willing to change the language in my amendment to what I referred to as "the Dorgan and Reid amendment." The Social Security language in my amendment is the Dorgan language.

Mr. DORGAN. Will the Senator from Nevada yield to me?

Mr. REID. I will be happy to yield for a short time.

Mr. DORGAN. I have a very brief question.

Let me say how much I appreciate the courtesy of the Senator from Ne-

vada in including my language in the amendment he offers.

I had indicated on the floor that I intended to offer an amendment to exempt the Social Security system in a constitutional amendment to balance the budget. I would have liked to have offered it to both of the constitutional amendments that we are going to discuss. For a number of reasons, including the massive number of amendments that opponents of the balanced-budget amendment were prepared to offer, I have had to waive my right to offer my own amendment.

However, I would thank the Senator from Nevada for including the language of my amendment in his own.

By the way, let me mention to the Senator from Nevada that he has offered a constitutional amendment that I will support. I say to my friend from Nevada that I will not necessarily support it to the exclusion of Senator SIMON's amendment. I reserve the right to consider voting for the Simon amendment if the amendment of the Senator from Nevada fails.

I did want to say that Senator REID has served the Senate's interest by bringing an amendment which is thoughtful. It has provisions that are interesting and useful, such as the establishment of a capital budget. He is trying to address the serious deficit and enormous debt that we face.

To conclude, I will support the amendment of the Senator from Nevada and I thank him very much for adding my amendment on Social Security to it. I hope the Senate will give favorable consideration to Senator REID's amendment.

I thank the Senator from Nevada for yielding to me.

Mr. REID. Mr. President, as I was speaking earlier before my friend came in from other places to the Senate floor, I wanted to recognize him because I failed to do so earlier. I was talking about the Simon amendment and the fact that almost every State in the Union would go broke if they had to live by what this amendment is asking the Federal Government to live by because every State has off-budget capital expenditures, and some of these expenditures that are off budget are more than capital expenditures, as I see them. Pension liabilities are off budget. So let us not get lost in this argument here in the next few days about, "We do it in my State. Why cannot we do it here?"

Those who make that statement should understand they better check with their Governor and their legislature because if those States had to live by the Simon amendment, they could not do it. Something similar to the Reid amendment they could because it is reasonable, it is rational, and it is doable.

So States could not live by it. Mr. President, Members of this Senate, who, generally speaking, are above the mean as far as average wages in this country, to say the least, I will bet most every Senator who has bought a home is paying for it on time. There may be a few in this body who can pay cash for a home, but not too many.

Under the Simon amendment, if we asked families throughout America to live by it, they could not. They would have to pay cash for their house and have to pay cash for their car, and certainly no plastic.

In effect, what we have with the Simon amendment would be a growth business for lawyers, and I will talk about that at some length later.

If you want to really understand why I cannot vote for this amendment, in all due respect, and I think if my friends really analyze the Simon amendment, I do not see how they could vote for it, because I believe that the Simon amendment, as well-intentioned as it might be, I believe the Simon amendment is so easy to avoid.

How could we avoid the Simon amendment? We could change the fiscal year date. We could change the fiscal year. It says "fiscal year." Who says what is the fiscal year? Can we change it a day, a month, or 3 months?

My friends in the U.S. Senate should carefully look at the Simon amendment because I think, if they do and study it seriously, they will find that they cannot support the Simon amendment.

Mr. President, the Simon amendment as drafted creates an additional danger to our economic well-being. As I indicated—and I think it is worth repeating—in times of economic recession, such as the one we recently passed through, the Federal Government can help ease the burden on the economy. It cannot wipe it out, but it can help ease the burden. That is why I gave the examples of Presidents in the last century who were overburdened with problems, mainly debt. Depression came. They had not the economic apparatus in the Government to do anything about it. So, as a result of that, we had depression after depression after depression.

We have avoided depressions because we have the flexibility to increase investments while decreasing the tax burden in times of economic slowdowns. This is the very heart of the economics which has served this country well since the time of the Great Depression and has been utilized by both Republican and Democratic administrations since that time.

Mr. President, the unreasonable restrictions contained in the amendment of the Senator from Illinois, if in place during the recent recession, could have resulted in a depression today instead of the beginnings of a stable growth pattern that is now facing this country.

Looming depression could well be the albatross we pass on to our children if the Simon amendment is adopted because history indicates that we have periods of boom and bust, and unless you are allowed somehow to temper that, a depression is what you have.

I have often heard from people that the Federal Government should operate like State governments and family budgets, and I agree, as I have indicated. But under this amendment, as I have said, a family who would want to buy a car or home simply would be lost. They could not do it. If States were saddled with the same restrictions contained in the amendment, their ability to build roads, sewer, or water systems would be drastically limited. There is no question about that. Rapid-growth States like Nevada would be severely hampered in their ability to borrow—and they do—to finance infrastructure which would be prohibited in the Simon amendment.

Not a single State with so-called budget requirements are hamstrung by such a broad-brush restriction as we find in the Simon amendment. In many States the balanced budget amendment applies only to the State operating fund. That is those expenses not related to costly capital investment such as roads or universities, those things which States need.

Instead, these States are able to sell bonds to borrow on to pay for these essential services. In fact, one study showed that of 42 States with capital budgets, 37 finance those budgets through borrowing.

So, Mr. President, when I again gain the floor tomorrow, I am going to spend a considerable amount of time in more detail going through what has happened across the country in newspapers. I will touch on some of them now.

Mr. President, an editorial in the Las Vegas Sun newspaper, "A Bitter Pill Worse Than the Disease," in effect talking about the Simon amendment.

From another newspaper article in Las Vegas, "Cosmetic Budget Amendment"; "* * * because they don't mean it," is what they say about the Simon amendment.

> "What would happen if they failed to agree? Would the Supreme Court end up as a referee, raising a tax on truck tires here, laying off the staff of the Columbus, OH HUD office there? Oh, joy."

Or a columnist for one of the Las Vegas newspapers, where he says:

> Many Members of Congress today nurture the idea by supporting a balanced budget, they can change Social Security from an entitlement program to welfare benefits. This would enable them to use Social Security funds to balance the budget by taking benefits away.

That is what the opponents are saying about my amendment. Why should we have Social Security off budget? Why, Mr. President? Because in 1983, President Reagan sat down with Tip O'Neill and other leaders of the Congress, and they bailed out Social Secu-

rity for the next century, at least 70 to 75 years.

But what have we done in the ensuing period? We have not used the Social Security Trust Fund. We have used it as a slush fund. That is why my amendment takes it off budget, as it should be off budget. Why should the budget be balanced on the backs of senior citizens, people who have paid into this account freely, willingly, with their employers?

Mr. BYRD. Will the distinguished Senator yield?

Mr. REID. I am happy to yield.

Mr. BYRD. With the understanding that I do not seek the floor.

I merely want to propound an inquiry of the Chair.

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

Mr. BYRD. Mr. President, I have a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state the inquiry.

Mr. BYRD. Under the agreement, it is my understanding that Senators SIMON, HATCH, BYRD, and REID have time equally shared among us today.

The PRESIDING OFFICER. The Senator is correct.

Mr. BYRD. I do not propose to take my time today. As I understand, Senator SIMON has inquired earlier as to the prospect of having a deadline of 7:30 p.m. today.

Mr. SIMON. That is correct.

Mr. BYRD. That is perfectly agreeable with me.

I ask unanimous consent that my portion of that time be under the control of Mr. REID. I do not propose to stay around and take the time today.

The PRESIDING OFFICER. Is there objection?

Mr. SIMON. I have no objection. I was hoping the Senator would yield it to me, Mr. President, but he has not done that, so I have no objection to that at all.

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

Mr. BYRD. I would be happy to yield half of it to Mr. SIMON and half to Mr. REID.

Mr. SIMON. I said that only in jest, Mr. President. I certainly have no objection.

Mr. BYRD. I thank the Senator. I yield my time, then, to Mr. REID.

Mr. REID. I thank the Senator.

Mr. SIMON. Mr. President, I ask unanimous consent that the time between now and 7:30 p.m. this evening be divided as under the existing agreement.

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

Mr. HATCH addressed the Chair.

The ACTING PRESIDENT pro tempore. The Senator from Nevada has the floor.

Mr. REID. Mr. President, we also have here a column written by William Buckley in which he talks about the amendment. Among other things, he says there are weaknesses in the proposed amendment. That is an understatement.

I see in the back of the Chamber someone else has certainly pointed to the editorial by Michael Ruby in the U.S. News and World Report. I am going to take a lot of time tomorrow or the next day, whenever I again get the floor, to talk about these newspapers around the country that, in effect, are trashing the Simon amendment. And they do it, Mr. President, for obvious and good reasons, because the Simon amendment, as it is written, simply will not work. It will not work for a lot of different reasons, some of which I have already enumerated.

I have here, Mr. President, a side-by-side Simon balanced budget amendment and the Reid balanced budget amendment. It is my understanding that this first issue will soon be the same, because they want to amend their amendment to the year 2001.

The Simon amendment includes Social Security. In effect, what the Simon amendment will do is attempt to balance the budget on the back of the Social Security trust funds. I think that is wrong. That is why my amendment excludes Social Security.

I have also felt that we need a budget that is comparable and similar to what we do on a State level. States are generally pretty healthy. If they are not, as happened in Nevada, the Governor of the State of Nevada had to call back the State legislature because they were spending more money than they should. They had to balance their budget. But remember, that budget excludes capital expenditures. We are going to do the same. I think that is appropriate.

Wartime national security—of course, we need an exemption there. That is why we have the same.

I have in my amendment a recession exemption, not one that is easily obtained. You have to have growth of less than 1 percent for two consecutive quarters. If that happens, then we can practice the economics that has kept us out of depression for this century. And, Mr. President, we have to do that. We cannot revert back to boom and bust like we had last century and the century before.

Now, under the terms of the unanimous consent agreement—after all these years, we have heard that this amendment is so good—they are going to amend the amendment to allow court preemption, but watch very closely what their preemption amendment does.

We do not do that with ours, even though we have court preemption, because we outline what Congress must do, including a provision that absolutely, Mr. President, allows the cuts to take place automatically if we do not do it. We can assign an agency of the legislative branch the ability and the power to cut. That is the way it should be. That is why we have that exemption in there.

Enforcement legislation subject to implementing legislation—we have that also. But we also state that the legislation will allow us to determine what a capital budget is. That is not a difficult thing to do, because the President has been doing it in his budgets for years; CBO has done reports on it; GAO has done reports on it. This is no magic. You will hear the opponents raise objections to what the capital budget is. It is a way that the Federal Government can act like a State government, act responsibly.

Mr. President, with the deepest respect I have for the Senator from Illinois, I must oppose his amendment as it is written and as it will be modified for its dubious constitutional effects and its creation of a legal quagmire—and when I say "legal quagmire," Mr. President, that is what I mean: A legal quagmire. We will have a business for lawyers if this amendment passes and its potential choke hold on the American economy and future generations.

I do not believe the Simon amendment will accomplish that which we had originally hoped. I think the amendment offered by Senators REID, FORD, and FEINSTEIN will do that. I think it is an honest attempt to arrive at a way to balance the budget and not on the backs of seniors. And to allow the Federal Government the same leeway States have. That does not seem unreasonable.

For these reasons and others, I am introducing a balanced budget amendment that I believe will accomplish the goals of those of us here who responsibly want to balance the budget. This is my desire.

I would at this time yield. Senator SIMON controls time and I control time. Mr. President, how much time do we have left?

The ACTING PRESIDENT pro tempore. The Senator has approximately 18 minutes under his control this evening.

Mr. REID. I yield 10 minutes, if the Senator from Illinois will allow me, to the Senator from California and reserve 8 minutes until the Senator from Illinois and whoever else wants to speak on their behalf have finished.

Mr. SIMON. If my colleague will yield, I understand the Senator from New Mexico wants to leave and Senator HATCH wants to yield 2 minutes to him first and then I will be happy to agree.

Mr. REID. Agreed.

Mr. HATCH. I yield the Senator 2 minutes.

The ACTING PRESIDENT pro tempore. The Senator from New Mexico is recognized for 2 minutes.

Mr. DOMENICI. Mr. President, I have been listed as undecided on the constitutional amendment, but today I un-

derstand a very significant amendment has been agreed to and that has to do with judicial review. It is a Danforth amendment. I believe it clarifies that if we get into a bind and gridlock up here as we seek the implementing legislation, that during that gridlock, if it occurs, we do not have the courts of America deciding how to balance the budget of the United States. That is very important to me. I have read a few decisions where the courts have in fact ordered taxes imposed. I think they may go beyond that in the future. So I think it is important that amendment be accepted.

Having said that, I have come to the conclusion, having heard all of the administration witnesses as to why we should not adopt this constitutional amendment, that many of the reasons that they state we should not adopt it are the very reasons we must. Because from this Senator's standpoint it is not the appropriated accounts of this Government, the domestic part of that is about 17 percent of the budget on our side for all the programs that everybody says are breaking the bank.

Mr. President, 17 percent is not causing this constitutional amendment to be an important issue with our people. What is really causing it is the plethora of entitlement programs that grow, willy-nilly, frankly with no relation to means, no relation to who really needs them, no oversight—which is beginning to concern me as much as anything. So I frankly believe we will never get those under control unless we are confronted with a situation where the balanced budget amendment says you must control them.

Obviously there is nothing perfect. There are some downsides to the amendment. The one that worries me the most is the business cycle of the United States. We do not like to think of a business cycle as being a reality but it just seems that since the Second World War our economy flows and ebbs in tides, with what we have all chosen to say is the business cycle. Frankly, I do not think we have ruled that out yet.

So the downside is I am going to rely on the 60 votes that are necessary to permit us, in serious times when we really need not have a balanced budget, that 60 votes will come to the forefront and we will exercise that 60 votes with good judgment. So if indeed we need some deficit spending we will find a way, between the two parties and a President, to see that takes place.

My last point is if anyone is voting against this amendment because they think we have the deficit under control, my good friend PAUL SIMON has borrowed a graph of where the deficit is going. He now calls it the Domenici graph. It is actually the President's. It shows the deficit is going to go up substantially from where it is today. Just give it a couple of years.

If we put health care insurance on top of it and do not pay for that but rather spend all the savings, then we are right back in the middle again in about 7 or 8 years with the deficit being $300 billion, $350 billion, $400 billion.

Next week I will give a more detailed explanation if I can get time. I ask the managers if they would, as they are seeking time next week, if we could find time, 15 or 20 minutes, for the Senator from New Mexico to do an analysis of the past and the future.

I yield.

The ACTING PRESIDENT pro tempore. Who yields time?

Mr. REID. Mr. President, I yield 10 minutes to the Senator from California.

The ACTING PRESIDENT pro tempore. The Senator from California is recognized for 10 minutes.

Mrs. FEINSTEIN. Mr. President, I thank the Senator from Nevada for the time.

I am here to speak on behalf of the Reid amendment. I believe it is improved over the Simon amendment. This amendment would protect Social Security. I do not believe that the trust fund should be used to balance the budget. It would allow the creation of a capital budget, just as many cities and States do now. It would allow flexibility in time of recession. And it would keep the courts from mandating actions that are legislative prerogatives. These changes make this amendment a much more workable balanced budget amendment.

There are many in this body who believe that amending the Constitution is very strong medicine, perhaps too strong. I have listened very carefully to those arguments. But I have come to the conclusion that without the strong medicine the patient is not going to heal.

People have said to me: You come from California and you supported an amendment for earthquake disaster relief that was off budget.

Yes, I did. Disaster relief for floods was off budget. Disaster relief for Hurricane Iniki was off budget. Disaster relief for Hurricane Andrew was off budget. So why should California be treated any differently? That is why we need an amendment to make everyone play by the same rules.

I think this is the heart of the matter. If people believe that under our present way of doing business we can balance this budget, then they should vote against a balanced budget amendment. If in their heart of hearts they believe we are not going to be able to balance the budget under the current process, then I believe they should support the balanced budget amendment. At least that is the conclusion to which I have come. Without a constitutional amendment, a balanced budget just is not going to be achieved.

I hearken back to the debate on the reconciliation bill, where Congress took the biggest bite in history out of the deficit—nearly $500 billion over 5 years. Yet that was only achieved because the Vice President broke a tie vote in this Chamber. I remember the discussion: If Medicare is cut anymore I will not vote for it. If Social Security is touched, I will not vote for it.

In a way, that, too, was the heart of the debate. Because it is not an argument over discretionary spending, whether that discretionary spending be defense or nondefense. Both are either frozen or they are being cut. The argument over whether a budget can be balanced in the future is over two things: Reducing interest on the debt instead of allowing it to continue to expand and, second, either coming to grips with premiums or programs that are related to entitlements.

As other graphs have shown, entitlements and interest on the debt are going to eventually eat everything we do with respect to discretionary spending—whether that be defense or nondefense—and unless we deal with entitlements and interest, we will never be able to balance the budget.

The question becomes, can we deal with these things? I have reluctantly come to the conclusion that under the present system we cannot. We have to develop a prospective system and then be able to stick to it and do those things which, indeed, are difficult to do.

There are many people that I respect very deeply on both sides of this debate. I submit that the vote on this is probably as personal a vote as any of us are going to cast. It really is going to end up how we see the future and how we think this body can do the difficult things which must be done if balancing the budget is important.

To me, there is just one single thing that makes me believe that balancing the budget really is important, and that is our grandchildren are going to have to pay 65 percent of their income in taxes if we do not. My belief is that the way we are going, we will bankrupt our Nation unless we make significant changes.

Since 1960, the Federal Government has balanced its budget exactly twice: Once in 1960, a surplus of $300 million, and again in 1969, a surplus of $3.2 billion.

In the last 25 years, the Federal Government has run up trillions of dollars of debt without once balancing the budget. And during this time, this Nation has experienced both economic booms and recessions. Yet, never did this Government balance a Federal budget.

The Federal Government now spends over $200 billion annually just to pay interest on its $4 trillion debt. If current policies continue, the CBO estimates that net interest payments will

reach $334 billion by the year 2004. To put spending on interest into perspective, this year the Federal Government will spend only $43 billion more on domestic discretionary spending than it will on interest and the debt; $244 billion in discretionary spending to $201 billion in net interest. So that is what is happening. That is the story of all of this, and that is the story of just doing business as usual. True, this is not going to shrink the debt. This is going to give us an opportunity to, in essence, change the way business is done.

Let me speak for a moment about this interest because $200 billion does not buy a new highway or bridge, a plane or a ship. It does not provide medical care to a child or a grandparent or education to our Nation's students. It does nothing positive by way of infrastructure. It simply pays out interest and it increases and increases and increases.

Most Americans incur debt for major purchases, and I think they confuse Federal interest with interest on a home mortgage. When you pay interest on a home mortgage, the interest payments go down over time and your equity increases. When the Federal Government pays interest on the Federal debt, it does not. Interest costs just keeps increasing.

What has 25 years of accumulated debt meant to our economy? The Federal Reserve Board states that the low national savings rate —and I am speaking about national savings rate—is now under 3 percent. It is the lowest of any major industrialized country in the world. They say it is largely attributable to Federal deficits; that it has resulted in a loss of 5 percent growth in our national income during the decade of the eighties alone.

I have listened just as carefully as I can to debate on this issue. Some have pointed out that we have frozen discretionary spending, and that is true. But the largest escalating part of the debt, the part that I have talked about—entitlements and interest—by the year 2004 will rise to nearly $6 trillion, despite this freeze on discretionary spending.

Some hold out hope that health care reform, as big a package as it now seems to be, is going to cut the debt substantially. Maybe yes, maybe no. But I am convinced that without a constitutional amendment, this body and any body, no matter who is in it, is going to be unable to balance the budget.

The Reid amendment requires Congress and the President to balance the budget by the year 2001. It excludes Social Security. It creates a capital budget. It includes an exception for war and recession to preserve the Federal Government's ability to operate effectively in times of need, and it provides that enforcement of this amendment will only be in accordance with congressional legislation. I believe this is a good amendment that provides the strong medicine necessary for Congress to do what is needed and balance the Federal budget. I yield the floor.

The ACTING PRESIDENT pro tempore. The Senator's 10 minutes have expired.

Mrs. FEINSTEIN. I thank the Chair, and I yield the time.

Mr. SIMON addressed the Chair.

The ACTING PRESIDENT pro tempore. The Senator from Illinois.

Mr. SIMON. Mr. President, first, I hope not to use my full 30 minutes. The Senator from Utah indicated he may not use his full time, so we can get some rest this evening before we start on the debate tomorrow.

First, I want to comment on the observations of the majority leader, for whom I have great respect, when he said we are putting this off to the year 2001 so no one here will have to act on it. Senator FEINSTEIN was one of those who talked to me about extending the date. People in the administration talked about extending the date. The Concord Coalition, and some other groups, said if you have this by the year 2001, you can have a gradual glide path down and it will work.

But no one is going to wait until the year 2001. I am not going to wait until the year 2001. Senator FEINSTEIN is not. My good friend from Wisconsin, who is presiding, is not going to wait until the year 2001. ORRIN HATCH is not going to. LARRY CRAIG is not going to. ROBERT BYRD is not going to. And GEORGE MITCHELL, who is a responsible United States Senator, is not going to wait until the year 2001. If this is adopted, we are going to move very quickly.

Second, he said it cannot be enforced. Just the day before yesterday, the majority leader made a speech in the caucus about how the courts were going to be enmeshed in this thing. The reality is he is going to criticize these provisions no matter what.

But our provision says that the courts can be involved but not in terms of telling us we have to cut back on this or raise taxes. It is interesting. We have another provision saying that we can give the courts additional authority if we see things are not working out. But when Gramm-Rudman was the law, we did not have some courts coming down here telling us what to do. Forty-eight of the 50 States have some kind of constitutional provision and, with rare exception, the States have not had any problems with the courts. So I think that simply does not hold any water at all.

Let me look at the Reid amendment, offered by my colleague. And I mentioned earlier that I have great respect for my colleague from Nevada.

What this amendment says, and it has loopholes—if people are criticizing the amendment that Senator HATCH and I have in for not being tight enough, this has gargantuan loopholes in it. First of all, there is no requirement that outlays and revenues have to match, only that estimated outlays and estimated receipts have to match. That is a very, very different thing. I recognize estimates have to be part of the process, but ultimately you have to have outlays and receipts match.

Second, it permits a capital budget. That may have some superficial appeal because a school district or a family may need to have capital budgets. The United States of America does not. The biggest single project in the history of humanity was a U.S. project recommended by President Eisenhower, the Interstate Highway System, and he recommended that we issue bonds for that Interstate Highway System. A U.S. Senator who sat on this floor by the name of Albert Gore, Sr., said: "Let us not issue bonds. Let us increase the gas tax and pay for this Interstate Highway System on a pay-as-you-go basis." And we saved over $800 billion in interest doing it that way.

We do not need that. Four percent of our budget goes for capital outlays. What is the biggest single project we have? It is a nuclear carrier. We could pay for that over a 6-year period. We will not pay more than $1 billion any one year. We do not need to issue bonds for that. We do not need a capital budget.

It is very interesting that the General Accounting Office has warned us again and again and again while we should have a division within the budget between investment and consumption and operating expenses, do not have a capital budget that gives you an excuse for bonds.

Second, how do you enforce this provision in the Reid amendment? There is no enforcement mechanism. In ours, we have a very powerful one that Senator BYRD described as giving us "no wiggle room." We do not have "wiggle room." What we say is to raise the debt, you have to have a three-fifths vote. That puts muscle in the amendment. There is no muscle in the Reid amendment.

Next, the Reid amendment would put the Director of the Congressional Budget Office in the Constitution, the Federal Old Age and Survivors Trust Fund in the Constitution, and the Federal Disability Trust Fund in the Constitution. The Constitution right now does not even mention Secretary of State, Secretary of Defense, or any of these other offices. We do not do that in the Constitution. The Constitution deals in general principles and whatever provisions we need to force us to protect ourselves from abuses by Government.

What about the problem of a recession, which was mentioned? In fact, Senator DOMENICI, who announced he was going to be supporting our amend-

ment, mentioned this. Since 1962, we have passed 11 stimulus packages to deal with recessions. Every one of those has passed by more than 60 votes. We can deal with this.

Now, where we are in trouble is that we are getting so deep into the red it is hard to get the votes right now, and last year we were not able to get the votes for an $11 billion stimulus package—$11 billion in a $6.7 trillion economy. But we did last year get 60 votes for extending unemployment compensation. When it comes to a specific thing that really is needed, we are able to do something.

Fred Bergsten, one of the finest economists in the Nation, who was Assistant Secretary of the Treasury under Jimmy Carter, said we can do much more to stimulate the economy with the balanced budget amendment than we are able to do with the present restrictions that we have and the present huge debt, because the debt really reduces the possibility of our responding.

He said we ought to try to get a $15 or $30 billion surplus each year and then have that available to use in a time of recession.

The other part of the recession thing that is so important is our reliance on foreign debt and what that does. Instead of being countercyclical, it is precisely the reverse; 17 percent is the publicly acknowledged amount of debt held by foreign individuals and foreign governments. The actual number is higher than that because some people hide it. But unlike people who are on Social Security, for example, who will spend that money, those who are more affluent will save money. And so you do not have that countercyclical effect, plus with that 17 percent plus that goes overseas it means you have $60 billion of interest that goes to Japan, to Great Britain, to the Netherlands, to Saudi Arabia, to other countries. That does not do one thing to help this country, and if we do not pass this constitutional amendment those numbers are going to rise and we harm our ability to respond.

Now, let me respond to the Social Security aspects of this, and I appreciated the comments of Senator DORGAN. As some of my colleagues know, I have been the principal fighter for the Medicare provisions in the Budget Committee, and I am strongly in favor of protecting Social Security. But we have to ask, with this kind of an amendment, what about veterans' pensions? What about veterans' benefits? Are we going to protect them? Or what about the WIC Program?

Once you start down this road of saying we are going to protect this program and not others, we get into deep, deep trouble, plus we are really not protecting Social Security with this amendment because right now Social Security is running a surplus. I agree with Senator DORGAN completely. I would like to see us not count that surplus as we put our budget together, do it without that. But I do not want to put it in the Constitution.

But the interesting thing is in the year 2024—right now Social Security runs a surplus. In the year 2024, it starts to go into the red. And with this kind of an amendment, we no longer protect the Social Security trust funds with the overall budget. That means anyone 35 years or less will not be protected with the Reid amendment as they are with the Simon-Hatch amendment.

I would point out also that Bob Myers, who was the Chief Actuary for Social Security for 23 years, was Executive Director of the Legislative Commission that was identified with the late Congressman Claude Pepper, has written to me saying the only way to protect Social Security is with a balanced budget amendment. Otherwise, we are going to end up monetizing the debt.

There are other points to be made, and I will make them tomorrow. At this point, Mr. President, I yield the floor.

The ACTING PRESIDENT pro tempore. Who yields time?

Mr. HATCH addressed the Chair.

The ACTING PRESIDENT pro tempore. The Senator from Utah.

Mr. HATCH. Mr. President, I do not intend to take all my time. I would like our colleagues to be able to leave this evening, but I do want to say just a few words about this amendment.

I appreciate the comments of my distinguished colleague from Illinois. I think he explained the problems with the Reid amendment about as well as they can be explained. I just have to call this proposal a sham. I called it upstairs the "cover your backside" amendment because basically that is all it is there for. It relies on estimates, but it does not have the backup of a debt limit like Senate Joint Resolution 41, which requires a three-fifths vote to waive the debt ceiling. Like the distinguished Senator from Illinois said, that is where the teeth of this amendment is. That is the strength of Senate Joint Resolution 41. It is what will make the difference. It is what really will enforce this. And this one just ignores that possibility.

Mr. SIMON. If my colleague will yield.

Mr. HATCH. I will be glad to yield.

Mr. SIMON. I think he has made an important point; this amendment is introduced for political cover only.

Mr. HATCH. That is right.

Mr. SIMON. It is designed so that Members of the Senate who under pressure from the administration or because of persuasion from Senator BYRD or whatever other reason, they want to vote against Senate Joint Resolution 41, the real thing, but they want to go back home and say, "I voted for a constitutional amendment for a balanced budget." And so this gives them a way to cover themselves.

If there was any real desire on the part of the majority leader or anyone to pass this, there would not have been a suggestion that we have to have 67 votes to adopt this amendment. I can never remember in now my 19th year in Congress anyone ever suggesting for any amendment you have to have 67 votes to pass it. The proponents would not have suggested that if they believed it was desirable to pass it.

Mr. HATCH. That is a good indication also that they do not want it passed. They know it is bad themselves. They know that it is just a subterfuge to give people some cover so they do not have to vote for the real balanced budget amendment, which is the Simon-Hatch amendment.

Look, we know the game. We have been at this the full 18 years I have been here and all of the time the distinguished Senator from Illinois has been here. We know that if we are going to pass a balanced budget constitutional amendment it has to be Senate Joint Resolution 41 or something awfully close to it because it is the consensus vehicle to get Congress to do what has to be done.

I have to compliment all of those who have worked on this because we have worked very hard to get this consensus, and we have the consensus of the majority of the House of Representatives. I think we are very close to having that consensus here. I hope our colleagues will consider that.

Mr. President, the Reid amendment exempts capital investments from balanced budget requirements. "Capital investments" is not defined. Who knows how broadly that is going to be construed or what it might include? It could cover everything from education to transportation expenditures. Virtually anything could be excluded from being subject to a balanced budget requisite under this provision.

So it is crazy to call this Reid amendment a balanced budget amendment. Anybody who thinks they are going to get away with that subterfuge I think is in for a surprise. Mr. President, some opponents have argued that Senate Joint Resolution 41 is a paper tiger. Well, the Reid amendment prohibits any judicial review or other enforcement unless Congress at some time in the future so provides.

Unless Congress provides for enforcement, the Reid amendment is a real paper tiger. I do not know how they can tell us that ours is bad when they have this language in the Reid amendment.

Stunningly, the amendment—this is really stunning to me—the amendment also provides that the Director of the Congressional Budget Office, the CBO, may estimate that the country's eco-

nomic growth has been or will be less than 1 percent for two consecutive quarters. And if the Director of the CBO makes that determination, the balanced budget requirement is suspended. Can you imagine? They are now proposing that a very minor official in Government, really of the Congress, the Director of the CBO, be authorized under the Constitution to make deficit spending decisions. And they call our amendment undemocratic.

To me, this is the first time in the history of constitutional deliberation that someone has proposed to have one person in Government make these decisions for all of us. Let us be honest about it. If you are going to have a recession provision, with the cyclical economic cycle that we go through, it just means basically you can never really enforce the balanced budget amendment written by Senator REID.

As a matter of fact, you would have an excuse every time you turned around. The loopholes are so large that any truck could go through them. It is a sham. It is a facade.

I am sorry to call it that because I know the distinguished Senator from Nevada is sincere. But personally, I think he is being used on this matter because his amendment just does not make sense. There is no way you could ever reach a balanced budget amendment with the Reid amendment. There is no real mechanism to do it, nor is there the pressure on Congress, nor is there institutional reform, nor is there institutional discipline necessary to do it.

To be honest with you, I do not see how anybody can argue that this is a balanced budget amendment with a straight face.

Look, it comes down to this. Senator SIMON and I do not believe that there is any perfect balanced budget amendment right now.

We have to do the art of the possible. It really is the art of the impossible in some ways to pass an amendment through the Congress. But we have to do the art of the impossible if necessary. We have to bring people together—and we have done that over a period of 14 years or 12 years—bring people together in a way that will accomplish getting to a balanced budget and getting this country to live within its means.

Our amendment definitely will do that. That is why it is being fought so hard against, because it will curtail the profligacy of the Congress which has been going on for 60 years. We just simply have to pass this constitutional amendment.

I am hoping the American people out there will raise such Cain about it that we will all do what is right and pass the balanced budget amendment that is called the Simon-Hatch amendment, Senate Joint Resolution 41, which also has a counterpart in the House.

There are many things I would like to say. But I do not want to take much longer.

There is one other thing I would like to mention; that is, it was no small thing today for 218-plus Members of the House of Representatives to go in and sign a discharge petition. It was the second quickest discharge in history.

That is how important these people feel this issue is. And they are right; it is extremely important.

This pressure is not going to go away. If we fail to do it this year, I have to tell you, it will be back again. And as this economy goes more and more into the garbage can, which is where it is going, the balanced budget amendment is going to become more radical. Senate Joint Resolution 41 is reasonable. We can live with it. We can work with it. It does not require a balanced budget. But it certainly puts all of the institutional mechanisms into place to get us there. And it will be very tough not to get there. People who vote "no" to get there are going to have to really face the electorate for the first time in their lives. That is the theory of accountability.

We who have sworn to uphold the Constitution, every one of us, are going to work to make it work. Frankly, that is what needs to be done. I want to thank my friend and colleague from Illinois for his valiant work on this.

I want to thank everybody else who has worked hard on this, too, because we have a chance of doing it this year. Frankly, I hope everybody will consider that and really come to the conclusion, as the distinguished Senator from California did, that nothing short of a real balance-the-budget amendment is going to get us into an appropriate mode here that will help save this country.

That is all I care to say. I am prepared to yield back the remainder of my time if we can get everybody else to do it.

Mr. SIMON. Mr. President, I want to thank Senator HATCH again for all he has done, and also our colleagues, Senator LARRY CRAIG and Senator DENNIS DECONCINI. Both have been just great throughout this.

ORDER OF PROCEDURE

Mr. SIMON. We have cleared this with Senator BYRD, and with the understanding we have with him, I ask unanimous consent that the time, when we come in at 10 o'clock tomorrow, that we be in session until 6 tomorrow on this. That does not preclude the majority leader or anyone else from working out morning hour, or anything else, at any other time. But this is the understanding we have worked out with Senator BYRD. I ask that the time be allocated according to our previous agreement.

The ACTING PRESIDENT pro tempore. Is there objection?

Mr. REID. Mr. President, under that previous agreement, all four of us are each entitled to 2 hours. Is that right?

Mr. SIMON. That would be correct.

Mr. REID. Senator SIMON and I and the other Senators will work it out tomorrow, not subject to unanimous consent, when we will be here, to make it as easy on each other as possible.

Mr. SIMON. We will work that out; yes.

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

Mr. SIMON. Mr. President, I yield the remainder of my time.

Mr. HATCH. I am prepared to yield mine, if the distinguished Senator from Nevada will yield his.

Mr. REID. I am prepared to yield back my time, yes.

Mr. HATCH. I yield my time, as well.

The ACTING PRESIDENT pro tempore. All time is yielded back.

Mr. GRAHAM. Mr. President, could the Chair inform me as to what the pending business is on the floor?

The PRESIDING OFFICER. The matter before the Senate is Senate Joint Resolution 41.

Mr. GRAHAM. I ask unanimous consent to proceed for up to 10 minutes as in morning business.

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

THE NOMINATION OF ROSEMARY BARKETT

Mr. GRAHAM. Mr. President, earlier today, the distinguished minority leader delivered a statement relative to the nomination of Justice Rosemary Barkett, currently serving as chief justice of the Florida Supreme Court, to the 11th Circuit Court of Appeals. In that statement today, the minority leader made reference to certain cases in which Chief Justice Barkett has participated at the State level, one of which was Foster versus State.

In that case—I quote from the statement of the minority leader—he states:

> Justice Barkett adopts the statistical evidence defense that was explicitly rejected by the U.S. Supreme Court in McCleskey versus Kemp.

The minority leader goes on to state:

> Justice Barkett's fuzzy reasoning is almost identical to the theory behind the so-called Racial Justice Act, which the Senate has considered and repeatedly rejected. Like the Racial Justice Act, Justice Barkett's view that statistical evidence alone subjects a capital sentence to constitutional challenge would paralyze the enforcement of the death penalty.
>
> As my colleague from Florida, Senator GRAHAM, has explained, "The very nature of the criminal justice system does not lend itself to statistical precision. The Constitution requires an individualized determination as to the appropriateness of the death penalty, taking into account the character and record of the murderer and the circumstances of the offenses."

Mr. President, since my name was used in this statement, I felt it appro-

priate to use this opportunity to set the record straight both as to what I said, what I intended, and also as to what Justice Barkett intended in her dissent in the case of Foster versus State. This happens to be a case with which I am very familiar. As Governor of Florida, I signed the death warrant that led to this case coming to the Florida Supreme Court.

Mr. President, the issue that brought Justice Barkett's dissent in Foster versus State was the question of an allegation made by the defendant under the State of Florida equal protection clause. As do many State constitutions, Florida has a State equal protection clause, as there is a similar clause in the U.S. Constitution.

In his appeal, Mr. Foster raised the issue, and he raised it in the context in which he stated that there had been a discriminatory pattern by a specific Florida State prosecutorial official, in which that official, allegedly, had sought the death penalty more frequently in cases in which the victim was white than in cases in which the victim was black. The question before the Florida Supreme Court was the interpretation of Foster's charge that there had been a violation of the State's protection under the equal protection provision.

Justice Barkett, in those circumstances, was taking the position that Foster deserved an opportunity within which to raise that specific case.

I ask unanimous consent that the dissenting opinion be printed in the RECORD immediately after my remarks.

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

(See exhibit 1.)

Mr. GRAHAM. Justice Barkett, in her dissent suggested, first, the fact that there was a different standard under State equal protection than under the Federal equal protection. She makes, frankly, a point which I as a Floridian am very proud—that the Florida Supreme Court was dealing with the question of racially discriminatory selection of juries prior to the time that the U.S. Supreme Court recognized that as an impediment under Federal equal protection standards. She cites that as an example of the fact that State constitutional standards are not necessarily intended to just mimic Federal standards.

She proceeds on to therefore reason that it is appropriate for the State to have a process by which claims of denial of equal protection under the State constitution can be appropriately determined.

She suggests the following standard:

A party asserting racial discrimination in the State's decision to seek the death penalty should make a timely objection and demonstrate on the record that the discrimination exists and that there is a strong likelihood that influences the State to seek the death penalty. Such discrimination conceivably could be based on the race of the victim or the race of the defendant. Once the trial court determines that the initial burden has been met by the defendant, the burden then shifts to the State to show that the practices in question are not racially motivated. If the trial court determines that the State does not meet the burden, the State then is prohibited from seeking the death penalty in the case.

I have quoted that in order to then distinguish this situation from the McCleskey case and the Racial Justice Act, which this Senate has debated on a number of instances. The racial justice case does not go to the allegation that there was a specific act of racial discrimination by a person involved in the case that has brought the death penalty to be applied. In this case, the allegation is that there was a specific prosecutor who was using racially discriminatory standards as to when to seek the death penalty. Rather, the Racial Justice Act goes to the broader question of whether an entire judicial jurisdiction, such as a State, has been applying the death penalty in a discriminatory manner.

To quote from the Racial Justice Act as it was considered by the Congress in 1991, it states:

No person shall be put to death under color of State or Federal law in the execution of a sentence that was imposed because of, or based on, race or inference of race as the basis of a death sentence. An inference that race was the basis of a death sentence is established if valid evidence is presented demonstrating at the time the death sentence was imposed race was a statistically significant factor in decisions to seek or impose a sentence of death in the jurisdiction in question.

So what the Racial Justice Act did was to go at the entire criminal justice system of a State and attempt to overturn that State's use of the death penalty based on statistical evidence as to a wide variety of cases that had come before that State. That is a different application than the highly specific one which Chief Justice Barkett felt was appropriate as it related to claims of equal protection under the specific provisions of the State of Florida constitution. To use that case to establish the broad principle which the minority leader sought to do in his statement earlier today, which was that the chief justice of the Florida Supreme Court was in some way less than vigilant in her enforcement of the death penalty and in her conduct of her responsibilities as the highest judicial officer of the State, I find to be a gross misreading of the facts of the case that was utilized and the specific circumstances to which he attempted to analogize it in the Racial Justice Act.

Mr. President, the fact is that Chief Justice Barkett has been a thoughtful, strong supporter of the death penalty in Florida. No, she has not rubberstamped every case in which the death penalty had been imposed, but she has found for the majority in the overwhelming number of cases that have come before her as a justice of the Florida Supreme Court. She has shown a steady willingness to enforce the death penalty where that death penalty was appropriate.

She has stood the test of another statistical study. Our State uses a judicial retention procedure whereby judges of the State Supreme Court are periodically subject to the vote of the people of Florida to determine whether their tenure has been such that they justify continued service. Justice Barkett was subjected to that process in 1992. Sixty-one percent of the people of Florida found that her service justified a continuation of her term on the Florida Supreme Court.

The very charges that are being made now against her nomination to serve on the 11th Circuit Court of Appeals were the charges raised in a campaign against her continued service on the Florida Supreme Court. Three out of 5 Floridians rejected those charges and voted to retain her as a member of the Florida Supreme Court.

Mr. President, this is a jurist of distinction, a human being of intellect and compassion, a person of great judicial qualification. I am proud that she is serving my State as its chief justice. I am proud that the President of the United States has nominated her to high Federal office. I hope that this Senate will soon confirm that nomination and place Justice Barkett at the service of the people of the United States of America.

EXHIBIT 1

[No. 76639, Supreme Court of Florida, Oct. 22, 1992, Rehearing Denied April 1, 1993]

CHARLES KENNETH FOSTER, APPELLANT, V. STATE OF FLORIDA, APPELLEE.

Defendant was convicted in the Circuit Court, Bay County of murder and sentenced to death and he appealed. The Supreme Court affirmed, 369 So.2d 928. Denial of first and second postconviction motions were affirmed by the Supreme Court, 400 So.2d 1, and 518 So.2d 901, but resentencing was ordered. Denial of federal habeas corpus petitions was affirmed by the Court of Appeals, 707 F.2d 1339, 823 F.2d 402. On remand from resentencing, the Circuit Court, Bay County, Don T. Sirmons, J., entered sentence of death and defendant appealed. The Supreme Court held that: (1) defendant had not received ineffective assistance of counsel; (2) jury was adequately instructed on mitgating circumstances; (3) court properly overruled challenges for cause; but (4) sentencing order was defective for failing to state whether court had found certain mitigating circumstances to exist.

Affirmed in part and vacated and remanded in part.

Barkett, C.J., concurred in part and dissented in part and filed an opinion in which Shaw and Kogan, JJ., concured.

Kogan, J., concured in part and dissented in part and filed an opinion.

1. Criminal Law 998(21).

Successive postconviction motion may be dismissed if it fails to allege new or different

grounds for relief and the prior determination was on the merits or, if new and different grounds are alleged, the failure to raise those issues in prior motion constitutes an abuse of process. West's F.S.A. RCrP Rule 3.850.

2. Criminal Law 998(21).

Postconviction motion alleging ineffective assistance of counsel was an abuse of process where there was no showing of justification for the failure to raise it in either of the two prior motions. West's F.S.A. RCrP Rule 3.850.

3. Criminal Law 641.13(6).

In view of defendant's confession, there was no reasonable probability that outcome of trial would have been different had counsel obtained additional evidence, so that defendant did not show ineffective assistance of counsel.

4. Criminal Law 996(3).

Witness' unavailability at resentencing hearing, so as to make her prior testimony admissible, was established by evidence that investigators had been unable to locate her or her former husband, that they had called a telephone number given to them a number of times and have left messages for the witness, who never returned the calls, and that attempts to subpoena her were unsuccessful.

5. Criminal Law 662.60.

Defendant's right to confrontation was not abridged when prior testimony of witness was admitted at resentencing hearing where court admitted the witness' cross-examination testimony in addition to her direct testimony.

6. Witnesses 337(4).

It was not an abuse of discretion to exclude evidence of witness' 1989 convictions when admitting at resentencing hearing testimony which she had given at the first trial in 1975.

7. Criminal Law 996(3).

There was no *Brady* violation by state's failure to provide defendant with mental health records of witnesses at resentencing hearing where the state denied having the records.

8. Homicide 357(3, 11).

Finding that murder was especially heinous, atrocious, or cruel, and cold, calculated, and premeditated, thus authorizing imposition of death penalty, was supported by evidence that victim was severely beaten prior to having his throat slit, that victim was pulled from vehicle by his genitals and stabbed in the throat a second time, that he would have lived 20 to 30 minutes after the wound was inflicted, that defendant then cut the victim's spine with a knife, and that victim would have lived three to five minutes after the spinal cord was severed. West's F.S.A. §921.141(5)(h, i).

9. Homicide 311.

Jury was adequately instructed that it could consider any relevant evidence in determining whether to impose the death penalty where court informed the jurors that they could consider, in addition to other factors, "any other factor of defendant's character or record and any other circumstance of the crime or offense," and defense counsel discussed mental health mitigation in detail.

10. Homicide 341.

Error in failing to give defendant's requested instruction containing an expanded definition of the aggravating factor that the homicide was heinous, atrocious, and cruel was harmless where defendants' killing of victim was especially heinous, atrocious, and cruel by any standard.

11. Jury 90, 105(1), 108.

Court was not required to strike for cause at resentencing hearing in capital murder prosecution juror who indicated bias against persons who have had numerous appeals, person who went to junior high school with defendant and "had a couple of fights" with him, and person who was allegedly predisposed to imposing death penalty for all premeditated murders.

12. Jury 108.

Court properly excused venire member who stated on voir dire before resentencing hearing in capital murder prosecution that she did not believe that she could vote to impose the death penalty in any situation other than murder within a prison setting.

13. Homicide 358(1).

In the absence of evidence that state's attorney acted with purposeful discrimination in seeking death penalty in defendant's case, court was not required to hold evidentiary hearing on claim that use of the death penalty in the county was racially discriminatory, based on statistical evidence indicating that persons whose victims were white were more likely to be charged with first-degree murder and convicted of first-degree murder.

14. Homicide 358(3).

Court's statement in sentencing order imposing death penalty in murder case that it had considered the evidence in support of mitigating factors and that the mitigating circumstances were outweighed by the aggravating factors did not demonstrate that it had determined whether the two statutory mental mitigating circumstances existed or whether any mitigating circumstances were found to exist or what weight was given to them, so that the sentencing order was defective; error was not harmless.

Richard H. Burr and Steven W. Hawkins of NAACP Legal Defense and Educational Fund, Inc., New York City, and Steven L. Seliger, Quincy, for appellant.

Robert A. Butterworth, Atty. Gen., and Mark C. Menser, Asst. Atty. Gen., Tallahassee, for appellee.

Per curiam.

Charles Kenneth Foster appeals the sentence of death imposed upon him after resentencing. He also appeals the denial of his motion for postconviction relief. Our jurisdiction is based upon article V, section 3(b)(1), Florida Constitution.

Foster was convicted of murder and sentenced to death in 1975. This Court affirmed the conviction and death sentence in *Foster* v. *State*, 369 So.2d 928, 929 (Fla.), *cert. denied*, 444 U.S. 885, 100 S.Ct. 178, 62 L.Ed.2d 116 (1979). The following facts are set forth in that opinion:

"Anita Rogers, 20 years of age, and Gail Evans, 18 years of age, met defendant and the victim, Julian Lanier, at a bar. They knew defendant, but the victim was a stranger.

"The girls, after a discussion, agreed to go to the beach or somewhere else to drink and party with the men. The victim bought whiskey and cigarettes, after which the four of them left in the victim's Winnebago camper. The victim was quite intoxicated and surrendered the driving chore to Gail. The defendant and the girls had planned for Gail to have sex with the victim and make some money. Gail parked the vehicle in a deserted area and, after some conversation concerning compensation, the victim and Gail began to disrobe.

"Defendant suddenly began hitting the victim and accusing him of taking advantage of his sister. Defendant then held a knife to the victim's throat and cut his neck, causing it to bleed profusely. They dragged the victim from the trailer into the bushes where they laid him face down and covered him with pine branches and leaves. They could hear the victim breathing so defendant took a knife and cut the victim's spine.

"The girls and defendant then drove off in the Winnebago and found the victim's wallet underneath a mattress. The defendant and the girls split the money found in the wallet and left the vehicle parked in the parking lot of a motel.

"The next morning Anita Rogers went to the Sheriff's Department and reported what had happened. . . ."—*Foster*, 369 So.2d at 928–29.

The trial court denied relief on Foster's first postconviction motion, and this Court affirmed. *Foster* v. *State*, 400 So.2d 1 (Fla. 1981). In addition, federal courts denied Foster relief on two federal habeas petitions. *Foster* v. *Dugger*, 823 F.2d 402 (11th Cir. 1987), *cert. denied*, 487 U.S. 1241, 108 S.Ct. 2915, 101 L.Ed.2d 946 (1988); *Foster* v. *Strickland*, 707 F.2d 1339 (11th Cir. 1983), *cert. denied*, 466 U.S. 993, 104 S.Ct. 2375, 80 L.Ed.2d 847 (1984). In *Foster* v. *State*, 518 So.2d 901 (Fla. 1987), *cert. denied*, 487 U.S. 1240, 108 S. Ct. 2914, 101 L.Ed. 2d 945 (1988), we affirmed the denial of Foster's second postconviction motion, but we granted his habeas petition and ordered resentencing due to *Hitchcock*[1] error.

On remand for resentencing, Foster filed a 3.850 motion. The trial court refused to continue the resentencing hearing until resolution of the 3.850 motion. Following the jury's 8–4 recommendation, the trial judge imposed the death penalty.[1] Thereafter, the court summarily denied the 3.850 motion without an evidentiary hearing.

We address first Foster's claim that the trial court erred in denying his 3.850 motion without an evidentiary hearing. Foster's motion alleged a violation of *Brady* v. *Maryland*, 373 U.S. 83, 83 S.Ct. 1194, 10 L.Ed.2d 215 (1963), and ineffective assistance of trial counsel. The *Brady* claim centers around Foster's allegation that the state failed to disclose that it offered Gail Evans and Anita Rogers deals in exchange for their testimony at trial. Although the court did not hold an evidentiary hearing on this claim, Foster presented the evidence on which he relies to support the claim at a hearing on his motion, to preclude admission of Rogers' and Evans' 1975 trial testimony. Rogers' ex-husband testified that several years after the trial, Rogers told him that the state had promised not to prosecute her in return for her testimony.

In his claim of ineffective assistance of counsel, Foster asserts that trial counsel failed to discover that Rogers and Evans believed that Foster was "crazy" at the time of the attack. Had counsel been aware of this, Foster reasons, he would have pursued mental health defenses that would have precluded a finding of premeditated murder. He also alleges that counsel failed to discover, or alternatively the state failed to disclose, that Foster cut off the victim's penis during the course of the attack.

[1] This is Foster's third postconviction motion. A successive motion may be dismissed if it fails to allege new or different grounds for relief and the prior determination was on the merits or, if new and different grounds are alleged, the failure to raise those issues in a prior motion constitutes an abuse of process. Fla. R. Crim. P. 8.850. To overcome this bar, a movant must allege that the grounds asserted were not known and could not have been known to him at the time of the earlier motion. *Christopher* v. *State*, 489 So. 2d 22, 24 (Fla. 1986). The movant must show justification for the failure to raise the issues in the prior motions. *Id.*

Footnotes at end of article.

[2] Foster alleged ineffective assistance of trial counsel in his initial postconviction motion. We rejected that claim on the merits.[3] *Foster*, 400 So. 2d 1. Foster has not previously raised a Brady claim. Although he alleges the discovery of new facts in order to avoid application of the abuse of process doctrine, he has failed to demonstrate or even allege that the facts could not have been known to him at the time of his earlier motions. We note that Foster has been represented by the same counsel since at least the time of the appeal of the denial of his first post conviction motion in 1981. Having failed to show any justification for his failure to raise the present claims in his earlier post conviction motions, the instant motion constitutes an abuse of process. *Spaziano v. State*, 545 So.2d 843 (Fla. 1989); *Tafero v. State*, 524 So.2d 987, 988 (Fla. 1987); *Booker v. State*, 503 So.2d 888, 889 (Fla. 1987); *Christopher v. State*, 489 S.2d at 25.[4]

[3] Even if there were no procedural bar, Foster's claim would not prevail. At trial, Foster made a witness stand confession in which he stated:

I reckon I'll just cop out. I have done it, killed him deader than hell. I ain't going to set up here, I am under oath and I ain't going to tell no ——— lies. I will ask the Court to excuse my language. I am the one that done it. They didn't have a damn thing to do with it. It was premeditated and I intended to kill him. I would have killed him if he hadn't had no money and I know I never told you about it, but I killed him."—369 So.2d at 929.

In light of Foster's confession, there is no reasonable probability that the outcome of the trial would have been different had any of the evidence Foster now asserts was not disclosed or not discovered been presented. *Strickland v. Washington*, 466 U.S. 668, 104 S.Ct. 2052, 80 L.Ed.2d 674 (1984) (one alleging ineffective assistance of counsel must show deficient performance and prejudice); *Hegwood v. State*. 575 So.2d 170, 172 (Fla.1991) (to establish *Brady* violation, one must prove that had the evidence been disclosed, a reasonable probability exists that the outcome of the proceedings would have been different).

[4] Gail Evans personally testified at the resentencing hearing. However, over Foster's objection, the court allowed the state to introduce the testimony of Anita Rogers from the 1975 trial. Foster claims that the court failed to conduct an appropriate inquiry into Rogers' unavailability before admitting her prior trial testimony and that the use of her testimony abridged his right of confrontation.

We find no error in the trial court's determination that Rogers was unavailable. According to the assistant state attorney, in 1989, in an effort to find Rogers, investigators from that office attempted to locate her ex-husband. They were unsuccessful. In late May of 1990, shortly before the resentencing proceeding, defense counsel gave the state attorney Rogers' address and telephone number in Tampa. The state attorney called the number several times. He left messages on an answering machine as well as with a man who answered the telephone and said that he was Rogers' former brother-in-law. Rogers never returned the phone calls. At the state attorney's request, the Hillsborough County Sheriff's Department attempted to subpoena Rogers but were unsuccessful. A deputy attempting to serve the subpoena was advised by someone at Rogers' address that she was out of town at an unknown location. This was sufficient to establish Rogers' unavailability for purposes of the resentencing hearing.

[5] Further, Foster's right of confrontation was not abridged. The court admitted Rogers' cross-examination in addition to her direct testimony. The court also allowed foster to rebut Rogers' testimony with other witnesses. Under these facts we find no error in the admission of Rogers' trial testimony. *See Hitchcock v. State*, 578 So.2d 685, 690 (Fla.1990) (upholding the admission in resentencing proceeding of trial transcript where the state was unable to locate the witness and the court admitted the witness's entire trial testimony, including cross examination), *cert. denied*, —— U.S. ——, 112 S.Ct. 311, 116 L.Ed.2d 254 (1991).

[6] At resentencing, Foster sought to impeach Rogers' trial testimony by introducing evidence that she had been convicted of false reporting of a crime and grand larceny in 1989. The trial court excluded evidence of the convictions, apparently finding that the 1989 convictions were not probative of Rogers' truth and veracity at the time of the 1975 testimony. We find no abuse of discretion in the exclusion of this evidence. *Teffeteller v. State*, 495 So.2d 744, 745 (Fla. 1986). ("[I]t is within the sound discretion of the trial court during resentencing proceedings to allow the jury to hear or see probative evidence which will aid it in understanding the facts of the case in order that it may render an appropriate advisory sentence.").

[7] One day before the resentencing proceeding was scheduled to begin, Foster filed a motion pursuant to *Brady v. Maryland*, 373 U.S. 83, 83 S.Ct. 1194, asking the court to require the state to disclose Rogers' and Evans' mental health records. The state attorney objected, indicating the state did not have the records and had no better access to the records than did defense counsel. Foster challenges the trial court's denial of his motion.

Foster has not shown a *Brady* violation. The state denied having the records. Further, Foster made no showing that he could not have obtained this evidence with reasonable diligence. *See Hegwood v. State*, 575 So.2d 170, 172. Foster cites no case for his proposition that it was the state's obligation, rather than his own, to obtain such records.

[8] Foster also claims that the trial court erred in finding the murder to be especially heinous, atrocious, or cruel[5] and cold, calculated and premeditated.[6] The court relied on the following evidence to find the aggravating factor of especially heinous, atrocious, or cruel;

"The circumstances of the killing indicate a consciousness and pitiless regard for the victim's life and was unnecessarily tortuous to the victim, Julian Franklin Lanier. The victim did not die an instantaneous type of death. The victim was severely beaten prior to death. His nose was fractured, his face was severely bruised and his eyes were swollen shut from edema from hemorrhage and swelling resulting from the beating. After beating the victim, the defendant took out a knife and told the victim 'I'm going to kill you; I'm going to kill you.' There is evidence that one of the girls present asked the defendant not to do it. The defendant then proceeded to stab the victim in the throat. There is evidence of a defensive wound to the victim's hand which indicates the victim attempted to fend off the knife as the defendant stabbed him in the throat.

"After stabbing the victim in the throat, the defendant grabbed the victim by his testicles, or genitals, in order to move the victim outside. The victim groaned or moaned and the defendant stabbed the victim in the throat a second time. This second wound cut the victim's internal and external jugular veins. The victim could have lived from 20 to 30 minutes after this wound was inflicted.

"Neither of these wounds to the neck severed the victim's vocal cords. There is evidence that the victim asked the defendant not to do it again before he was stabbed a second time.

"After the second stab wound, the victim was dragged into the woods where he was covered with bushes. The marks on the victim's body indicated to the medical examiner, that the victim was either alive or dead a very short time before he was being dragged. It is consistent with what happened next to assume the victim was alive.

"After the victim was covered in the woods, one of the girls accompanying the defendant reported to the defendant that she could hear the victim breathing. The defendant then went back to the victim, who was lying face down, uncovered him and cut the victim's spine with a knife. As described by one witness, there was no air coming from the body of the victim after she heard "the cracking" of the spine. The medical examiner indicated the victim could have lived 3 to 5 minutes after his spinal cord was severed."—This evidence establishes that the murder was especially heinous, atrocious, or cruel.

The trial court relied on these same facts to find the murder to be cold, calculated, and premeditated. In addition, the court relied on Foster's witness stand confession and Anita Rogers' trial testimony. Rogers testified that prior to the attack, Foster asked her to exchange class rings with him. Foster's ring bore the initial "K." He told Rogers that he wanted to switch rings because his ring would have left "K" impressions on the victim, thus identifying him as the perpetrator. As the prosecutor argued to the jury, if Foster had not intended to kill the victim, it would have made no difference if there were "K" impressions on the victim because he would have been alive to identify Foster. These facts establish the existence of a careful plan or prearranged design to kill.[7] *Rogers v. State*, 511 So.2d 526, 533 (Fla.1987), *cert. denied*, 484 U.S. 1020, 108 S.Ct. 733, 98 L.Ed.2d 681 (1988).

[9] Next, Foster claims that the jury charge and the prosecutor's closing argument limited the jury's consideration of mitigating evidence in violation of *Cheshire v. State* 568 So.2d 908 (Fla.1990) (state may not restrict consideration of mitigating circumstances solely to "extreme" emotional disturbances; any emotional disturbance relevant to the crime must be considered). The court gave the following special instruction:

"Among the mitigating circumstances which you may consider are the following. First, the crime for which the defendant is to be sentenced was committed while he was under the influence of extreme mental or emotional disturbance.

"Second, that the capacity of the defendant to appreciate the criminality of his conduct or to conform his conduct to the requirements of law was substantially impaired.

"Third, that the defendant had an abusive family background.

"Fourth, the defendant's poverty.

"Fifth, the physical illness of the defendant.

"Sixth, the defendant's love for and love by his family.

"Seventh, any alcohol or drug addiction of the defendant.

"Eighth, a troubled personal life including depression and frustration.

"Ninth, physical injuries suffered by the defendant.

"Tenth, the defendant's lack of childhood development.

"Eleventh, the effect of death of loved ones on the defendant.

"Twelfth, the learning disability suffered by the defendant.

"Thirteenth, the defendant's potential for positive sustained human relationships.

"Fourteenth, any other aspect of the defendant's character or record and any other circumstance of the crime or offense."

Foster argues that this instruction created a substantial risk that the jury believed that they could only find the mental health evidence to be mitigating if it rose to the statutory level. In addition to being given the quoted instruction, the jury was informed that it must consider any aspect of the defendant's character and background or any other circumstance presented in mitigation and that there was no limitation on the mitigating factors which could be considered. Viewing the instructions as a whole, we find no reasonable likelihood that the jurors understood the instruction to preclude them from considering any relevant evidence. *Robinson v. State*, 574 So.2d 108, 111 (Fla.), *cert. denied*,—U.S.——, 112 S.Ct. 131, 116 L.Ed.2d 99 (1991). Further, in closing argument, defense counsel discussed the mental health mitigation in detail. He argued that the evidence rose to the statutory level but nevertheless argued that Foster was clearly under an emotional disturbance even if it did not meet the level required by statute. Accordingly, we reject this claim.

Next, Foster asserts that the court erred in refusing to give certain jury instructions. The rejected instructions deal with the following subjects: (1) the determination of the aggravating factor of especially, heinous, atrocious, or cruel; (2) the determination of the aggravating factor of cold, calculated, and premeditated; and (3) the jury's pardon power. He also alleges that the jury instructions on these two aggravating circumstances were inadequate.

[10] The instruction given on heinous, atrocious, and cruel was the same as the one held to be inadequate in *Shell v. Mississippi*, 498 U.S. 1, 111 S.Ct. 313, 112 L.Ed.2d 1 (1990). Therefore, the court erred in failing to give Foster's requested instruction which contained an expanded definition of that aggravating factor. We conclude, however, that the error was harmless. As may be seen from that portion of the trial judge's order previously quoted, Foster's killing of Julian Lanier was especially heinous, atrocious, and cruel by any standard. The jury could not have been misled by the inadequate instruction. We further hold that the court did not abuse its discretion in refusing to give the other jury instructions which Foster had requested.

[11] Next, Foster asserts that the court erred in failing to strike three venire members for cause. He argues that: (1) Carol Ann Pope should have been excused because she indicated bias against persons who have had numerous appeals; (2) Thomas Martin should have been excused because he went to junior high school with Foster and the two of them "had a couple of fights"; (8) Marion Pelland should have been excused because she was predisposed toward imposing the death penalty for all premeditated murders. Foster exercised peremptory challenges to excuse these three jurors.

The test for determining juror competency is whether the juror can lay aside any bias or prejudice and render his verdict solely upon the evidence presented and the instructions on the law given to him by the court." *Lusk v. State*, 446 So.2d 1038-1041 (Fla.), *cert. denied*, 469 U.S. 873, 105 S.Ct. 229, 83 L.Ed.2d 158 (1984). The record does not support Foster's allegations regarding these potential jurors. We have reviewed the transcript of jury selection and do not find any basis for excusing these jurors for cause.

Next, Foster claims that the trial court improperly excused venire member Deluzain for cause in violation of the principles established in *Witherspoon v. Illinois*, 391 U.S. 510, 88 S.Ct. 1770, 20 L.Ed.2d 776 (1968), and *Wainwright v. Witt*, 469 U.S. 412, 105 S.Ct. 844, 83 L.Ed.2d 841 (1985).

[12] A juror may be excluded in a death case if his views on capital punishment "would prevent or substantially impair the performance of his duties as a juror in accordance with his instructions and his oath." *Adams v. Texas*, 448 U.S. 38, 45, 100 S.Ct. 2521, 2526, 65 L.Ed.2d 581 (1980). The record evinces Deluzain's inability to set aside her own beliefs in deference to the law. *Randolph v. State*, 562 So.2d 881, 337 (Fla.), *cert. denied*, 498 U.S. 992, 111 S.Ct. 538, 112 L.Ed.2d 548 (1990). She said that she did not believe that she could vote to impose the death penalty in any situation other than a murder within a prison setting. When asked whether she could set aside her feelings against the death penalty if the murder were sufficiently aggravated, she responded that she was not sure that she could. The trial court did not abuse its discretion in excusing her for cause.

[13] Further, Foster challenges the circuit court's refusal to allow him to show that the use of the death penalty in Bay County, Florida, is racially discriminatory. Foster moved to preclude the state attorney's office from seeking the death penalty in his case based on his assertion that the Bay County State Attorney's Office pursued prosecution much more vigorously and fully in cases involving white victims than in cases involving black victims.

In support of his claim, Foster proffered a study conducted by his counsel of some of the murder/homicide cases prosecuted by the Bay County State Attorney's Office from 1975 to 1987. Analyzing the raw numbers collected, Foster concluded that defendants whose victims were white were 4 times more likely to be charged with first-degree murder than defendants whose victims were black. Of those defendants charged with first-degree murder, white-victim defendants were 6 times more likely to go to trail. Of those defendants who went to trail, white-victim defendants were 26 times more likely to be convicted of first-degree murder. The court refused to hold an evidentiary hearing, finding that the alleged facts did not make out a prima facie claim of discrimination.

The United States Supreme Court rejected a similar challenge in *McCleskey v. Kemp*, 481 U.S. 279, 107 S.Ct. 1756, 95 L.Ed.2d 262 (1987). McCleskey claimed that the imposition of Georgia's death penalty was racially discriminatory in violation of the Eighth and Fourteenth Amendments. He relied on a statistical study, the Baldus study, which purported to show a disparity in the imposition of Georgia's death penalty based on the race of the victim and the race of the defendant. The raw figures collected by Professor Baldus indicated that defendants charged with killing white victims received the death penalty in 11% of the cases, but defendants charged with killing blacks received the death penalty in only 1% of the cases. Baldus further found that the death penalty was assessed in 22% of the cases involving black defendants and white victims; 8% of the cases involving white defendants and white victims; and 3% of cases involving white defendants and black victims. The figures indicated that prosecutors sought the death penalty in 70% of the cases involving black defendants and white victims; 32% of the cases involving white defendants and white victims; 15% of the cases involving black defendants and black victims; and 19% of the cases involving white defendants and black victims.

After accounting for numerous variables that could have explained the disparities on other than racial grounds, the Baldus study found that defendants charged with killing white victims were 4.3 times as likely to receive a death sentence as defendants charged with killing black victims. Black defendants were 1.1 times as likely to receive a death sentence as other defendants. As a black defendant who killed a white victim, McCleskey argued that the Baldus study demonstrated that he was discriminated against because of his race and the race of his victim.

The Court held that McCleskey "must prove that the decisionmakers in *his* case acted with discriminatory purpose." *McCleskey*, 481 U.S. at 292, 107 S.Ct. at 1767. The Court rejected McCleskey's claim because he offered no evidence specific to his own case to support as inference that racial considerations played a part in his sentence. The Court found the Baldus study to be insufficient to support an inference that the decisionmakers in McCleskey's case acted with purposeful discrimination.

Foster's claim suffers from the same defect. He has offered nothing to suggest that the state attorney's office acted with purposeful discrimination in seeking the death penalty in his case. See *Harris v. Pulley*, 885 F.2d 1354, 1875 (9th Cir. 1988), *cert. denied*, 493 U.S. 1051, 110 S.Ct. 854, 107 L.Ed.2d 848 (1990); *Byrd v. Armontrout*, 880 F.2d 1, 10 (8th Cir. 1989), *cert. denied*, 494 U.S. 1019, 110 S.Ct. 1326, 108 L.Ed.2d 501 (1990); *Kelly v. Lynaugh; 862 F.2d 1126, 1135 (5th Cir. 1988) cert. denied*, 492 U.S. 925, 109 S.Ct. 3263, 106 L.Ed.2d 608 (1989). The trial court was not required to hold an evidentiary hearing on this claim. *Harris*, 885 F.2d at 1375 (defendant not entitled to evidentiary hearing where he offered no proof that decisionmakers in his case acted with discriminatory purpose).

Foster argues that *McCleskey* does not foreclose his challenge because his evidence focuses solely on the practices of one prosecutor's office, whereas the Baldus study consisted of generalized statistics covering every aspect of Georgia's death penalty scheme. The *McCleskey* Court questioned whether a state "policy" of discrimination could be deduced by studying the combined effects of hundreds of decisionmakers.

The Court in *McCleskey* held that: [T]he policy considerations behind a prosecutor's traditionally "wide discretion" suggest the impropriety of our requiring prosecutors to defend their decisions to seek death penalties "often years after they are made." Moreover, absent far stronger proof, it is unnecessary to seek such a rebuttal, because a legitimate and unchallenged explanation for the decision is apparent from the record: McCleskey committed an act for which the United States Constitution and Georgia laws permit imposition of the death penalty.

". . . Implementation of these laws necessarily requires discretionary judgments. Because discretion is essential to the criminal justice process, we would demand exceptionally clear proof before we would infer

that the discretion has been abused."—*McCleskey*, 481, U.S. at 296-97, 107 S. Ct. at 1769-70 (citations omitted).

The figures proffered by Foster do not constitute "exceptionally clear proof" of discrimination. *See Harris v. Pulley*, 885 F.2d at 1375. Foster's figures do not account for any of the myriad of nonracial variables that could explain the disparity *See McCleskey*, 481 U.S. at 295, n. 15, 18 S.Ct. at 1769, n. 15 ("decisions whether to prosecute and what to charge necessarily are individualized and involve infinite factual variations. . . ."). Even assuming the validity of foster's study,[8] the raw numbers analyzed by Foster do not show a significantly greater disparity than figures proffered by the Baldus study which had taken into account numerous nonracial variables.[9]

[14] Finally, Foster claims that the trial court's sentencing order fails to evaluate the proposed mitigating factors as required by *Rogers v. State*, 511 So.2d 526 (Fla 1987), *cert. denied*, 484 U.S. 1020, 108 S.C. 733, 98 L.Ed.2d 681 (1988). In discussing the manner in which the trial court should consider mitigating circumstances in a case in which the state seeks the death penalty, we said:

"[T]he trial court's first task in reaching its conclusions is to consider whether the facts alleged in mitigation are supported by the evidence. After the factual finding has been made, the court then must determine whether the established facts are of a kind capable of mitigating the defendant's punishment, i.e., factors that, in fairness or in the totality of the defendant's life or character may be considered as extenuating or reducing the degree of moral culpability for the crime committed. If such factors exist in the record at the time of sentencing, the sentencer must determine whether they are of sufficient weight to counterbalance the aggravating factors."—*Id.* at 534.

In addressing mitigation in the sentencing order, the trial court first listed thirteen mitigating factors that Foster had offered for consideration. The court then stated:

"The Court must note that there is a conflict in evidence on the questions of whether the capital felony was committed while the defendant was under the influence of *extreme* mental or emotional disturbance and the capacity of the defendant to appreciate the criminality of his conduct to the requirements of law was *substantially* impaired (emphasis supplied)."

After discussing the conflict in the evidence, the court then concluded:

"The Court will therefore consider this conflict in the weight to be given these two factors in relating to the aggravating circumstances.

The Court has considered the evidence presented in support of each of these mitigating factors and, in weighing these factors against the aggravating factors, finds that the aggravating circumstances outweigh the mitigating circumstances in this case."

While it is evident that the court considered the mitigating circumstances, we cannot tell whether the court determined whether either of the two statutory mental mitigating circumstances existed. In fact, we are unable to say whether the court found any of the mitigating circumstances to exist or what weight was given to them. Unlike *Rogers*, we cannot say that this defect in the sentencing order was harmless error.[10]

Accordingly, we vacate the sentence of death and remand the case for the trial judge to enter a new sentencing order following the dictates of *Rogers* and *Campbell v. State*, 571 So.2d 415 (Fla.1990).[11] *See Lucas v. State*, 568 So.2d 18 (Fla.1990). We affirm the denial of Foster's motion for postconviction relief.

It is so ordered.

OVERTON, McDONALD, GRIMES and HARDING, JJ., concur.

BARKETT, CJ., concurs in part and dissents in part with an opinion, in which SHAW and KOGAN, JJ., concur.

KOGAN, J., concurs in part and dissents in part with an opinion.

BARKETT, Chief Justice, concurring in part, dissenting in part.

"I concur in the majority's resolution of all the issues except for Foster's claim regarding the discriminatory use of the death penalty in Bay County, Florida.

"The majority concludes that Foster "Has offered nothing to suggest that the state attorney's office acted with purposeful discrimination in seeking the death penalty in his case." Majority op. at 463. My disagreement is not so much with that statement as with a standard that requires showing something that is virtually impossible to show: *purposeful* discrimination. *McCleskey* v. *Kemp*, 481 U.S. 279, 107 S.Ct. 1756, 95 L.Ed.2d 262 (1987).

"In *McCleskey*, the U.S. Supreme Court dismissed McCleskey's analogous federal equal protection claims, holding that a defendant must establish both "the existence of purposeful discrimination" and a "discriminatory effect" on that particular defendant. *Id.* at 292, 107 S.Ct. at 1767. I agree that under the federal precedent *McCleskey* would control this case.

"Foster, however, claims a violation of the Equal Protection Clause of the Florida Constitution. Art. I, §2, Fla. Const. Despite the principles adopted in *Traylor* v. *State*, 596 So.2d 957 (Fla. 1992), establishing the primacy of the Florida Constitution, the majority completely ignores Foster's state constitutional challenge. I believe that Foster's claim deserves full consideration.

Despite earlier transgressions,[12] Florida in recent years has clearly established its commitment to equality of treatment in the courts. *See, e.g., Report and Recommendations of the Florida Supreme Court Racial and Ethnic Bias Study Commission* (1990 & 1991); *The Florida Supreme Court Gender Bias Study Commission Final Report* (1990). Indeed, while the U.S. Supreme Court was still requiring a defendant to meet the impossible burden of proving that discriminatory jury selection practices were employed systematically in a number of similar cases or contexts, *Swain v. Alabama*, 380 U.S. 202, 85 S.Ct. 824, 13 L.Ed.2d 759 (1965), this Court took the lead in *State v. Neil*, 457 So.2d 481 (Fla. 1984), clarified by *State v. Castillo*, 486 So.2d 565 (1986), and established guidelines under the Florida Constitution to guard against the racially discriminatory use of peremptory challenges.[13] The U.S. Supreme Court followed suit two years later in *Batson v. Kentucky*, 476 U.S. 79, 106 S.Ct. 1712, 90 L.Ed.2d 69 (1986), when it overruled the *Swain* standard and acknowledged that it imposed a "crippling burden of proof" that rendered a prosecutor's peremptory challenges largely immune from constitutional scrutiny. *Id.* at 92-93, 106 S.Ct. at 1720-21. The Court found that a prosecutor's use of peremptory challenges is subject to the constraints of the Equal Protection Clause when there is some basis for believing that the challenges are used in a racially discriminatory manner.[14]

"The U.S. Supreme Court in *Batson* recognized the invidious nature of discrimination. *Id.* at 93-96, 106 S.Ct. at 1721-23. Justice Marshall, in a concurring opinion, noted that discrimination is not often blatantly expressed, and in many cases it is subliminal: 'A prosecutor's own conscious or unconscious racism may lead him easily to the conclusion that a prospective black juror is 'sullen,' or 'distant,' a characterization that would not have come to his mind if a white juror had acted identically. A judge's own conscious or unconscious racism may lead him to accept such an explanation as well supported.'—*Id.* at 106, 106 S.Ct. at 1728 (Marshall, J. concurring).

Studies of unconscious racism have shown that the perpetrator does not feel particularly punitive toward minorities, rather, he or she wants to remain distant and is less likely to feel empathy because of the distance. Sheri Lynn Johnson, Comment, *Unconscious Racism and the Criminal Law*, 78 Cornell L. Rev. 1016, 1020 n. 27 (1988). While society has largely rejected blatant stereotypes and overt discrimination, more subtle forms of racism are increasing: "A burgeoning literature documents the rise of the 'aversive' racist, a person whose ambivalent racial attitudes leads him or her to deny his or her prejudice and express it indirectly, covertly, and often unconsciously." *Id.* at 1027-28 (footnotes omitted).

"Discrimination, whether conscious or unconscious, cannot be permitted in Florida courts. As important as it is to ensure a jury selection process free from racial discrimination, it is infinitely more important to ensure that the *State* is not imposing the ultimate penalty of death in a racially discriminatory manner. The U.S. Supreme Court may eventually recognize that the burden imposed by *McCleskey* is as insurmountable as that presented by *Swain*. In the meantime, defendants such as Foster have no chance of proving that application of the death penalty in a particular jurisdiction is racially discriminatory, no matter how convincing their evidence.[15]

"I suggest the following standard: A party asserting racial discrimination in the State's decision to seek the death penalty should make a timely objection and demonstrate on the record that the discrimination exists and that there is a strong likelihood it has influenced the State to seek the death penalty. Such discrimination conceivably could be based on the race of the victim or on the race of the defendant. Once the trial court determines that the initial burden has been met by the defendant, the burden then shifts to the State to show that the practices in question are not racially motivated. If the trial court determines that the State does not meet that burden, the State then is prohibited from seeking the death penalty in that case.

"Accordingly, because the majority has applied a federal constitutional standard in Foster's case that is impossible to meet and has missed the opportunity to craft a state constitutional standard such as that discussed above, I dissent from that portion of the opinion."

FOOTNOTES

[1] Hitchcock v. Dugger, 481 U.S. 393, 107 S.Ct. 1821, 95 L.Ed.2d 347 (1987).

[2] The trial court found three aggravating circumstances: (1) the murder was committed during the course of a robbery; (2) the murder was cold, calculated, and premeditated; and (3) the murder was especially heinous, atrocious, or cruel. Foster offered thirteen mitigating circumstances. The trial court found that the mitigation did not outweigh the aggravating circumstances.

[3] In addition, we note that Foster raised ineffective assistance of counsel claims in his two federal habeas petitions. The claims were denied after evidentiary hearing and the denials were affirmed on appeal. *Foster* v. *Dugger*, 823 F.2d 402 (11th Cir. 1987), *cert. denied*, 487 U.S. 1241, 108 S.Ct. 2915, 101 L.Ed.2d 946 (1988); *Foster* v. *Strickland*, 707 F.2d 1339 (11th Cir.

1983), *cert. denied*, 466 U.S. 993, 104 S.Ct. 2375, 80 L.Ed.2d 847 (1984).

[4]In addition, we note that the motion was filed outside of the limitations period established by rule 3.850. The motion fails to allege that the facts upon which his claims are based "could not have been ascertained by the exercise of due diligence." Fla.R.Crim.P. 3.850.

5. §921.141(5)(h), Fla.Stat, (1989).

6. §921.141(5)(i), Fla.Stat, (1989).

7. Foster also contends that the application of the cold, calculated, and premeditated aggravating factor to his crime violates the Ex Post Facto Clause because the factor did not exist at the time of this crime. We have repeatedly rejected this claim. *See Sirecl v. State*, 587 *So.2d* 450, 454 (Fla. 1991), *cert. denied*,——U.S.——, 112 S.Ct. 1500 117 L.Ed.2d 639 (1992); *Zeigler v. State*, 580 So.2d 127 (Fla.), *cert. denied*——U.S.——, 112 S.Ct. 390, 116 L.Ed.2d 340 (1991); *Combs v. State*, 403 So.2d 418, 421 (Fla. 1981), *cert. denied*, 456 U.S. 984, 102 S.Ct. 2258, 72 L.Ed.2d 862 (Fla. 1982).

8. The weight to be given to the results of such a small statistical sample as this is questionable. *See McCleskey*, 481 U.S. at 295, n. 15, 107 S.Ct. at 1768, n. 15.

9. The figures indicating that of the defendants who went to trial, white-victim defendants were 26 times more likely to be convicted of first-degree murder than were black-victim defendants cannot be attributed to a decision by the Bay County State Attorney's Office and thus are not relevant here.

10. In view of our disposition of this issue, we do not address Foster's argument with respect to proportionality.

11. While *Campbell* did not become final until after the original sentencing order was entered, its additional requirements will obviously be applicable to any new sentencing order.

12. *See, e.g., State ex rel. Hawkins v. Board of Control*, 93 So.2d 354 (Fla.), *cert. denied*, 355 U.S. 839, 78 S.Ct. 20. 2L.Ed.2d 49 (1957); *State ex rel. Hawkins v. Board of Control*, 83 So.2d 20 (Fla. 1955), *cert. denied*, 350 U.S. 413, 76 S.Ct. 464, 100 L.Ed. 486 (1956).

13. *See also State v. Slappy*, 522 So.2d 18 (Fla.) *cert. denied*, 487 U.S. 1219, 108 S.Ct. 2873, 101 L.Ed.2d 909 (1988) (holding that any doubt as to whether the complaining party has met its initial burden, should be resolved in that party's favor).

14. The U.S. Supreme Court recently held that the Equal Protection Clause also prohibits a criminal defendant from engaging in purposeful discrimination on the basis of race in the exercise of peremptory challenges. *Georgia v. McCollum*,——U.S.——, 112 S.Ct. 2348, 120 L.Ed.2d 33 (1992). This Court held in *Neil* that both the State and the defense may challenge the allegedly improper use of peremptories. 457 So.2d at 487.

15. In this case, Foster presented statistical evidence showing that even though blacks constituted 40% of the murder victims in Bay County cases between 1975 and 1987, all 17 death sentences that were imposed were for homicides involving white victims.

Mr. GRAHAM. Mr. President, I ask unanimous consent to print in the RECORD a colloquy between Chief Justice Barkett and Senator HATCH on the occasion of her confirmation hearing before the Senate Judiciary Committee on February 3 of this year.

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

Justice BARKETT. My only concern in Foster, Senator, is that there would be a vehicle by which a defendant could assert that the law was being discriminatorily applied against a racial minority. My reading of Supreme Court cases and my reading of our own cases in my State preclude the use of a law to be applied in a racially discriminatory manner.

I did not purport to suggest what proof would be sufficient to overcome that burden, although I recognize that it would have to be a substantial burden of proof, if that claim were to prevail. But the essence of my concerns in Foster revolved around providing a process when there was an occasion that a defendant could assert that a particular prosecutor, for example, was only applying the death penalty against black defendants or only when the victims were white or things of that nature.

Senator HATCH. I think that is different from applying statistical disparity. If you read your opinion carefully—well, let me just say I am very concerned that your approach would paralyze the implementation of the death penalty.

Now, I myself have lots of qualms about the death penalty. I would use it very sparingly, and then only in cases where there is absolute proof of guilt, where there is no evidence of discrimination, and where the murder is a particularly heinous murder. There may be other factors, but those are three that I would want to find in every case.

Let me just add that I am hardly alone in this concern. Many of my Senate colleagues, for example, have voiced similar concerns in opposition to legislation labeled by its advocates as the Racial Justice Act. That legislation, which also developed in reaction to the McClesky case decided by the Supreme Court, takes the same or virtually the same statistical approach as your dissent in Foster.

During the debate on the so-called Racial Justice Act in 1991, Senator Graham, who spoke eloquently on your behalf today and influentially to me, as did Senator Mack, but Senator Graham had this to say: "The reality is that, by enacting the Racial Justice Act, this Congress in a bill designed to enhance Federal criminal justice standards, procedures and laws would destroy the right of a State to impose the death penalty in a constitutional manner. The Racial Justice Act of 1991 might more appropriately be called the Death Penalty Abolition Act of 1991. Seldom has a proposed Federal law gone so far at one time as to unravel first the interest of the States in protecting citizens from murderers, second, to unravel the prosecutorial discretion recognized in every State, and, third, to unravel the jury system."

He goes on to say: "The very nature of the criminal justice program does not lend itself to statistical precision. Each death-eligible decision is inherently individualized and not necessarily subject to being categorized."

Now, as you can see, he and I share the same view on the Racial Justice Act, and we have defeated it consistently in our debates over the crime bills that we have had. Let me just ask you to respond to some criticisms of what I felt was your theory in that case.

For instance, Justice Powell noted in McClesky that implementation of murder statutes inherently requires discretion, which he said "is essential to the criminal justice process." He explained that this process is unique, and that "the nature of capital sentencing decision and the relationship of the statistics to that decision are fundamentally different from the corresponding elements in jury pool selection and employment discrimination cases. In those cases, the statistics relate to fewer entities and fewer variables and are relevant to the challenged decisions.

For example, from the time of his arrest until the time of sentencing, you have independent entities functioning, the prosecutor who decides to seek the death penalty, a defendant who may or may not choose to plea bargain, a jury or jury who have to impose it. It is not the same as one employer hiring plumbers or a court administrator seeking a jury pool or other cases where decisions are readily attributable to one entity.

Justice Powell also said this. He said: "Another important difference between the cases in which we have accepted statistics as proof of discriminatory intent in this case is that, in the jury pool selection and employment discrimination cases, the decision-maker has the opportunity to explain the statistical disparity. Here the State has no practical opportunity to rebut the statistical study. Controlling considerations of public policy dictate that jurors cannot be called to testify to the motives and influences that led to their verdict."

Now, he added even further. He said: "Similarly, the policy considerations behind a prosecutor's traditionally wide discretion suggest that the impropriety of law requiring prosecutors to defend their decisions to seek death penalties often years after they were made."

Now, one study—I am sorry this is so long.

Justice BARKETT. That is all right.

Senator HATCH. It is important, because it is a matter of great debate here, as well. Many of us who believe that the death penalty is provided by the Constitution and is important know that the reason for the Racial Justice Act is to knock out the death penalty.

One study you pointed to found, "That prosecutors sought the death penalty 27 percent of the time when white victims were involved, and only 14 percent of the time when minority victims were involved." But each and every one of those cases had different facts and different circumstances. They do not seem susceptible to those who really study this area to statistical comparison such as you called for in the Foster case.

Go ahead.

Justice BARKETT. I do not think that there is anything in this opinion nor in anything I have written nor in anything I have ever said or feel that suggests that discretion is not a part of this process and has to be a part of the process for many of the reasons that you have enumerated, Senator.

What I think I am saying in this case, however, and what I think the United States Supreme Court has said in other contexts, for example, the whole *Swain* v. *Alabama* and *Batson* v. *Kentucky* context, is that discretion cannot be used to selectively enforce the law in a racially discriminatory manner. And I do not think there is any dispute about that principle.

The second aspect of your question which I would address is that I have not suggested in this opinion or anywhere else that statistics is the be-all and the end-all of the inquiry. I do believe that perhaps statistics may be something that could be submitted to be included in an offer of proof on this question, but I clearly do not believe that some questions can be resolved only by use of statistical analysis.

And I think that the passage that you read indicates why it would be so troublesome, if you attempted to challenge a whole State's use of statistics or statistics which impact an entire State as dispositive of anything. There are many prosecutors in a State, there are many districts, and so on and so forth.

But when an allegation is made that there is one prosecutor who is unambiguously using his or her discretion in a way to only selectively enforce the law or apply the law in a racially discriminatory manner, there has to be a vehicle in which a person can raise this claim and in which it can be decided.

Senator HATCH. But that was not the claim in the *Foster* case. In this case, you said—I have a LEXIS/NEXIS, I do not know whether you have the same thing I do, so I cannot really tell you the page, but it is near the

end of your opinion, I would say about five paragraphs before the end—you say: "I believe that statistical evidence of discrimination in capital sentencing decisions should similarly establish a violation of Article I, section 2 of the Florida Constitution. Statistical evidence should be construed broadly to include not only historical analysis of the disposition of first-degree murder cases in a particular jurisdiction, but also other information that could suggest discrimination, such as the resources devoted to the prosecution of cases involving white victims as contrasted to those involving minority victims—

Justice BARKETT. Exactly.

Senator HATCH. —"and the general conduct of a State attorneys office, including hiring practices and the use of racial epithets and jokes, when racial bias, whether conscious or unconscious, exists in an environment where decisions about seeking the death penalty are made, all aspects of that bias should be available for evaluation by the court in reviewing evidence of discrimination."

That may be in reviewing evidence of discrimination, but not in making the final decision as to whether capital punishment should be imposed.

Justice BARKETT. I think if you continue in the opinion, Senator, you will find that what I am talking about is using all of these things, certainly not exclusively. And as I point out at the very end of the opinion, it is impossible to anticipate the circumstances in which it may be manifested, the trial judge should make a determination, and I suggest a vehicle which provides a specific standard, that is, the defendant has the burden of showing a very strong likelihood of discrimination, and the trial court would then hear whatever evidence, which would not be simply statistical evidence as the only evidence to be considered.

Senator HATCH. As I read the opinion, your standard is very open-ended. For example, prosecutor's decision as to how much resources to put into the case turns on many subjective factors, amount of investigation, trial preparation, attorney resources needed in the case, as well as available resources.

And since the facts of any set of cases are never alike, how is it possible to draw meaningful comparisons for that kind of statistical analysis?

Justice BARKETT. Suppose, Senator, I guess if you take the best case scenario, that there had been 100 murders in a particular county and 90 of them were against black victims, only 10 against white victims, and the death penalty was sought only in those 10 or only in the one case, where there may be many, many others. All I am trying to suggest to you is I believe there would be a scenario where it would be clear that the death penalty was being applied in a racially discriminatory manner.

The only thing I was suggesting in *Foster* is that there be a vehicle by which one can bring that claim to the court and the court can evaluate it. I was not attempting to suggest, nor do I suggest now, that there is a particular way of making that proof. I was suggesting different ways that certainly would be considered by the trial court.

Senator HATCH. The point I was making is that your standard is a vague, manipulable standard that would absolutely paralyze the death penalty, if it were adopted by courts, under which the burden would be placed upon the State to prove a negative, and that is what bothered me about that case.

Like I say, every murder case is unique. You cannot compare, for example, resources applied between cases or the decision to seek the death penalty in those cases in a meaningfully statistical way and come to a conclusion about racial discrimination. Comparing what happens in two murder cases is like comparing an apple to an orange.

Justice BARKETT. Absolutely.

Senator HATCH. So you feel that if you go on the Circuit Court of Appeals, you would be bound by the McClesky case?

Justice BARKETT. I do not think there is any question of that, Senator.

Mr. GRAHAM. Thank you, Mr. President

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

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

The bill clerk proceeded to call the roll.

Mr. PELL. 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. PELL. Mr. President, I ask unanimous consent that there now be a period for morning business with Senators permitted to speak therein.

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

STEADY SUPPORT FOR RUSSIA: LOOKING BEYOND THE BUMPS IN THE ROAD

Mr. PELL. Mr. President, I am concerned by the calls that I have heard during the last few days for an abrupt change in United States policy toward Russia, including for an end to United States assistance. I agree that there are some disturbing sounds and images emanating from individuals in Russia: Provocative claims that Russia has a special interest in neighboring countries and nationalist cries for the unity of all Russians.

The revelation that one of our senior CIA officials was spying for Russia is the latest bit of troublesome news. However, I believe that calls for us to disengage and to end our assistance program are hasty, counterproductive, and dangerous.

I, like everyone else, am deeply troubled by the alleged activities of the CIA officer in question, including the possibility that he may have been responsible for the loss of lives. As I suggested to the Secretary of State at yesterday's Foreign Relations Committee hearing, however, it is naive to think that countries—even friends—do not spy on one another. While the United States should pursue the Ames case vigorously with the Russians, it would be inappropriate to retaliate by writing off Russia and shutting down our assistance program.

At this delicate point in Russia's development, it is critical that we not lose sight of the big picture. Reformers are confronting uphill battles as they try to change fundamentally the way their economy and government operate, seek consensus on arms control issues that are of vital importance to the United States, and attempt to balance domestic concerns in making foreign policy decisions.

Precisely because the reformers are facing challenges to their agendas, our continued commitment to support their reforms becomes even more crucial. Russia, left to its own devices, very well could become a loose cannon. If we want to prevent the emergence of a Russia that is hostile to the West, we must remain engaged.

It is irrational to suggest that we put the brakes on a process that is in our national interest. At his appearance before our committee yesterday, Secretary of State Christopher testified that "one of President Clinton's top national security priorities has been to ensure that the breakup of the former Soviet Union does not produce new nuclear states." He spoke of the progress we have made in this regard, and of our continued interest in controlling the spread of both nuclear and advanced conventional weapons. There are, as he reminded us, many challenges ahead, including the extension of the nonproliferation treaty in 1995, the negotiation of a comprehensive test ban, and the creation of a replacement regime for COCOM, all of which will require Russian cooperation. He outlined other areas of high priority for the United States—such as combatting terrorism and illegal narcotics—where Russian engagement is crucial.

In 1992, when the Congress passed the Freedom Support Act, we did so because we recognized that helping the New Independent States was in our national interest. This past fall, although we were facing difficult budgetary times, we fully funded the President's request of $2.5 billion in assistance for the NIS because we understood that reform in Russia and the other New Independent States needed our support during the difficult months and years ahead.

I would argue that nothing has changed since Congress made those decisions: it is still in the national interest to operate programs with goals that include supporting privatization, the creation of a market for U.S. goods, democratization, and the transition from a defense-oriented to a civilian-based economy.

It is important to remember that our bilateral aid program does not consist of cash handouts. Rather, under the Nunn-Lugar program, a major portion of our assistance effort, we are helping the Russians dismantle the very nuclear weapons which threatened us during the cold war. Under our technical assistance program, United States citizens are offering their expertise to Russian firms struggling to privatize, phy-

sicians modernizing health care, mayors implementing municipal reform, and farmers trying to improve production. United States private voluntary organizations, Peace Corps volunteers, and retired U.S. executives are among those working to support reforms at the grass roots level that will lay the foundation for further economic transformation. Our assistance package also includes programs, such as the American Business Centers, and the Russian American Enterprise Fund which directly benefit United States companies seeking to do business in Russia. Why on earth would we want to terminate or curtain U.S. involvement in and support for these activities?

United States assistance efforts have just begun, with AID launching its technical assistance program a little more than a year ago. Our aid efforts are just starting to gain some momentum and show some preliminary results. But real results will only be evident over the long-term, and will require uninterrupted support. To cut back our assistance now would only ensure that our efforts to date have been a waste. I would strongly urge colleagues to stick by the commitment we have made to reform in Russia.

HOLY NAME OF JESUS MEDICAL CENTER

Mr. SHELBY. Mr. President, I rise today to tell a story of a vision of hope and unfailing health care by the Missionary Servants of the Most Blessed Trinity in the city of Gadsden, AL.

During the mid-1920's, the Sisters brought the hope of medical care to Gadsden. The Sisters first came to Gadsden to staff a small 25-bed hospital which Mother Boniface, the superior of the community, had purchased in late 1924 and named the Holy Name of Jesus Hospital. A year later, the hospital attained the needed support of a young surgeon, Dr. J.O. Morgan. Dr. Morgan was so respected in the community that other physicians joined the staff of the hospital or recommended the facility to their patients fostering acceptance and assistance for the hospital from area residents.

After only 3 years of service, it was apparent that a larger medical facility was necessary. In November 1927, the cornerstone of a new hospital was laid. In September 1931 the new state-of-the-art hospital was dedicated.

Meeting the medical needs of the sick and suffering with modern technology, the Holy Name of Jesus Hospital provided the first open heart surgery units, cardiac catheterization unit, and renal dialysis facility in the area. By 1977, the Holy Name of Jesus Hospital grew to a 200-bed medical facility. In the same year, a 12-year expansion plan began. With this program, the hospital grew to the status of a medical center offering numerous types of medical assistance such as inhospital care, day surgery, inservice programs, and also an upgrading in the training of paramedical personnel.

During the 1980's the Holy Name of Jesus Hospital was hailed as one of the most advanced medical centers in northeast Alabama. Yet, the care of the Missionary Sisters reached far beyond the hospital walls to the sick at home. They cooked, cleaned, and clothed those in need. The poor who could not afford hospital care received aid through the generosity of the Sisters. No one was denied aid from the Sisters at the Holy Name of Jesus Hospital.

For the 60 years, from 1928 to 1991 the Sisters also operated a nursing school in conjunction with the Holy Name of Jesus Hospital. The U.S. Army trained its nurses in the region at the school prior to serving their country during World War II.

As we near the turn of the century, we can look to the Holy Name of Jesus Medical Center, now Riverview Medical Center, as a vision of a hope which provided excellent health care to the county. I salute all the Sisters who have served the sick and needy in their community while constantly striving to equip the hospital with modern, state-of-the-art technology. I would also like to congratulate the Sisters and all those involved with developing the Holy Name of Jesus Medical Center over the decades. The Missionary Servants of the Most Blessed Trinity will inspire the people of Gadsden, Etowah County, and the State of Alabama for many years to come.

MAKING A DIFFERENCE

Mr. LEAHY. Mr. President, over the years I have had a chance to meet an extraordinary conservationist and ornithologist, Dr. Liao Weiping. Dr. Liao is a Chinese professor from the Guangdong Institute of Entomology, but he is also a man who has worked extremely hard to improve and maintain the environmental balance of Guana Island in the British Virgin Islands. He has done this under the sponsorship of Henry and Gloria Jarecki, the owners of that island and dedicated environmentalists.

In talking with Dr. Liao you can easily see his dedication to his family and to the environment and to the opportunities people should have to achieve a full life based on their work.

I ask to have the enclosed article from the July 1993 issue of the Welcome printed in the RECORD at this point.

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

MAKING A DIFFERENCE

Why is a wiry 61-year-old ornithologist from China planting hundreds of trees on Guana Island?

Professor Liao wants to make a difference to the ecology of both the British Virgin islands and Hainan, his native province. They share the same latitude and the same problem: erosion.

What can be achieved on Guana Island applies equally to all other islands in the B.V.I., but Guana, being a nature preserve of 850 acres, rich in fauna but with few human inhabitants, is the ideal place for scientific study.

Here Liao, a professor at both Guangdong Institute of Entomology and the South China Institute of Endangered Animals, is working to improve the ecosystem. Shaded by his red and white baseball cap, he propagates and transplants seedlings. At the same time he makes tidy notes in Chinese and in English which he taught himself in his forties. (He also speaks five Chinese dialects.)

Sponsored by Dr. Henry Jarecki the island's owner, Liao stays on Guana up to eight months at a time; 1994, will mark his fifth visit.

Every October, scientists from the Conservation Agency based in Rhode Island and others from all over the world descend on Guana. Dr. Jarecki, a conservationist, bought the island which contained a small hotel in 1974; he maintained the hotel, but also established a nature preserve. Sponsored by Dr. Jarecki, scientists from the Conservation Agency catch, mark and track animals; study flora; take inventory and discuss how best to make beneficial changes. They have reintroduced the flamingo to both Anegada and Guana Island and are working on ways to protect the endangered Anegada rock iguana (Iguana pinguis) through introducing it to Guana as well as through conservation efforts on Anegada.

Liao's contribution includes a comprehensive plan to increase bird and plant life. He explained that if the tall shade trees which used to grow on Guana Island could be restored, their roots would hold water, improving the soil. Further, if other trees and shrubs could be established which provide nesting sites as well as fruits and berries for birds throughout the year, birds such as the red-necked pigeon could be brought back to the island in good numbers.

These birds eat and disperse seeds of some of the best shade trees. Simply put, the birds need the trees and in order to increase, the trees need the birds. The shade and improved soil which result from more trees and more birds eventually lower the temperature slightly and produce more rainfall strictly locally—that is only in places which are shadier.

And what will happen if this plan is not carried out? Essentially, the opposite. Soil will erode further and rainfall will decline, making it harder to grow anything. Trees which die will be replaced by scrub. Finally cactus will replace scrub and topsoil will be lost. Such an occurrence would obviously be detrimental to the B.V.I. Although most people are aware of the importance of preserving the marine ecosystem, not everybody recognizes the need to protect the land. To Liao it's a burning issue.

An example of what one person can do: in 1992 he wrote a proposal to create protected areas throughout Guangdong Province in China. After obtaining signatures from 107 other noted scientists, he presented the proposal to the government, which has just passed it into law.

How fortunate that the man whose goal is to make a difference has adopted the B.V.I. as his second home.

CHINESE SCIENTIST STUDIES BVI'S BIRDS, CLIMATE

(By Chris Bergeron)

A Chinese scientist, studying ecology on Guana Island, feels that environmental planning based on the beneficial relationship between native birds and forestation could reverse local climatic changes that may be reducing the BVI's rainfall and vegetation.

Prof. Liao Wei-ping, of the South China Institute of Endangered Animals, believes that changes in the territory's bird and tree population directly influence local weather patterns. The replacement of tropical forests by smaller scrub vegetation initiated a gradual chain reaction over the last several decades, raising the territory's temperature and causing a consequent decline in rainfall, he said.

Former agricultural practices, like plantation farming and the free grazing of animals, as well as excessive burning of timber for charcoal, also significantly depleted local vegetation and forests, according to Prof. Liao.

Some local birds, like the red-necked pigeon, stimulate positive growth patterns by eating and passing seeds of certain trees, which are instrumental in providing shade, a cooler climate and, ultimately, increased rain.

Prof. Liao, 59, is in the midst of his fourth extended visit to Guana Island. He is sponsored by Dr. Henry Jarecki of New York, the island's owner.

Dr. Jarecki sponsors The Conservation Agency, an organization that supports environmental studies by noted international scientists. He met Prof. Liao through the Agency's founder, Dr. James Lazell, presently affiliated with Harvard University, who met Prof. Liao in China in 1983.

Prof. Liao's experience in Chinese ornithology gives his work particular relevance for ecological studies in the BVI.

Prof. Liao is a native of Hainan Island, in the South China Sea, which is on precisely the same latitude as the BVI.

KEY HUMAN CHOICES

The similarities in climate and flora and fauna between Hainan and Guana Island provide Prof. Liao with a basis for his comparative studies, which focus on the inter-relationship between birds, vegetation and climate.

"I want to make a special contribution to both the BVI and my motherland through this research that Dr. Jarecki has sponsored," said Prof. Liao, a trim, nimble man with bright brown eyes.

"I believe that humans can institute policies to restore the environment and provide long-term benefits.

"Scientific research can identify critical choices. But humans are the key. They must be willing to support policies that will finally benefit their home, their children, their future."

Prof. Liao said that discussions with local farmers, several in their 70s, indicate that the territory's annual rainfall has been declining, raising temperatures and making agriculture more difficult.

"If rainfall declines, inevitably ecological quality will deteriorate. As scrub, which requires less rainfall, replaces the tropical trees still found on Sage Mountain, topsoil is lost.

"Cactus will replace scrub. The island will become hotter and the whole negative cycle starts again. Only thoughtful implementation can reverse these troubling tendencies," Prof. Liao said.

He cited the relationship between pearl-eyed thrashers, which prey on red-necked pigeons, as an example of the bird population's impact on vegetation and climate. Cycles within cycles.

Red-necked pigeons eat, partially digest and scatter the seeds of the tall trees where they nest, stimulating tree growth, which cools the local climate, encouraging further rainfall and growth.

Yet pearl-eyed thrashers, which nest in scrub brush, feed on pigeon eggs and kill the young, lowering the pigeon population, reducing seed dispersal, leading to the replacement of tropical forests by scrub vegetation. This heightens temperatures, further reducing rainfall.

Prof. Liao suggests that reforestation would initiate a chain reaction that would gradually increase the bird population and vegetation, ultimately prompting beneficial climatic changes within the territory.

Futher research is required before he can recommend specific trees to plant.

He spends his days scrambling through trails, making meticulous notes in English and Chinese and collecting samples to chronicle the natural struggles that make Guana Island a labouratory that may provide a key to the BVI's environmental future. "Safeguard for peace."

Prof. Liao rose from abject poverty to become one of Guanadong province's most renowned ornithologists at a time when China was convulsed by invasion, civil war and revolution.

He received no formal schooling until age 13, later attending middle school by day while labouring long into the night. After years of struggle, he was elected president of the student union, earning a scholarship to one of China's most prestigious universities.

Following World War Two, Prof. Liao changed his personal name to Wei-ping, which means "safeguard for peace."

After learning Russian as a young man, he taught himself English in his forties by studying a dictionary and a grammar text.

While studying under Dr. Jarecki's sponsorship, Prof. Liao presented scholarly papers at ornithological conferences in the U.S. and Canada.

In 1986 he had an audience with then BVI Governor David Barwick and gave him a copy of his book.

"China is my true motherland, but I love the BVI as my adopted home" said Prof. Liao recently.

"It is important for people to consider the future, the next 50 or 100 years. Not just the short view.

"Taking protective measures for the long view will help everything—the economy, the environment, peoples' lives," he said.

"Maybe man can't control nature, but he can do his share. He must."

JOHN HUME'S 25TH ANNIVERSARY OF PUBLIC SERVICE

Mr. KENNEDY. Mr. President, it was 25 years ago today that John Hume won his first election in Northern Ireland. Many of us in Congress who have come to know John well throughout the years know him to be an extraordinary man of peace. I have great admiration for his achievements and his leadership, and I congratulate him on his 25th anniversary in public service.

On February 24, 1969, John was elected to the Northern Ireland parliament. In the years since then, he has also been elected to the European Parliament and the British Parliament.

Throughout the long and difficult years of civil strife and turmoil in Northern Ireland, John Hume has dedicated his life to achieving a peaceful, just and lasting settlement of the conflict. As the founder and leader of the Social Democratic and Labour Party in Northern Ireland, he has demonstrated time and again the success and wisdom of peaceful negotiations and institution-building between Protestants and Catholics as the only acceptable method of achieving a solution of the crisis in his native land.

In the past 25 years, the violence on both sides of the conflict has caused the death of more than 3,000 people; many thousands more have been maimed or injured; and untold millions of dollars in damage to property has occurred.

He is one of the greatest apostles of nonviolence of our time. Throughout these turbulent years in Northern Ireland, John Hume has never lost faith in the belief that violence and terrorism are wrong and a negotiated settlement is the only realistic hope for peace, and that ancient antagonisms cannot be settled by bombs and bullets. He has an enduring vision of reconciliation based on equal respect and recognition for both the Protestant and Catholic traditions in Northern Ireland. His uncompromising defense of justice and human rights has undoubtedly reduced the level of violence, encouraged restraint and reason, and served as an inspiration to those seeking peaceful resolution of conflicts in many other corners of the world.

It is remarkable that a man of such deep commitment to peace has risen to leadership of an oppressed minority in a divided country. Yet, surrounded by repressive measures and bitter frustration, John Hume has never yielded to rancor or intolerance. He has courageously and constructively challenged the presumptions and prejudices not only of the Protestant tradition in Northern Ireland—but also of his own Catholic tradition

In challenging the one-sided society of Protestant domination and intolerance, pervasive discrimination in employment, housing and education, and the constant threat of violence and terrorism, John Hume fashioned a nonviolent civil rights movement based on community action and cooperation.

Beginning with the launching of a credit union to provide assistance to the minority community to purchase housing, he fought consistently for the rights of the members of his community. His weapons were effective programs and peaceful deeds—at a time when others in his own community increasingly urged the path of bombs and bullets. His ideas and eloquence lit a candle in the darkness of Northern Ireland, kindled an increasing sense of hope in the minority community, and created new possibilities for under-

standing between the two opposing sides of the conflict.

John Hume's community activity and involvement led directly to his long and distinguished political career. He brought together a broad coalition of leaders in his community who advocated nonviolence, and together they founded the Social Democratic and Labour Party. Under his skillful guidance as leader of the Party, the SDLP has been at the forefront of every significant effort to achieve a peaceful settlement in Northern Ireland.

Largely because of the vision and diligence of John Hume, the SDLP and Unionist leaders achieved the landmark Sunningdale Agreement in 1973, an unprecedented power-sharing experiment between the Nationalist and Unionist traditions.

When the Sunningdale Agreement collapsed the following year in the face of extremist Protestant resistance, John Hume encouraged the parties to explore other avenues of peace. It was John Hume who first—and for many years alone—argued the necessity for establishing an ongoing Anglo-Irish framework as the cornerstone for institutionalizing a process of reconciliation to heal the divisions within Northern Ireland, between north and south in Ireland, and between Britain and Ireland.

In 1983, largely as a result of his efforts, the main Irish political parties and the SDLP established the far-reaching New Ireland Forum, which considered alternatives for progress and whose report laid the groundwork for an unprecedented new dialog on Northern Ireland between Britain and Ireland. This dialog culminated in November 1985 with the signing of the historic Anglo-Irish Agreement by Prime Minister Margaret Thatcher of Great Britain and Prime Minister Garret FitzGerald of Ireland, representing the best hope in more than a decade for peace in Northern Ireland.

Today, the Anglo-Irish Agreement still serves as a daily avenue of communication between the British and Irish Governments on matters affecting Northern Ireland. In implementing the agreement, the two governments have also established an effective on-the-ground mechanism to consider specific grievances of the two communities in Northern Ireland on a day-to-day basis.

Britain and Ireland deserve great credit for their commitment to this process of reconciliation, but it could not have happened without the extraordinary leadership of John Hume. In so many ways, he is the glue that has held Northern Ireland together, halted the descent into anarchy and civil war, and produced the hope we see today for further progress.

In recent years, and especially in recent months, John Hume has conducted talks with Gerry Adams, the leader of the Sinn Fein party in Northern Ireland. Once again, he has shown great courage by taking a great personal, political risk in an effort to achieve a lasting peace. All those who know John Hume well, know that peace has been his only motivation throughout his long and distinguished career and it is our hope that his current leadership will contribute to a permanent end to the violence.

John Hume is well respected in the United States and he has had an important influence on United States policy and on the American dimension of the conflict in Northern Ireland. In his many visits to this country, he has been a constant ambassador of peace, urging the cause of reconciliation, educating the Congress and the country that American dollars for Irish violence are destroying, not uniting, Ireland.

In sum, John Hume is a courageous leader of unusual achievement. He has dedicated and risked his life for the cause of human rights and peace in his native land. His efforts give immense encouragement to his supporters, who have borne a heavy burden against great odds in the struggle for peace, democracy and justice in their country.

His work also serves as an encouragement to those in other divided societies, who suffer from oppression and violence while seeking the dream of democracy, economic progress, and social justice.

I am sure that my colleagues in the Congress join me in congratulating John Hume on his 25th anniversary. It is our sincere hope that the goal of his life's work—peace and reconciliation in Northern Ireland—will be achieved soon.

I ask unanimous consent that an excellent recent article by John Hume on the current situation in Northern Ireland which appeared in the Irish Times last month may be printed in the RECORD.

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

[From the Irish Times, Jan. 31, 1994]

NEW WAYS OF COMING TOGETHER IN PEACE

(By John Hume)

There has been a lot of public discussion, a lot of careless language and indeed a lot of personal views by politicians, both British and Irish, about their views in relation to our future or indeed their preferences about that future. However, at this crucial point it is essential that we concentrate on the facts of our situation in Ireland and the facts of the Joint Declaration, facts which to myself are very clear and facts which have already made me declare that it is the most comprehensive declaration by British and Irish governments in 70 years on our relationships within this island.

Let us stay with the facts. The facts are that the people of Ireland have the right to self-determine their future. The facts are that the people of Cyprus have the right to self-determine their future. The facts are that the people of the world have the right to self-determine their future. But the fact that gets consistently forgotten as people make emotional declarations about such rights is that it is people who have rights and not territory. Without people this earth is only a jungle. Humanity is what it is all about and how humanity settles its differences. The essence of settling differences is to respect them. There is not a single stable society in the world that is not based on respect for diversity.

The facts are that the people of Ireland are divided as to how to exercise that right, so are the people of Cyprus, so are the people in the former Yugoslavia, so are the people of the world. It is the search for agreement and the means of reaching agreement that is the real task facing those who want to solve such problems. It is also surely a fact that such agreement among divided peoples anywhere cannot be solved by any form of coercion or force. Victories, as history has sadly taught us, are not solutions; they simply leave legacies from which subsequent generations also suffer.

On our island the facts are that the people who share this island are deeply divided. The facts are that their divisions were not caused by partition; they were intensified, as indeed they are intensified today by violence. The facts are that the basic divisions among our people go back far beyond partition and the challenge of facing up to them by reaching agreement has never been faced up to by either of our traditions. That is the challenge that faces us today; that is the challenge that the Joint Declaration has thrown down to everyone, both governments and all parties.

Let us now look at the facts of the Joint Declaration. The facts are that the British government has made clear, not for the first time, that, whatever about the past, it no longer has any selfish or strategic interests in Ireland. The facts are that it has stated its primary interest very clearly and the meaning of the word primary seems to have been ignored by a lot of people. Its primary interest is not the status quo; its primary interest is not in any imposed settlement. Its primary interest, to quote the Joint Declaration, "is to see peace, stability and reconciliation established by agreement among all the people who inhabit the island".

In addition, the facts are that the British government makes clear its views on the rights to self-determination, recognising the fact of which we are all aware that at this point in time the people of Ireland are deeply divided as to how that right is to be exercised. The problem cannot be solved if we ignore the essential facts. The British government states: "The British government agree that it is for the people of Ireland alone by agreement between the two parts respectively to exercise their right to self-determination on the basis of consent, freely and concurrently given, North and South, to bring about a united Ireland if that is their wish." In addition, "They reaffirm as a binding obligation that they will, for their part, introduce the necessary legislation to give effect to this, or equally to any measure of agreement on future relationships in Ireland which the people living in Ireland may themselves freely so determine without external impediment". Ourselves alone!

Nothing could be clearer, and neither could the challenge to both main traditions on our island to face up at last to the challenge of achieving lasting stability and peace on our island for the first time by reaching such agreement. It is surely self-evident that anyone who genuinely wants such agreement

would recognize that agreement can never be achieved by any form of coercion or force. The task is for all involved to commit their energies to working for such agreement.

There has been the usual talk of vetoes. Again, the facts are that when you have a divided people, each section of it has a veto. That is the negative way of looking at it and we have never had any shortage of negative attitudes on this island. Surely the time has come to be positive and to seek and work for agreement, the challenge of which is to persuade one another that neither side wants victory but rather an agreement which respects our different heritages and identities, which is the only basis for stability in any society.

Indeed, once again in the Declaration the British government commits itself "to encourage, facilitate and enable the achievement of such agreement over a period through a process of dialogue and co-operation based on full respect for the rights and identities of both traditions in Ireland". If we do not want them to impose a solution, which is not self-determination, what more can they do? Indeed, could we reflect on the question, when at any time in the past 70 years have both governments been so committed to using all their influence, energy and resources towards such an objective?

The challenge to both traditions is clear. To the unionist tradition, who have a genuinely different heritage from the rest of us in this island and who have every right to protect that heritage, the challenge is to recognize for the first time that their real strength rests in their own numbers and their own geography and the problem cannot be solved without them. Have they the self-confidence to recognize that and to stand on their own feet, recognizing that the only people that they need to trust in such a process is themselves and for the first time (apart from Brian Faulkner) to agree to a relationship with those with whom they share this island? It is self-evident that they have consistently distrusted British governments. Now they are being asked to trust themselves and to recognize that the objective is an agreement which must earn the allegiance and agreement of all our traditions, including their own.

The challenge to the nationalist tradition is equally clear. It is people who have rights and not territory. It is a particular challenge to Sinn Fein and the IRA. Have they the self-confidence in their own convictions to come to the table armed only with those convictions and their powers of persuasion, as everyone else will have to do, given that the British government is now committed not only to encouraging agreement but to implementing and legislating for whatever agreement emerges. Is all of this not totally in keeping with the peace process defined in my joint statements with Mr. Adams as involving both governments and all parties, the objective of which would be agreement among our divided people, an agreement that would have to have the allegiance of all our traditions as well as their agreement?

We have reached a historic moment in our island history and my hope is that the moral courage will be there on all sides to seize it. It is to me self-evident that no instant package will end our differences forever, but whatever form our agreement takes, once our quarrel is over and all the talents of our diverse people are committed to working together to build our country North and South, the healing process will have begun and the old prejudices and distrusts will be progressively eroded.

Down the road in the future, out of that process will emerge a New Ireland, built on respect for our diversity whose model will probably be very different from any of our past traditional models. Will Catholic, Protestant and Dissenter finally come together in our small island and as we approach the 21st century of our now post-nationalist and interdependent world, will we at last remove the gun and the bomb from our island people?

THE 25TH ANNIVERSARY OF JOHN HUME'S TERM IN PUBLIC OFFICE

Mr. DODD. Mr. President, I rise today to inform my colleagues of the fact that today is the 25th anniversary of the day that John Hume, the leader of Northern Ireland's Social Democratic and Labour Party, first took public office in Northern Ireland. Not enough members of this Chamber, I suspect, are familiar with John Hume or are aware of the crucial role he has played over the years in the peace process in Northern Ireland. But I am quite confident that if more people were to listen to his words and to follow his example when it comes to Northern Ireland, the prospects for peace there would be far brighter indeed.

Mr. President, John Hume occupies a central and, in truth, a unique role in the political landscape of Ulster. He was an early leader of the movement to bring civil rights and equality to the long-oppressed Catholic community in Northern Ireland, and through his seats in the British Parliament and the European Parliament he has continued to play an instrumental role in speaking out for justice in the north. His party, which received approximately one-quarter of the votes in the most recent general elections, is committed to the long-held nationalist ideal of a united Ireland. At the same time, he has condemned the Irish Republican Army and he has often spoken out against the ruthless ways of the IRA. This willingness to confront both extremes of the Ulster reality has given him a crucial role in the peace process now underway in Northern Ireland.

Mr. President, last year John Hume helped to set the pace of peace negotiations forward when he engaged in a series of meetings with Gerry Adams, the controversial leader of Sinn Fein. While these meetings—and the agreement they reportedly produced—were regrettably not supported by the British Government, they nonetheless had an important impact in advancing the notion that if the conflict in Northern Ireland is to be solved, it must be solved through negotiation. In fact, as Mr. Hume told an interviewer last fall, "Given that the British Government has stated it cannot defeat the IRA and that the IRA has stated it cannot defeat the British Government, my simple Irish mind tells me the logic of that is that the only thing that'll solve the problem is dialogue."

Mr. President, John Hume has it absolutely right. What is needed in Northern Ireland today is more discussion, less violence; more listening, and less posturing. John Hume has taught us this lesson over the past 25 years and for that we should all be thankful.

THE NORTH KOREAN NUCLEAR WEAPONS PROGRAM

Mr. BENNETT. Mr. President, the issue of North Korea's nuclear weapons program has been of public interest for over a year. On some days it appears on the front page of every major newspaper in America.

After conducting a recent energy committee fact-finding tour in Asia last month, officials in all the countries I visited raised the seriousness of a nuclear Korean peninsula.

What has not been made clear, Mr. President, is the risk which the North Korean nuclear weapons program poses for all of us. That is, why should we be so concerned? After all, we learned to live with the threat of nuclear weapons from the now-defunct Soviet Union. How is the anticipated behavior of North Korea any worse?

A geopolitical answer would suggest that a nuclear device in the hands of North Korea raises the prospect that it would be used or threatened to be used against South Korea. Further, some might suggest that a frightened Japan would reverse almost 50 years of policy prohibition against the development of nuclear weapons.

Frankly, I do not buy either argument. North Korea knows that use of a nuclear weapon anywhere would have the most dire consequences. And, I have faith in the good judgement of the Japanese people. As the only country to suffer from a nuclear attack, a democratic government in Japan will not choose the nuclear option.

What then is the problem?

The problem is, Mr. President, was ably set out by Washington Post columnist Lally Weymouth in her column of February 17. As she notes, extracted plutonium is "a lot more valuable than cocaine." For a desperate regime like North Korea, with a history of selling every major weapons system it has ever produced, the temptation to sell to the highest bidder could be too much. The danger to our national security from a North Korean nuclear device in the hands of one of the anti-democratic regimes in the Middle East is clear-cut and unassailable.

Ms. Weymouth also points out that the distinguished Senator from Mississippi, Senator COCHRAN, the distinguished Senator from South Dakota, Senator PRESSLER, and the distinguished Senator from Colorado, Senator BROWN, recently visited the headquarters of the International Atomic Energy Agency to discuss the North Korean problem with IAEA Chairman

Hans Blix. Our colleagues deserve enormous credit for their personal concern over this vital issue.

Finally, Ms. Weymouth recounts Chairman Blix' statement to our colleagues: his agency wants to be able to go "anywhere, anytime" to inspect suspected North Korean nuclear weapons sites. His demand is both reasonable and prudent and deserves to be supported by the administration. To his credit, Assistant Secretary of State Winston Lord has made it clear that the recent reluctant agreement by North Korea that it will allow the IAEA back on a limited basis is just that: limited. There is more to come and the Congress anticipates that the administration will not make any final agreement with North Korea which allows it to escape its full obligations under the Nuclear Non-Proliferation Treaty.

Mr. President, I ask unanimous consent that the February 17, 1994, Washington Post column by Lally Weymouth be printed in the RECORD.

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

[From the Washington Post, Feb. 17, 1994]

NORTH KOREA'S HARD BARGAINING

(By Lally Weymouth)

Last December the director of the International Atomic Energy Agency, Hans Blix, was talking to three conservative senators about the threat posed by North Korea's nuclear program. In describing what the IAEA needs to make certain that North Korea doesn't violate the Nuclear Nonproliferation Treaty—to which it is a party—Blix told Sens. Larry Pressler (R-S.D.), Thad Cochran (R-Miss.) and Hank Brown (R-Colo.) that the IAEA must have the right to go "anywhere, anytime" to inspect North Korean nuclear facilities. Nothing short of this would do, said the former Swedish foreign minister, begging the senators not to let Washington undercut the IAEA during U.S.-North Korean bilateral talks.

Since November, there had been no progress in achieving Blix's goal. North Korea kept the IAEA inspectors out of the country. IAEA cameras installed at North Korean nuclear facilities actually stopped functioning. As a result, Blix issued a statement a few weeks ago that all but said the Democratic People's Republic of Korea had violated IAEA safeguards. It had been widely expected that at the upcoming IAEA board of governors meeting in Vienna, which starts on Monday, Blix would declare safeguards broken and ask the United Nations to impose economic sanctions.

Then, just as the international community appeared prepared to unite on the need for sanctions against North Korea, the IAEA suddenly declared a breakthrough this week. After eight rounds of talks between IAEA and North Korean officials in Vienna, North Korea agreed to what U.S. officials describe as "a bridging deal." It amounts to this: North Korea consents to let the IAEA verify that no nuclear material has been diverted from officially declared nuclear facilities since its last inspection in August 1993. Also, the IAEA will be allowed to replace its batteries, reload its cameras and change the seals on the seven nuclear facilities involved to ensure "continuity of safeguards." The key North Korean facilities in question are a plant for reprocessing plutonium and a nuclear reactor.

By giving the IAEA this limited access to its nuclear facilities, North Korea—according to one U.S. official—has bought "a ticket to attend the third round of the bilateral talks." (During the Clinton administration, the United States and North Korea have held two rounds of bilateral talks.)

What Clinton administration officials, anxious to claim total victory, play down is that the IAEA doesn't usually limit itself to inspections of this type. It mounts "regular" inspections of declared nuclear sites in member countries—inspections of sites the host country declares to be relevant to its nuclear program. The IAEA also pursues "special" inspections—which involve facilities the IAEA asks to inspect, based on its suspicion that these locations may somehow be involved with the country's nuclear program.

But North Korea hasn't even agreed to allow regular inspections to resume—nor is it considering the so-called "special inspections." Pyongyang has merely agreed that these two types of inspection will be on the agenda at the third round of U.S.-North Korean talks.

If this week's announcement is really a "step"—as Clinton administration officials claim—toward persuading North Korea to rejoin the Nuclear Nonproliferation Treaty as a full member, it should be welcomed. But the dangers, can't be ignored. The administration originally declared its policy was to make sure North Korea would not develop a nuclear weapon. Thus it's worth addressing a question posed by a recent Rand Corp. study: Has the administration moved from prevention to containment?

North Korea bargains hard. It agreed to join the Nuclear Non-proliferation Treaty in 1985, but not until April 1992 did it sign and ratify the safeguards agreement. (NPT usually gives a country 18 months to sign the safeguards agreement.) IAEA subsequently conducted six "regular" inspections to check on the declared materials. The agency concluded there were inconsistencies in the information it was receiving, and sought to send a team of experts to visit two suspect sites. The purpose was to see whether there were traces of plutonium there. How much plutonium, in short, had North Korea produced?

Pyongyang rejected this request and suspended its membership in the NPT. Having threatened to withdraw from the NPT last March, North Korea claims it currently has a "special status" as an NPT member—a status the IAEA is refusing to recognize.

The U.S. intelligence community and others endeavoring to combat proliferation deem it imperative that North Korea comply with its NPT obligations. Aware that Pyongyang is hard-pressed for cash and that its best hope for securing hard currency consists in arms sales, American officials and experts note with concern that North Korea has sold every weapons system it has manufactured. One fear of U.S. experts is that Pyongyang may sell either a nuclear device, fissile material or the nuclear technology and know-how to rogue states like Iran. The extracted plutonium, notes one U.S. official, "is a hell of a lot more valuable than cocaine."

The IAEA must not be bludgeoned into accepting a phony deal on North Korea. America, meanwhile, needs to remember that North Korea is playing for time to complete its nuclear program. In his December meeting with the three U.S. senators, Blix explained that if North Korea is allowed to block special inspections and fails to comply in full with the NPT's provisions, other countries will feel they can follow its lead. Blix's warnings should not be ignored.

FEDERAL FIREARM LICENSE FEE

Mr. BURNS. Mr. President, the President delivered his $1.5 trillion budget last month, and as we all know, the devil is in the details.

I would like to comment on one specific part of this budget. Included in the budget is an increase in the Federal firearm license [FFL] fee. The proposal would increase to $600 annually.

Before the President signed the Brady bill into law, an FFL license cost $30 for 3 years. The Brady Act increased the fee to $200 for new applicants and $90 for renewals for the same period. The new proposal would increase this fee to $1,800 for the 3-year period. This is a 1000-percent increase.

This is a new tax which will put in jeopardy individual Montana gun dealers. In Montana, there are almost 3,000 individuals who hold FFL's. A large majority of these individuals, about 2,700, sell and trade guns as a hobby and for extra income. If this unrealistic increase is put into effect, they will not be able to cover their costs. The end result will be that many of these small dealers will be put out of business.

I believe this is yet another attempt at overtaxing individuals and imposing gun control measures. Gunowners in Montana, including myself, are tired of our rights being trampled. Taxing law-abiding gun sellers and traders, who go through the process of getting an FFL, is not going to curb crime.

As we continue with the budget process, I will be working to have this proposal dropped. Montana's gunowners, and those throughout America, are tired of getting attacked by Washington.

Mr. President, I yield the floor.

THE COMMUNITY HEALTH IMPROVEMENT ACT OF 1994

Mr. HOLLINGS. Mr. President, I join my colleagues Senators, MCCAIN and BROWN, today in introducing the Community Health Improvement Act which will provide greater access to high quality health care for underserved populations more efficiently and at lower cost. This will be accomplished by permitting States to develop 5-year demonstration projects in which community health authorities would contract with State Medicaid agencies to enroll and care for Medicaid recipients and expand services to uninsured low-income individuals as savings from efficiencies accrue.

Let me say up front that this bill does not compete with any health care reform proposal; it can be implemented

upon enactment to give States that choose to participate a running start in implementing more comprehensive reforms. The approach simplifies rather than complicates, adds no new government bureaucracy, restrains Medicaid cost increases, and just plain makes sense.

A market-based system that counts on competition to restrain costs is just not a reality in far too many communities in this Nation. These communities, largely rural and inner-city, have neither incomes nor population to attract large managed care corporations to compete for their care; and most for-profit HMO-type plans that receive a per-participant capitated rate do not want this population which is often comprised of individuals and families that require more extensive care due to age, language barriers, homelessness, lack of transportation, and other factors than the general population. Typically care has been received from a very fragmented nonsystem of health departments, badly strained hospital emergency rooms, free clinics that depend on volunteers, and in those communities fortunate enough to have them, from federally funded community, migrant, and homeless health centers. What these communities need is the ability to organize existing resources for maximum efficiency and to be able to fill holes in service delivery to create case-managed, integrated systems of care that serve the needs of their particular community.

Under this bill the Federal Government and States can limit Medicaid increases while experimenting with new service delivery and financing mechanisms, communities would be empowered to determine and address their unique needs, all providers would be encouraged to participate and to negotiate a fair reimbursement with friends and neighbors they know and trust, families that have had no medical home would be provided one and coverage for services would be affordable. What the Community Health Improvement Act would do is create an environment in which all are winners, and I urge your consideration and passage of this bill.

CAPT. RONALD ARTHUR ROUTE

Mr. SHELBY. Mr. President, I rise today to commend an outstanding American and Naval officer, Capt. Ronald Arthur Route, U.S. Navy. Captain Route is currently serving as executive assistant and naval aide to the Assistant Secretary of the Navy, Manpower and Reserve Affairs. I believe his consistently outstanding performance and dedication while serving in a difficult and influential position of responsibility are deserving of special and immediate recognition.

As the executive assistant and naval aide to the Assistant Secretary of the Navy, Manpower and Reserve Affairs, since June 1992, Captain Route has served superbly with unsurpassed loyalty, intelligence, and an extraordinary capacity for organization and work. His exceptional performance directly supported the Assistant Secretary of the Navy and contributed significantly to the overall mission of the Department of the Navy.

On a daily basis, Captain Route expertly performed the myriad administrative functions of a principal deputy. Acting as staff director, he coordinated the work of 4 Deputy Assistant Secretaries and their staffs, totaling over 50 officers, senior civilians, and enlisted personnel. His knowledge of the Navy staff and grasp of Washington procedures coupled with his ability to work closely with the other services and agencies was instrumental in the successful accomplishment of the Department's agenda. An outstanding organizer, Captain Route was the officer behind the scene who provided direction and critical comment in the development of policy issues relating to military manpower, women in combat, Equal Opportunity Program Review, Navy medical issues, civilian manpower, and Reserve issues.

Captain Route was a stabilizing influence on the staff during a time of dynamic changes within the Department of the Navy, helping to provide program direction in a period when the appointment of the new Assistant Secretary was pending. His efforts led to a flawless turnover of leadership and uninterrupted support to the secretariat. He was the focal point and communications manager with a remarkable appreciation for the checks and balances of our military-civilian system.

One of the greatest policy issues faced by the Manpower and Reserve Affairs staff during Captain Route's tenure as executive assistant has been the continued and dramatic drawdown of personnel, the reshaping of military roles and missions, and the incorporation of a new policy of women on combat ships. Captain Route's understanding of personnel policies and their implications in the Fleet was vital to executing successful programs.

Mr. President, as Captain Route departs for Pearl Harbor, HI, where he will assume command of an Aegis cruiser, the U.S.S. *Lake Erie*, CG–70, it is indeed an honor for me to join his wife, Kip, and son, James, along with his many friends and colleagues in congratulating him on his past distinguished accomplishments and wish him every good fortune in his future command.

CLINTON FOREST PLAN

Mrs. MURRAY. Mr. President, yesterday the Clinton administration announced the release of its revised forest management plan for the Pacific Northwest. This announcement marks the near culmination of a yearlong effort by the administration to resolve the protracted controversy in my region over forest ecosystem health.

Last summer, when the plan was proposed, I came to the Senate floor to express my views on this issue. On several important points, my views have not changed. First, I believe all of us in the Northwest owe a debt of gratitude to this administration for investing an extraordinary amount of time and energy in resolving what is essentially a thorny regional conflict. Second, I want to express my strong feeling that this plan is not perfect; I am particularly concerned about its short-term economic implications. Third, I want to remind my colleagues, and the citizens of the Pacific Northwest, how little progress was made on this issue since the spotted owl was added to the Threatened/Endangered Species List in 1989.

Inevitably, with issues as divisive as Northwest forest management, the path to reconciliation is difficult, and compromise can by sour. We spent 5 years in gridlock as consensus eluded Congress and an unconcerned administration allowed the crisis to fester. During this time, very little timber was sold, uncertainty dominated the debate, and fingers were pointed in every direction. Absent any compromise, the courts dictated forest policy, and the region suffered.

Yesterday's announcement reaffirmed what the Clinton forest plan represents: the best attempt yet to balance competing needs and make the law work. It is an honest effort to bring forest management out of the courts and put it back into the hands of the Forest Service, the Bureau of Land Management, and the Fish & Wildlife Service.

The policy underpinning this plan is one with which I agree: our land management should be ecologically sound; it should emphasize the highest legal integrity; and, in the best sense of the words multiple-use, it should ensure a long-term, sustainable timber supply for businesses and communities.

The revised plan, issued yesterday in the form of a final environmental impact statement, has been pronounced legally sound by several of the President's key advisors. I certainly hope this is the case, and look forward to the plan's progress beyond the appellate court.

Now, I am aware that parties are lining up on all sides and preparing their lawsuits. Some lawsuits have already been filed. It is clear that many people on all sides of this issue are dissatisfied with the nature of this compromise. But I would caution all of them against hasty action.

Let me be very clear about this: Our region suffered because of legal and political gridlock. A return to conflict

will not help heal our wounds. Given the extraordinary effort dedicated to producing this plan, I hope everyone involved with the issue will give it a chance to work.

Equally important now is the need for the Federal agencies involved to work together to implement this plan. In the past, we saw agencies at odds with one another, working actively to disrupt each other. The Pacific Northwest cannot tolerate such behavior in the future. I am impressed by what I've heard from the agencies to date, but the proof will be in seeing results.

Mr. President, the road ahead will be tough. In the words of Assistant Secretary of the Interior George Frampton, "We inherited a train wreck. This plan puts the train back on track." It will take a while for this train to get up to speed; but if we all give it a chance, it might reach the station intact. Thank you.

FEDERAL EMPLOYEE BUYOUT LEGISLATION

Mr. ROTH. Mr. President, the Federal Workforce Restructuring Act is an important legislative initiative. The administration has testified, and I am persuaded, that the legislation is urgently needed so that we can downsize and rightsize the Federal work force.

On February 10, 1994, the House passed its version and on February 11, 1994, the Senate responded promptly by passing its version. The bill with the Senate substitute was returned to the House so that the House could either agree with the Senate or disagree and ask for a conference.

The administration says that it will have to start firing Federal employees soon in order to meet budget constraints unless this legislation is immediately enacted. What puzzles me is that the House leadership has taken no action. I am informed that the House leadership plans to take no action. Why.

There are two noteworthy differences between the House version and the Senate version. The first flows from the Senate's desire to comply with the 1990 Budget Enforcement Act. The House version contains a $519 million pay-as-you-go violation, as scored by the Congressional Budget Office. It should be noted that it was Chairman GLENN who insisted that this budget problem be solved before floor consideration of the bill. To allay the concerns of several Senators, the Vice President's office provided language to the Senate to satisfy the pay-as-you-go problem.

Today I read in the newspapers that certain House leaders and the head of OPM are very critical of the Roth amendment.

It seems to me that the administration needs to have a conversation with itself. I hold no particular interest in the pay-as-you-go solution proposed by the Vice President's office. I am sure that there are equally valid alternative solutions to the pay-go problem. Why doesn't the House leadership offer one?

The answer lies in the second difference between the two versions. I cannot say that I wrote this language either. That distinction goes to the President pro tempore of the Senate, the Senator from West Virginia. The Senate substitute contains the Byrd amendment to the Senate's crime bill. Since the Federal Workforce Restructuring Act is the legislation that creates the savings that will fund the crime bill, it is entirely appropriate that it also contain a provision how that savings is to be spent. For if we do not downsize the work force, there will be no savings to apply to fighting crime.

It should be noted that last November the Senate adopted this provision 94-4 and that President Clinton has personally endorsed the provision as recently as last week.

Is the House leadership unwilling to confer on this issue? I hope that what I hear is not true.

I urge the House Democratic leadership to recognize the critical need for passage of this bill and either accept the Senate version or call for a House-Senate conference immediately.

COAST GUARD AUTHORIZATION ACT OF 1993

Mr. STEVENS. Mr. President, it has come to my attention that a statement made by our House colleagues in the CONGRESSIONAL RECORD misinterpreted a Senate amendment to H.R. 2150, the Coast Guard Authorization Act of 1993, Public Law 103-206, passed during the last Congressional session. Section 309 of the Senate substitute to H.R. 2150 amended section 4283B of the Revised Statutes—46 App. U.S.C. 183c—to allow the use of forum-selection clauses in cruise ship passenger contracts as upheld by the U.S. Supreme Court in *Carnival Cruise Lines* v. *Shute* 499 U.S. 585 (1991). A statement on the House floor which appeared in the November 22, 1993, CONGRESSIONAL RECORD contradicted our intent with regard to section 309, and I believe we should clarify the meaning of section 309 today. Mr. President, I ask Senator BREAUX, can he provide background information about section 309?

Mr. BREAUX. Yes. In 1992, the House added a provision to the Oceans Act of 1992—Public Law 102-587—which amended clause (2) of section 4283B of the Revised Statutes—46 App. U.S.C. 183c—and added the word "any" immediately before the words "court of competent jurisdiction." This provision, section 3006 of the Oceans Act, apparently was intended by the House to overturn the Supreme Court decision in Shute by making it unlawful for cruise ship operators to use provisions in passenger contracts to limit a claimant's right to a trial in any court of competent jurisdiction.

While it is perfectly legitimate for the Congress to overturn a Supreme Court decision within the bounds of the Constitution, we do not believe such changes should be made without notification to, and careful consideration by, the Members of Congress responsible for enactment of the legislation. As part of this consideration, we believe that the interested parties should have an opportunity to comment on any changes. At no time prior to the passage of the Oceans Act of 1992 was legislation introduced or did the House or Senate hold hearings on the cruise ship venue concern addressed by section 3006 of the Oceans Act. It is for this reason that the Senate supported a provision in the Coast Guard Authorization Act of 1993 to restore section 4283B to the wording as it read prior to the passage of the Oceans Act of 1992. Section 309 reinstates the Supreme Court decision in the Shute case as the applicable law for interpreting forum selection clauses.

Mr. STEVENS. The House section-by-section analysis of the Coast Guard Authorization Act states that "Section 309 of H.R. 2150 should not be construed to mean that a vessel owner may enforce a forum selection clause in a passenger ticket." This statement contradicts what we intended. Our intent was that section 309 should be interpreted to allow vessels to enforce such clauses, as upheld by the Supreme Court in the Shute case. I ask Senator HOLLINGS, does he agree with my interpretation?

Mr. HOLLINGS. Absolutely. As both Senator STEVENS and Senator BREAUX have stated, the intent of the Senate amendment made in section 309 of the Coast Guard Authorization Act of 1993 was to reverse the action taken by Congress in section 3006 of the Oceans Act of 1992. By passing section 309, Congress has reinstated the decision in the Shute case, carefully recognizing that, in doing so, vessel owners may enforce a forum selection clause in a passenger ticket subject to the standards enunciated by the Supreme Court in Shute.

Mr. STEVENS. Mr. President, we have one further clarification. The House section-by-section analysis stated that by not restoring the term "a" prior to the word "court" in section 4283B, we did not intend to restore the standard set forth in the Shute decision. This comment is not only wrong with regard to our intent, but also incorrect with regard to the statute prior to the amendment in the Oceans Act of 1992. I ask Senator HOLLINGS, is this his understanding as well?

Mr. HOLLINGS. Yes. The other distinguished body made a mistake with regard to the statute. The word "a" never appeared before the word "court"

in section 4283B of the Revised Statutes. The language in the Senate amendment restores the statute to exactly how it appeared prior to the Oceans Act of 1992.

It is unfortunate that the House included an explanation of the Senate amendment, section 309, that differs so greatly from what we intended and from the clear meaning of the provision. We disagree with the November 22, 1993, statement made by the House regarding section 309 of the Coast Guard Authorization Act of 1993.

COCOM ENDS—WHAT ABOUT U.S. NATIONAL SECURITY?

Mr. D'AMATO. Mr. President, I rise today to discuss the administration's position in the Cocom successor regime negotiations.

From the start of the debate over the EAA reauthorization, I have been dismayed at the administration's lack of attention to the importance of this bill. The administration has been slow to respond with their proposal, and in my opinion, has been lacking in our diplomacy in negotiations for the successor regime to Cocom. Simply put, I would like to know what has happened to American diplomacy. We seem to have become followers, not leaders in areas that are of crucial importance to our international security. Yet, I am not surprised by this lack of leadership, owing to the administration's past record on crucial international security issues.

On more than one occasion, I have expressed my concerns to the President on a successor regime to Cocom. On December 16, 1993, I wrote to the President expressing my deep concerns about the end of Cocom. I stated to him that "I think that we have reached a critical moment for our nation's ability to conduct an international regime to deal with threats of proliferation and terrorism in the 1990's." On March 31, 1994, Cocom will expire leaving the world with no clear international multilateral export control regime. I believe that this will endanger our national security.

On January 10, 1994, I, along with some of my colleagues, again wrote to the President on the same issue. After endless delays, I received a response from President Clinton which did not answer the tough questions but stated that he would have the State Department respond to me in detail.

While the President committed to continue to pursue an "effective multilateral regime that includes prior information exchange among members when needed to ensure that sensitive goods can be prevented from reaching dangerous destinations," I remained immediately concerned about the specific progress that has or has not been made in achieving commitments from our allies to establish an effective international multilateral control regime by March 31, 1994.

As stated in the January 10 letter, it is my understanding that the core of the U.S. proposal for a successor regime to Cocom is that supplier nations agree on a list of militarily critical products and technologies that would be denied to a handful of rogue regimes. It is also my understanding that some of our allies oppose this principle and instead propose that such controls be left to "national discretion," effectively replacing multilateral export controls with a loose collection of unilateral export control policies. This approach would obviously be adverse for the U.S. security and economic interests.

With Cocom gone and no comprehensive multilateral controls in place, Iran, Iraq, North Korea, Libya, and other rogue regimes will be able to accumulate the technology to build weapons of mass destruction with increased speed and greater quality. Are we going to allow another nation to grow into a monster like Iraq did and are we prepared to deal with this eventuality?

While I continue to wait for detailed answers from the President, the clock is ticking. Within the next month, the President needs to achieve a clearly defined and enforceable agreement with allies of the United States which establishes a multilateral export control system or the proliferation of products and technologies that would jeopardize the national security of the United States.

The President should persuade allies of the United States to promote mutual security interests by preventing rogue regimes from obtaining militarily critical products and technologies. Our diplomacy must be better. We must make our allies understand that there are still many threats still out there. While the administration talks about nonproliferation, it seems to be allowing proliferation. We do not have to look any farther than North Korea and Iran, to see that without such an agreement, the President risks the national security interests of the United States and subjects the United States export community to inevitable unilateral export controls putting them at a competitive disadvantage worldwide.

The administration must not repeat the mistakes of its recent past in allowing other nations to decide what is best for the United States. If we allow this to happen again, we will place our Nation and our people at risk.

Mr. President, I ask unanimous consent that the text of my and colleagues letters to the President, as well as the preliminary response to my letter from the President be printed in the RECORD.

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

U.S. SENATE,
Washington, DC, December 16, 1993.

PRESIDENT CLINTON,
The White House,
Washington, DC.

DEAR PRESIDENT CLINTON: It would seem that the United States Government and its allies have begun the process of dismantling the international structure for export controls with no clear replacement identified to take its place. I think that you would agree that with all its flaws CoCom provided coherence and predictability to the Western effort to control the flow the dual-use goods and technology to potential adversaries. Yet, the Congress has been informed that CoCom is scheduled to cease its operations as of March 31, with only an ambiguous commitment from other governments that there will be anything created to take its place.

It is my understanding that it was the U.S. delegation to the Hague "High Level" talks in November that proposed the deadline for the dismantling of CoCom. However, despite the utility and value of CoCom and its well organized secretariat in Paris over the past four decades, no institutional structure was proposed to take its place. I support the idea that the successor regime will be dealing with the problem of preventing the proliferation of weapons of mass destruction. But I am disappointed that apparently so little thought went into this critical decision to end CoCom and join with our allies to form a successor regime.

I am very concerned about the danger of unilateralism. In a world with no clear international export control regime of rules to identify prohibited exports and prohibited end-users, the United States Government is likely to control exports more restrictively than everyone else. Mr. President, I think that we have reached a critical moment for our nation's ability to conduct an international regime to deal with threats of proliferation and terrorism in the 1990s. I would respectfully suggest that the current efforts have not set a course that is likely to achieve a regime that we both desire.

Please advise me as to who your key representative is on this issue. Also, I have enclosed a number of questions to help me better understand your objectives and your strategy. Thank you for your urgent attention to this issue.

Sincerely,

ALFONSE D'AMATO,
U.S. Senator.

QUESTIONS REGARDING THE NEW MULTILATERAL REGIME TO REPLACE COCOM

1. I would like to know what the Administration views as the successor regime to CoCom? What do you envision with regard to structure and membership?

2. In this regard, what will the United States attempt to accomplish in regard to unified lists, both for nations and technology, and at what levels?

3. Has the United States deferred to our allies and withdrawn the request for prenotification? Why?

4. Has the United States given up its veto power in the CoCom successor regime? Why?

5. Are there any plans to create an international export registry so that there is shared knowledge of exports and their destinations?

6. In light of the outcome of the recent High Level talks in the Hague, what effect will they have on the Administration's plans regarding the Export Administration Act? And when will we see the Administration's plans in this regard?

THE WHITE HOUSE,
Washington, DC, February 23, 1994.

DEAR SENATOR D'AMATO: Thank you for your letter on COCOM. The United States and its partners decided to phase out the existing COCOM arrangements and, at the same time, to create a successor export control regime. The new regime would be aimed at meeting new threats and covering transfers of both armaments and sensitive dual-use goods. Negotiations are continuing to define the scope and procedures of this new control regime. Progress has been made, but tough issues remain.

I can assure you that our objective in these negotiations remains an effective multilateral regime that includes prior information exchange among members when needed to ensure that sensitive goods can be prevented from reaching dangerous destinations. The existing nonproliferation export control regimes will continue to operate; the new regime will complement, not supplant, them.

I agree that COCOM provided a valuable coherence and predictability to export controls, and that we need an effective follow-on global dual-use arrangement that will not disadvantage U.S. exporters. I share your view that any future export control regime must hold all its members to the same high standard. We are working hard to promote that aim.

Thank you again for sharing your views on this important issue. I have asked the State Department, which is responsible for negotiations on the successor regime, to respond in detail to the questions you provided.

Sincerely,

BILL CLINTON.

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

Hon. BILL CLINTON,
The White House,
Washington, DC.

DEAR PRESIDENT CLINTON: In your speech to young Europeans yesterday in Brussels you warned regarding the spread of weapons of mass destruction that "the danger is clear and present", and said that countering this threat will require "close cooperation, honesty and discipline, and a willingness of some not now willing to do it to forego immediate financial gain."

We share your concern and wish to highlight a related matter that deserves your attention: the end of COCOM and its replacement. We and our allies have agreed that as of March 31, 1994, COCOM, the multilateral body that controlled strategic exports to the former Soviet bloc, will cease to exist. It is our understanding that the U.S. has proposed a new export control regime that will target the proliferation threats of today—rogue regimes that support terrorism as a matter of national policy.

Our concern is that the proposal put forward by the United States is in danger of being rejected by our allies. The core of the U.S. proposal is that supplier nations agree on a list of militarily critical technologies that will be denied to a handful of rogue regimes. Some of our allies oppose this concept and are instead proposing that such controls be left to "national discretion", effectively replacing multilateral controls with a loose collection of unilateral control policies.

With COCOM gone and with no ironclad, multilaterally agreed upon controls, Iran, Iraq, North Korea, and Libya will be able to accumulate the technology to build weapons of mass destruction with impunity. We, as a nation, will be put in a difficult situation, forced to choose between unilateral controls and allowing exports that could seriously harm our national security interests.

We urge you to impress upon our allies in the strongest possible manner the necessity of clearly defined and jointly enforced multilateral controls on the critical technologies that, in the hands of rogue regimes, would jeopardize the security of all of us. We appreciate your attention to this matter and wish you success in representing our nation on the remainder of your trip.

Sincerely,

ALFONSE M. D'AMATO,
Ranking Minority Member, Committee on Banking, Housing, and Urban Affairs.

CONNIE MACK,
Ranking Minority Member, Subcommittee on International Finance and Monetary Policy.

DONALD W. RIEGLE, Jr.,
Chairman, Committee on Banking, Housing, and Urban Affairs.

JIM SASSER,
Chairman, Subcommittee on International Finance and Monetary Policy.

MANAGED COMPETITION: MAKING THE MARKET WORK TO CONTAIN COSTS

Mr. DURENBERGER. Mr. President, the phrase managed competition has achieved a great deal of currency in the debates on health care reform. It is therefore regrettable that the concept of managed competition is often misrepresented and misunderstood.

Managed competition is not about Government. It's about markets, and making markets work. In its essence, managed competition is a simple concept. It is based on the fact that competition among providers of services for the business of informed consumers drives prices down, and drives quality and innovation up. That's the definition of a market.

Under managed competition, Government is used to facilitate the market through incentives, not replace the market with regulation.

I cannot stress enough, Mr. President, that managed competition is not just a theory. It is up and working in communities all over America. Minnesota happens to be one of the leaders in competitive health care delivery systems on the managed competition model. By reducing costs and improving quality, Minnesota's market is providing health care at a cost 15 percent below the national average.

And the California Public Employees Retirement System—Calpers—has shown that a large health care purchasing agent can succeed in putting downward pressure on premium costs. After 4 months of negotiations with California HMO's, Calpers has concluded a deal that will reduce health care premiums for its members by an average of 1.1 percent.

This debate is going to be won on the basis of facts—and the facts prove that markets, not mandates, are the key to health care cost containment. I ask unanimous consent that an article from Business & Health outlining Minnesota's experiment in managed competition be included in the RECORD, along with a news story from the Wall Street Journal describing the achievement of Calpers in reducing premium costs, and an important American Spectator article by Fred Barnes entitled "Health Care Costs Are Going Down."

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

HOW TWIN CITIES EMPLOYERS ARE RESHAPING HEALTH CARE

(By Marion Torchia)

Last January, nine members of the Business Health Care Action Group, a coalition of employers in the Minneapolis-St. Paul metropolitan area, began offering their workers a new health plan. The coalition adopted a plan that operated as an integrated system of care because its members believed such a system had the greatest potential to deliver high-quality, cost-effective care.

This year, BHCAG's founding companies have just completed their first re-enrollment and are happy with the results. The per-employee costs are about 10% below the average cost of the HMO options offered previously, and costs have increased 4% to 5% in the past year, compared with average increases of 7% to 8% in the greater Minneapolis market, reports BHCAG's Executive Director Steve Wetzell. On average, employers are paying $2,900 per family and $1,200 per individual.

The plan, called Choice Plus, is a typical point-of-service plan, allowing enrollees to choose care from a network of participating providers and go outside the network for coverage at a lower reimbursement rate. But it is also unusual in many ways. The network is large and can therefore offer its enrollees a considerable degree of choice among providers. It is highly standardized—all participating companies have agreed to use a standard benefit design.

Technically, an ISC coordinates care provided by groups of doctors and hospitals and accepts financial risk for the population. Choice Plus borrows features of an ISC by using a primary gatekeeper physician as the coordinator for all care, financial incentives to improve the delivery of care and contain costs, and a range of continuous quality improvement techniques.

Choice Plus is a first step in the coalition's effort to reform health care by demonstrating that improved quality, increased provider competition, increased consumer responsibility, and enhanced efficiency of health care delivery are compatible goals. These goals can best be accomplished within an ISC, BHCAG members believe.

When Choice Plus was created, a statewide health care reform movement was under way, and the coalition members wanted to influence its outcome by creating their own health care financing and delivery system. "This is not just a purchasing activity. It's an effort to change the basic structure of health care through an ongoing dialogue

among payers, providers, and consumers," says Larry Schwanke, vice president for human resources of The Bemis Co. Inc., a packaging manufacturer.

Adds Dee Kemnitz, vice president of the Minneapolis-based Carlson Cos. Inc., "When the coalition's effort to get cost containment features incorporated into the state's health reform legislation was not successful, the companies decided to demonstrate that they could contain costs themselves." Carlson Cos., a hospitality services company that includes Radisson Hotels and TGI Friday's restaurants, has 5,300 covered lives in the Twin Cities area.

ASSESSING CHOICE PLUS

Benefits managers of participating companies say their employees are happy with the new plan. Paula Roe, vice president for compensation and benefits for Norwest, a nationwide financial services company headquartered in Minneapolis, says 70% of the bank's employees chose Choice Plus over the other alternatives the company offered, and this year's enrollment has increased to 87%. The company has 14,300 covered lives participating in Choice Plus.

Such numbers and the coalition's growth mean BHCAG now possesses sufficient purchasing power to exert a significant influence on the area's health care market. Now numbering 22 members, the coalition includes most of the major employers in the Twin Cities.

Collectively, the companies are responsible for some 250,000 covered lives, about 10% of the population of greater Minneapolis, Wetzell estimates. Enrollment in Choice Plus in 1994 is expected to be about 100,000, and it will continue to grow as member companies adopt to the plan.

In developing the network of providers, "The coalition's founders wanted to find a group of providers who were committed to conservative, cost effective medical practice and who were willing to engage in an ongoing dialogue with employers about health care delivery issues," says Schwanke. "They were convinced that efficient delivery of health care was achievable. They wanted to bring a greater degree of vertical integration to the health care system."

So the coalition considered the multispecialty group practices in the area because "these large groups have the administrative sophistication to support the development of integrated systems of care," says James L. Reinertsen, M.D., a rheumatologist with Healthsystem Minnesota, the parent organization of Park Nicollet Medical Center and Methodist Hospital. "They also have a capacity for collective action impossible among many small independent practices."

Early in 1992, BHCAG invited bidders to develop a health plan meeting their specifications. The winning bid came from a consortium that consisted of HealthPartners, an entity formed from two HMOs (Group Health and MedCenters) that had counted many of BHCAG's employees among their members; the Park Nicollet Medical Center; and the Mayo Clinic.

Careful to structure its arangements so members can retain their self-insured status under the Employee Retirement Income Security Act of 1974, BHCAG individual member companies signed a three-year contract with HealthPartners, which became the administrator of Choice Plus. Since they are not technically insurance plans, self-insured plans come under ERISA, which preempts state law. Such plans are thereby exempt from state regulation. Minnesota failed this summer to get an ERISA waiver, which would have allowed the state to tax self-funded plans.

FINANCIAL INCENTIVES

During 1993, the first year of operation, members companies paid physicians a fee-for-service. Though the coalition hopes to move away from fee-for-service, it chose this payment method during start-up because it needed to collect baseline information on the cost of treating patients, says Wetzell. This information can then be used to set rates and to quantify cost savings.

To meet its goal to change the way health care is delivered, BHCAG has devised a complex strategy of gain and loss sharing to influence providers' behavior. Under its contract, HealthPartners receives bonuses for efficiently accomplishing administrative functions such as claims adjudication, for containing the utilization of services, and for the quality of its guideline development and research activities. The physician groups also share the savings when their expenditures fall below a certain level.

This year, each clinic will be given a monthly budget for each enrollee. The budget limits will be different for each employer. The clinic will be liable for the part of costs it incurs in excess of the monthly budget limit. Catastrophic care, however, is not included in the risk-sharing arrangement.

Ultimately, BHCAG wants to create a series of risk adjustments—for patient characteristics and for local economic conditions—that will eliminate cost variations among clinics resulting from factors outside their control. It is considering using the ambulatory patient group patient classification system to adjust for the risk of treating costlier cases. (The APG system was developed by 3M Health Information Systems, Murray, Utah. It classifies patients according to the medical or surgical outpatient treatments they receive.) Eliminating all cost variations among medical groups may be impossible, however, Wetzell says. "If we can't scientifically adjust for all cost variations that do not reflect the efficiency of medical practice, we may consider using variable premiums and allow the employee to select a higher cost clinic and pay the difference."

Roe of Norwest, who serves on BHCAG's provider payment committee, says that much more work needs to be done to devise proper payment incentives for physicians. "Pure capitation is not the answer," she wants. "We need to reward physicians for their cognitive work, for the counseling they provide to patients, and for preventive services."

As far as hospitals are concerned, says Wetzell BHCAG members pay hospitals at per diem rates based on diagnostic-related groups. ERISA prevents self-insured companies from capitating payments to entities such as HealthPartners, which would, in turn, pay the hospitals.

Only for Healthsystem Minnesota, which owns a clinic (Park Nicollet Medical Center) and a hospital (Methodist Hospital), is BHCAG negotiating a single payment for physician and hospital care, explains Wetzell.

IMPLEMENTING CQI

As envisioned by BHCAG, integrated systems use practice guidelines as a basis for standardizing health care delivery, and engage in continuous quality improvement efforts based on outcomes information generated while delivering health care. Competing integrated systems, of which Choice Plus is the first, will be encouraged so that consumers could use objective data to choose among them.

Therefore, following the ISC model, BHCAG's contract with HealthPartners commits both employers and providers to an active continuous quality improvement program based on best practice guidelines developed by the clinical professionals, the monitoring of provider performance based on data gathered in the course of practice, and on outcomes research. This effort is coordinated through a separate non-profit entity, the Institute for Clinical Systems Integration.

ICSI Chairman Reinertsen explains that the institute, which is funded by BHCAG at a level of approximately $225,000 a year—10% of the institute's budget—facilitates development of guidelines, analyzes data the providers submit on the costs and outcomes of treatment, and reports the information to providers and to member companies. In effect, adds Larry Schwanke, "The Institute is the Coalition's R&D arm."

The practice guidelines are the key to the process, says Reinertsen. Sixteen sets were distributed for pilot testing in July, and all clinics received them in November.

While clinical guidelines, as expressions of the standard of good medical practice, should be applicable universally, the clinics are encouraged to develop their own implementation protocols, adds Kemnitz. "Our relationship with the providers is built on a high level of trust," she says. "People tend to support policies they had a share in creating."

To maintain this climate of trust and cooperation, explains Reinertsen, the plan's information handling policy is designed to "drive out fear." No information will be released identifying an individual physician, practice, or employer without explicit permission. The coalition also has rejected as counterproductive the idea of publishing rankings of providers' performance. Any reports with physician-specific data remain inside the clinics. Companies will receive information on their own enrollees' costs and utilization patterns compared with the group. And providers will be entrusted with the responsibility of internally identifying outliers.

To support CQI, ICSI has a variety of projects under way, says Wetzell. The institute is planning a survey of enrollees' health status, so that each company can see whether its employees' health is improving. It has developed a prototype automated medical record. And it has research projects planned on the cost effectiveness of several new technologies used in the clinics.

FUTURE PLANS

Now the Choice Plus has completed its first year, the coalition must decide whether to allow the network to add more companies and accept more enrollees, or whether BHCAG should begin developing a competing ISC, Wetzell says. Choice Plus has already expanded geographically, accommodating employers in Rochester, Minn., 90 miles south of Minneapolis, via a contract with the Mayo Clinic's primary care group.

Rather than allow the network to grow indefinitely, BHCAG may prefer to develop competing provider networks, using essentially the same benefit structure, Wetzell says. To do so would promote competition and allow for a greater degree of consumer choice. Not coincidentally, it also would be more compatible with the managed competition proposals being considered. "What our board decides," say Wetzell, "will depend to some extend on what decisions are made in D.C."

Meanwhile, reports Wetzell, BHCAG's board of directors has taken a significant

step to counter criticism that coalitions of large employers do not contain health costs but simply shift them to smaller companies that lack buying power. It has decided to offer an insured product for small businesses, using community rating within the risk pool of the businesses that choose to participate.

The small group plan's structure will be significantly different from that of Choice Plus, since it will be subject to state regulation and must include all of state-mandated benefits. Wetzell also expects that the project will face problems of adverse selection, since competitors will no doubt market lower priced products to attract the companies' healthier employees.

IS IT TRANSPORTABLE?

Although the BHCAG views its project as proof that provider competition, quality of care, and cost efficiency are compatible, Wetzell concedes that the Twin Cities is an ideal location for the experiment. It has several distinct advantages: a physician community already used to standardized practice in large multispecialty groups; managed care penetration on the order of 70% to 80% hospital bed capacity already reduced through mergers and consolidations in the 1970s and 1980s; and a population healthier, more prosperous, and more homogeneous than the national average.

Nevertheless, Wetzell believes the Choice model is transportable, though elsewhere it may first be necessary to lay the groundwork of integrated systems. He believes the effort is definitely worthwhile. "How can you argue that a piece-rate system of health care, with dispersed providers and primitive communication among them, does a better job than a vertically integrated health care system?

CALPERS PROVES INSURANCE COSTS CAN BE REDUCED

(By Marilyn Chase and Carrie Dolan)

After four months of negotiations with 18 health-maintenance organizations, one of the nation's largest group purchasers of health insurance has secured an average 1.1% premium reduction for $920,000 public employees and family members.

The California Public Employees Retirement System (Calpers) won the one-year contracts yesterday. The process and its result may be seen as a model for Clinton health-care reform: A large public health-care purchasing agent squeezing even low-cost providers, like HMOs, into making extra savings. But Calpers's success may also show that an elaborate government bureaucracy isn't needed to lower health-care costs.

The reduction "shows managed competition can bring down the cost of health care," particularly in areas like California where HMO's are well-developed, said Alain C. Enthove, a professor at Stanford University's Graduate School of Business and a Calpers advisory committee member. "Competition works, not compulsion," he said.

Calpers said it has kept premium increases over the past three years to 6.4% compared to the national average of 30.1%. For the 1994-95 contract year, when the rate reduction takes effect, Calpers said its savings will be about $321 million. While not all the contracts met its demand for a 5% rate cut, Calpers said it hopes to achieve that goal in the next several years.

Calpers—once known as a languid and not particularly choosy buyer of health care—has recast itself as a tiger in recent years. In 1991, after California's budget crises, Calpers froze its contributions to health care, making its HMOs responsible for cost variations.

Last October, Calpers demanded that its 18 HMOs cut health-care premiums 5% effective Aug. 1, the start of the 1994-95 contract year. It called the demand "modest," given California's stagnant economy. But that demand followed two years of strict cost containment. So Calpers' demand left some HMOs a little testy.

"They're a 900-pound gorilla, and they know it," grumbled one HMO negotiator who asked not to be identified. "They don't have to be real sophisticated. They know the volume they represent. Bottom line is, they are holding most of the cards."

About a third of the HMOs doing business with Calpers offered premium reductions, said Tom Elkin, the agency's assistant executive officer. Others—with lower base rates or older, sicker patient populations—asked for "modest, single-digit" premium rises, while a few argued for double-digit increases, he said. The latter group got little sympathy.

"We're out of cash," Mr. Elkin said he told them. "And we can't entertain increases of that magnitude. We'd like some sign that you can, in fact, manage care."

Among the key issues, Mr. Elkin said, were the price of prescription drugs, surgeries and administrative expenses—including profit margins and consultants' fees.

As an example, he noted, "There's a 30% difference between what one plan is paying for drugs and another," Mr. Elkin told the HMOs this can be corrected by buying in bulk and changing vendors, then passing on the savings.

"If they'd succeeded in pushing us to the absolute wall, we'd have said no. We're not in the business of charity. We'd have gone without their business," said one health-care officer. "But the ultimatum never occurred."

Mr. Elkin conceded that negotiations "can get a little lively. If the expectation is much higher than we can pay, it gets a little tense. On average, though, we get good cooperation." And in the end, Calpers relented on the 5% rollback demand, as many had predicted.

Mr. Elkin said Calpers was impressed by the efforts of Kaiser Permanente, the Oakland, Calif., HMO that cares for 320,000 Calpers subscribers. A year ago, Kaiser's northern California region considered increasing its premiums 6% for all its customers, including Calpers. Instead, it looked hard at results of its cost-cutting programs and raised premiums an average of 2%.

Kaiser spokesman Jerry Fleming said it wasn't simply prodding by Calpers that led to Kaiser's change of heart. "We're doing better with our cost targets than we'd budgeted for," he said.

Kaiser's most potent cost controls are simple things: lowering hospital inpatient rates, substituting outpatient surgeries when possible and aggressively keeping Kaiser members out of more expensive, non-Kaiser institutions.

"At the same time, the satisfaction of our members was going up, so we knew [these savings] weren't because we were skimping on care," he added.

Other HMOs said they cracked down on high diagnostic test prices charged by certain hospitals trying to offset losses on inpatient business.

HMOs said they're also trying to limit the budget havoc wrought when hospitals buy costly new psychiatric drugs.

"They're a significant piece of the total pharmaceutical cost, and the trend has been very steep," said one HMO officer, adding that his group plans more seminars on cost-effective alternative drugs.

HEALTH CARE COSTS ARE GOING DOWN

(By Fred Barnes)

President Clinton has a story and he's sticking to it. "Rampant medical inflation," he declared last September in unveiling his health-care plan, "is eating away at our wages, our savings, our investment capital, our ability to create new jobs in the private sector and this public Treasury." A month later, he sent the plan to Congress and said ominously: "If we do nothing, almost one in every five dollars spent by Americans will go to health care by the end of the decade." Don't sugarcoat it, Clinton was advised just before Christmas by William Cox, vice president of the Catholic Health Association. It's worse than that. "Sometime in the next thirteen years we're going to be spending 22 to 25 percent of our income on health care," Cox said. At that rate, "if you want to go out for dinner and a movie, you're going to have to check into a hospital." Clinton chuckled at the joke. "That's pretty good!" he said.

It was hogwash. There's a new direction in health-care costs—down, down, down. No, spending isn't actually declining. That will never happen in a nation with rapid population growth and lifesaving but costly advances in medical science. But the rate of growth in medical spending is dropping precipitously. Every month brings a fresh decrease in what the U.S. Labor Department calls "price inflation for consumer medical goods and services." It was 5.8 percent for the year ending last August, 5.7 percent for October, 5.5 percent for November. That's still nearly twice the rate of general inflation, but a lot better than 1989 (8.5 percent) or 1990 (9.6 percent). In fact, the 5.5 percent increase is the lowest since January 1974. Better yet, the 4.9 percent rise in the third quarter of 1993 was the lowest quarterly hike since 1973. And it's a good bet medical inflation will fall further.

Don't thank Bill and Hillary Clinton. The downward trend is the product of a revolution in health-care financing caused by market forces, not government. It started several years before the Clintons arrived in Washington and began harping on "skyrocketing" (Hillary's favorite adjective) medical cost increases. It was triggered by businesses and consumers confronted in the late 1980s with annual health benefit increases of up to 20 percent or more. Corporate health plans cover roughly 140 million Americans. Something had to give, and it has. For the first time in years, the percentage of payroll costs devoted to health and dental insurance dropped from 8.4 percent in 1991 to 8.1 percent in 1992, according to a U.S. Chamber of Commerce study of 1,100 firms.

Such signs of downward pressure on health-care costs are largely the result of two changes. One is the willingness of businesses—especially insurance companies and firms that self-insure—to challenge medical bills. Dan Clark, a benefits consultant in Seattle for Howard Johnson and Co., recently advised a client whose employee had been murdered to balk at a $75,000 hospital bill (the victim had lingered near death for five days). The mere threat of hiring a firm that aggressively scrutinizes medical bills prompted the hospital to slash the bill by $15,000. This process, once rare, is now routine. "The thing the large employer did early on, the small employer is now doing," says Clark. One result: growth of the total cost of private health insurance premiums decreased from 18.6 percent in 1988 to 12.1 percent in 1991 and 10.1 percent in 1992, the consulting firm Foster Higgins found.

More important, companies are steering employees away from fee-for-service medi-

cine (with each doctor visit billed) and into managed care particularly health maintenance organizations (doctor groups charging an annual fee per patient). This lowers insurance payments. HMO membership has doubled since 1986, from 25 million people to an expected 50 million this year. Not only are HMOs less expensive than fee-for-service medicine, their premium hikes have fallen for five straight years, from 16 percent in 1990 to 5.6 percent in 1994. A 1993 study concluded that if all Americans went to HMOs the 19 percent chunk of GDP projected for health care in 2000 would shrink to 15 percent. Then there are "preferred provider organizations" (PPOs), networks of doctors who agree to discounted fees. Clark surveyed fifteen Seattle-area companies at random recently and found every one was part of a PPO network with cut-rate fees. One result of the surge in managed care: fewer patients hospitalized and a decline in the growth of hospital expenses nationally, from 10.2 percent in 1992 to 8.1 percent in 1993.

What's striking about the revolution in health costs is the absence of government. "This revolution has been driven by frustrated employers," says Michael Bromberg, executive director of the Federation of American Health Systems. "They've forced the insurance industry to change from an indemnity industry to a managed-care industry. It's all happened without legislation." The real question, he adds, is whether Washington "will accelerate that trend or screw it up."

Don't get your hopes up. While the private sector has begun to get a grip, the federal government allows its health-care programs to roar out of control. "Medicare and Medicaid have tripled since 1982," Clinton correctly told an entitlements summit in Bryn Mawr, Pennsylvania, in December. Medicare spending jumped 12 percent in 1992. Medicaid is expected to grow 16.6 percent in 1993. That's just at the federal level. State outlays for Medicaid rose 30 percent from 1991 to 1992. By 1996, states will spend more on Medicaid than on education.

If you suspect the cost revolution in the private sector undermines health-care reform, you're right. "There's a torpedo heading for the great ship health-care reform," says Democratic Senator Bob Kerrey of Nebraska. By mid-1994, he says, HMO cost increases will have dropped to the rate of inflation (about 3 percent) and non-HMO price hikes will be well under twice the inflation rate. Numbers like those alarm the Clinton administration, since they knock out the overarching rationale for Clinton's sweeping plan. "They can't let the public think this has gone very far, because it takes the steam out of what they want to do," insists Paul Elwood, the respected health-care expert at the Jackson Hole Group and father of the managed care movement. (Elwood's son David, by the way, is an assistant secretary of health and human services in the Clinton administration. As a Harvard professor, he came up with the idea of cutting off welfare recipients after two years on the dole.)

The administration and its allies are desperately seeking to minimize the new trend, particularly because it's beginning to draw press attention (from Business Week to Fortune to Time to columnists James K. Glassman and George Will). Clinton offered this putdown: "A couple of times before when an administration's made a serious effort at health-care cost control, health-care costs have moderated for a year or so, then they start up again." He cited the Nixon administration as an example. HHS Secretary Donna Shalala echoes Clinton. "We clearly have had some experience," she said in December. "Every time a president starts talking about health-care reform, there has been some moderation, probably a mixture of politics and economics going on." Buttering up Clinton at Bryn Mawr, she added, "Certainly there has been some moderation under your administration." She credited the "Hillary factor."

Clinton and Shalala are dead wrong. Their implication, of course, is that insurance companies, doctors, and hospitals hold down cost increases when Washington is threatening to impose controls, then jack up prices wantonly once the crisis passes. This hasn't happened. National health-care expenditures have risen less in some years than others, but for economic, not political, reasons. When President Nixon put on price controls, the rise abated. When controls were lifted, its rapid climb resumed. Chatter about reform hasn't been a factor. Consider 1986, the year national health expenditures rose by the lowest percentage (7.6) since 1961. Was President Reagan jawboning the health-care industry in 1986? Get serious.

The Washington Post suggested in a December editorial that health-care providers are purposely defusing the crisis atmosphere as Clinton's legislation moves through Congress. This makes superficial sense. "Nobody wants to invite special attention while restrictions and ceilings are being written into the bill," the Post said. True, but nobody wants an artificially low floor for health-care prices as price controls are being enacted, either. This means health companies have an incentive to get large price increases now, because they won't be able to impose them later under the Clinton plan.

Contrary to the Administration's line, the current dip in health cost increases reflects what Paul Elwood calls "a fundamental and permanent change." It's structural, not temporary. There are, Elwood says, "very basic differences in provider and purchaser behavior." Take HMOs, which didn't exist on any scale before the mid-eighties. They've gained from experience, becoming leaner and more cost-effective as they've had to compete for customers. Many HMOs participating in the Federal Employees Health Benefits Program, which covers nine million federal workers and their dependents, offered dramatically reduced fees for 1994. That's actual cuts, not merely cuts in the growth rate. For example, U.S. Healthcare slashed the employee payment for its "high family" plan by 29 percent. Overall, the 300-plus plans competing for the business of federal bureaucrats this year averaged fee hikes of 3 percent.

What's been done in the private sector? The examples are many and spectacular. But first, a question: Why hasn't all this free-market cost-trimming been reflected in the government's projections on national health expenditures? The Congressional Budget Office last October predicted health spending at 18.1 percent of GDP in 2000, down from its June projection of 18.9 percent, but still quite high. Well, there's a simple explanation: the government is operating off of old numbers. The most recent year for which it has calculated national health expenditures is 1991. So that's its baseline for projections. But in 1991, the revolution in private health-care financing was just getting off the ground. Its full impact hadn't been felt.

That was the year Digital Equipment Corporation began offering a new series of health plans. Employees can go to an HMO that's part of the company's program or outside the HMO network. But they pay a bigger share of their medical expenses if they go outside. By 1993, 70 percent of Digital's employees were enrolled in HMOs, up from 30 percent in 1990. And the yearly increase in HMO fees paid by the company has fallen from 12 to 14 percent in 1992 to 9 percent in 1993 and 4.5 percent this year. It paid a higher rate for fee-for-service insurance, but fewer employees chose that option.

It wasn't until 1992 that International Paper, whose medical costs had been rising at better than 20 percent a year, gave its employees an incentive to be cost-conscious in buying health care. It boosted the level at which the company would pay 100 percent of expenses and began informing employees how much it would pay for each medical procedure and how much physicians in their area charge. The idea was to encourage employees to shop around. The firm has also shown employees a video on how to negotiate lower fees with recalcitrant doctors. One emboldened employee got $400 shaved off the cost of his knee operation, according to the Wall Street Journal. Overall, the firm's annual increases in medical costs have fallen to 9 percent—not a breathtaking improvement, but good for starters.

IBM has produced even more impressive savings from its mental health program. It negotiated fees with a network of 20,000 providers nationwide and cut its spending in half, saving $30 million annually. Four corporations in Cincinnati—Procter & Gamble, Kroger, General Electric, and Cincinnati Bell—banded together to prod the city's fourteen hospitals to reduce wide disparities in treatment fees and hospital stays. This generated a 10 percent drop in the average hospital stay in 1992 from 1991 and a 5 percent decrease in the cost per case (an average saving per hospital admission of $350). After health insurance premiums soared 30 percent in 1990, Forbes magazine gave its employees an incentive to avoid filing claims for routine medical care. They'd be refunded twice the difference between their major-medical and dental claims and $500. The results are eye-popping. In 1992 claims fell by 23 percent and the magazine's insurer, CIGNA, gave it a $200,000 rebate. Premiums were then cut 17.6 percent for major-medical and 29.7 percent for dental. In 1993, Forbes boosted the refund to twice the difference between their claims and $600.

I could go on and on, citing both companies and health-care organizations that have increased efficiency and cut costs while maintaining quality. (The Washington Business Group on Health has published such a list, in a booklet called "The Health Reform Challenge: Employers Lead the Way.") It's not the private sector but the federal government that has failed to curb exploding costs.

There's an obvious solution here: extend the managed-care revolution to Medicare and Medicaid. This, rather than reforming the entire health-care system; should be Clinton's first priority. Billions could be saved simply by sending Medicaid patients to HMOs, a step implemented thus far only in Arizona, and billions more by encouraging Medicare beneficiaries to try managed care. The savings in Arizona haven't been epic—6 percent less than traditional Medicaid costs—but with its large number of retirees the state had start-up problems other states won't face. Elwood is convinced that, through HMOs, Medicaid costs can be stabilized at the level of general inflation and patients can get better care.

Medicare is trickier. The Clinton administration backed away from steering the Medicare elderly into HMOs after a study found

the government was losing money by doing so. Only 2.5 million of the 36 million Medicare beneficiaries had signed up for HMOs, and these tended to be the younger, healthier ones. The government was paying HMOs too much for their care. The answer is either to pay HMOs less or get more Medicare patients, including the older, less healthy ones who need more care, enrolled. Or both.

Bringing managed care to government programs is the brainchild of David Harrington, vice president of Chicago's Grant Hospital and former chief strategic planner for Aetna Insurance. "Energy and creativity are already producing results in the private market," he told columnist Morton Kondracke. They can do the same with Medicaid and Medicare. More broadly, Harrington insists, market forces, if left alone, will gradually push down insurance costs far enough so that small employers can afford to cover workers. And if the government chooses to let the uninsured join HMOs, perhaps with subsidies, we'd have universal coverage. Of course, there would still be medical inflation. Heavy demand for care, the intensive brand of medicine practiced in the United States, pharmaceutical research, technological innovation, union contracts with lavish health benefits, a growing and aging population—these guarantee some inflation. But it would stay near the general rate of inflation.

One thing stands in the way: the Clinton administration. Its health-care plan would remove the force driving the downward trend in health costs—businesses that insure employees—from the game. Under Clinton's scheme, companies would pay a set amount to a "health alliance" and have no further involvement. They would have no financial incentive to curb the health costs of their employees. Their bottom line wouldn't be affected if workers rang up heavy medical expenses.

In fact, Clinton's scheme would spur individuals to do exactly that. And this would drive up medical inflation, not control it. Clinton's plan, as he put it at a White House meeting in January, would guarantee "comprehensive benefits that can never be taken away." The benefits—including thirty psychotherapy sessions a year, treatment for drug abuse and alcoholism, eye exams, and so on—would be much broader than most Americans now have. My guess is folks would take advantage, as they have in Germany and Japan (where doctor visits occur three to six times more often than here). This would increase national health expenditures. Or, if a cap were put on health-care spending, inflation would take another form, waiting lines for medical care, as it has in Canada.

Don't count on preventive care, Hillary's favorite solution, to hold down costs either. True, patients would get more preventive care, because the Clinton plan includes it, free. But there's no evidence this would lead to lower medical costs later as a result of early detection. More likely, it would create a large increase in costs—just to pay for the burst of preventive care. And, sorry to say, more preventive care will have only a marginal impact on the serious diseases like cancer and heart trouble that generate huge health-care costs.

In his first chat with White House staffers in 1994, the president set the stakes very high in the fight over health-care reform. It's a question, he said, of "whether we are going to be able to maintain a health-care system and still have the money that we need to invest in a growing and highly competitive global economy so that America will be strong." Clinton has the right question, but the wrong answer. Instead of accelerating the revolution in health-care financing that has contained costs while protecting the best medical system in the world, he would end it. Not smart.

DIPLOMACY'S GUNBOAT

Mr. WARNER. Mr. President, almost every evening on the news we see the U.S. military protecting American interests around the globe. More often than not these American military forces include naval forces.

A year ago, it was Navy carrier-based aircraft that were keeping the pressure on Saddam Hussein in Iraq. A few months later it was an American aircraft carrier sent to the coast of Somalia to provide protection to American and other U.N. peacekeeping troops. That same aircraft carrier also operated off the coast of the former Yugoslavia, ready to provide military muscle to back up diplomatic efforts to achieve a ceasefire in war-torn Bosnia.

For more than 50 years, America's interests have been served by aircraft carrier battle groups deployed around the globe.

I am pleased that President Clinton has included a request for funds to build a new aircraft carrier in this years' defense budget. The President and the Secretary of Defense understand the military and diplomatic necessity of maintaining strong naval power to protect America's interests into the next century.

This week's edition of U.S. News and World Report contains a cover story on one U.S. aircraft carrier and follows the ship through its most recent deployment. The article is entitled: "The Big Mean War Machine" and is subtitled: "Diplomacy's Gunboat."

Mr. President, this article provides great insight not only into the military and diplomatic capabilities of an aircraft carrier, but also into the tremendous dedication and commitment of the men and women who serve aboard our Navy ships.

I urge my colleagues to read this article and I ask unanimous consent that it be printed in full at this point in the RECORD.

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

DIPLOMACY'S GUNBOAT

(By Bruce B. Auster)

AUGUST 10, 1993—GOODBYE

Petty Officer José Mora and his wife, Loretta, finish a late dinner at McDonald's and slowly walk the few blocks to the pier where his floodlit ship is docked. He hugs her, feeling her swollen belly pressed up against him. They part, and he begins walking toward the towering ship, waving his pass at the sentry and crossing over to the other side of the chain-link fence separating sailors and their families. He tries to look back over his shoulder but his sea bag blocks his view, so he keeps on. His wife—eight months pregnant, her hands resting on her stomach, fingers interlocked—watches and then starts walking, alone, back to the car.

The next morning, the aircraft carrier USS America pushes away from the Norfolk pier, turns up Hampton Roads amid a flotilla of small craft that have come out to see it depart, passes the Chesapeake Bay Bridge-Tunnel and sets out across the Atlantic. The ship carries a crew of 4,700 sailors, including 20-year-old petty Officer 3rd Class Mora, who services the ship's 14 F-14A fighters. During the next six months, the America's pilots will crisscross the skies over Bosnia, its crew will pass through the Suez Canal en route to Somalia, and its planes will enforce the United Nations no-fly zone over southern Iraq. For different intervals during this 39,982-mile cruise, the America also will play host to a U.S. News reporter, photographer and graphic artist, who in the following pages examine one of the most powerful warships ever built, its crew and its changing missions.

For 50 years, the United States has counted on big carriers like the America to show the flag, to respond to crises and, until recently, to keep the Soviet Navy at bay. Carrier-based aircraft bombed Korea, Vietnam, Lebanon, Libya, and Iraq. Helicopters launched from the USS Nimitz tried to rescue the U.S. hostages in Iran; fighters from the Saratoga, which now patrols the Balkan skies, helped nab the terrorists who hijacked the cruise ship Achilles Lauro in 1985.

War machine

To an adversary, an aircraft carrier, its seven-story island protruding from the flight deck that sits 65 feet above the water, is an imposing offshore city that can appear overnight. Its 70-plane air wing is equipped to kill in many different ways: A single A-6E Intruder, small enough to take off and land on a ship, can carry 9 tons of bombs—more than twice as much as World War II B-17s, the Flying fortresses, could carry—and deliver them to a target 500 miles away without refueling. F-14 Tomcats can fly 600 miles, then shoot down enemy planes 60 miles away with their Phoenix missiles. The airborne jammers aboard an EA-6B Prowler can wreak electronic havoc on enemy command centers and communications, turning television screens to snow.

Aegis guided-missile cruisers, part of a carrier battle group that also includes attack submarines, destroyers and supply ships, have sophisticated air defense radars, antiaircraft missiles and 122 tubes capable of launching unmanned Tomahawk cruise missiles. "It has the most awesome war-making potential in any one place," says Rear Adm. Arthur Cebrowski, the commander of the America's 14-ship task force. "And we're ready to fight on arrival."

New missions

All this firepower does not come cheap: A new carrier costs taxpayers $4.4 billion; its operating costs are $440 million a year. And with the United States no longer facing a global rival, defense spending declining and the nation more concerned with foreign markets than with foreign militaries, the Navy is scrambling to find new roles for its carriers. In order to keep 12 of them in service, the Navy is cutting its force of surface ships by 65 through 1999, letting go about 100,000 sailors and changing the way it uses aircraft carriers. The blue-water Navy that once prepared to fight the Soviets on the high seas now sends its carriers along coastlines and into confined spaces such as the Persian Gulf and Adriatic Sea.

The Navy's efforts to adapt to new circumstances will produce a number of firsts on this cruise of the America: It is the first carrier to sail with a three-ship Marine Expeditionary Unit, or MEU, as part of its 14-ship battle group; it is carrying more than 200 marines; and before it returns to Norfolk it will, mostly by happenstance, have become the first carrier to bring women into a combat area.

But on this August day in Norfolk, the sailors, aviators and marines aboard the America are not thinking about politics or military strategy. They know that while they are gone, babies will be born, parents will die, Christmas and Thanksgiving will come and go, cars will break down and wives will give up on Navy life and leave their absent husbands. But as sailors have always done, the America's crewmen are turning their backs on the land to face life at sea.

It is a hard life for the officers and aviators whose work revolves around the America's flight deck and a harder one for the crew members who will spend most of the next six months below decks, away not only from home but also from fresh air and sunlight. With its 1,048-foot length and 80,000-ton displacement, the America is bigger than the average oceangoing cruise ship, but there are no portholes and it is claustrophobic.

Below the open, sunlit expanse of the 4½-acre flight deck is a small city: Most sailors eat, work and sleep on one of the ship's 10 decks, surrounded by white-painted steam pipes, water lines and air ducts that run along bulkheads and hang above desks and beds. Only two passageways run the length of the ship; 250 bulkheads, the walls that form the ship's skeleton, divide the America into the cramped, watertight, fireproof compartments that are its offices, mess decks, bathrooms and berths. Even the huge hangar bay can be partitioned by steel doors that are so big they echo throughout the ship when they close.

The ship's sailors and aviators divide their lives into compartments, too. It is their way of passing the months at sea, far from home. Pilots must block out fear and land a plane with one engine. Fathers who miss their families and sailors whose wives move and leave no forwarding address must forget about home. A month before the cruise, says Capt. Bill Deaver, the America's air wing commander, he begins distancing himself from his family, immersing himself in flying and shipboard life. "You start building the wall, one brick a day," he says.

Thoughts of home are reserved for bedtime: In cramped berthing spaces throughout the America, sailors, aviators and marines tape photos of their families near their pillows. Before they turn out the light, those pictures are the last thing they see.

Navy families back home also must cope. Two days before Chaplain Gil Gibson set sail in August, his wife found a lump in her breast. She didn't tell him about it until after he was at sea and the lump had been declared benign.

SEPTEMBER 13, 1993—LIFE AT SEA

As they go about shrinking the Navy and the Marine Corps, Pentagon officials are mindful of the morale and well-being of sailors, marines and aviators. The Navy and Marines fought then Secretary of Defense Les Aspin's proposal to cut the Navy from 12 to 10 carrier task forces and Marine troop levels from 177,000 to 159,000: Fewer ships and people would mean sea tours longer than six months for the remaining ships and people. "If we go to eight-months cruises, we'll lose a lot of people," says Lt. Cmdr. Brian Scott, an aviator on the America.

Slimming down

The Navy insists that peacetime deployments will be held to six months. "Forces won't stay ready if you deploy them too much," says Adm. Jeremy Boorda, NATO's southern forces commander in Europe, who came up through the enlisted ranks to earn his four stars and is now a leading candidate for the Navy's top job, chief of naval operations. "Six months is an arduous amount of duty; it's a long time away from home if you have a family." Aspin was convinced.

Even so, there is not room for everyone in the new Navy. On this September day, Lt. Jerry Leekey, an F-14 pilot with the America's Diamondback squadron, is waiting to learn whether a personnel board will let him stay in the Navy. "This is the best possible job, even with all the time spent away from my wife," the lanky, freckled redhead says after a morning of dogfighting with an F/A-18 "I signed up to race around at Mach 1."

Although he serves on active duty, Lieutenant Leekey received his commission through the Naval Reserve rather than the Naval Academy or the Naval Reserve Officers Training Corps. It cost the Navy $800,000 to teach him to fly his Mach 2 fighter, but now it is letting go its active-duty reservists. Cmdr. Steven Collins, Lieutenant Leekey's squadron commander, has orchestrated a letter-writing campaign, endorsed by the task force commander, to retain his young officer. Leekey can only fly and hope.

Below decks

For a pilot, getting up in the morning means another day to break the sound barrier. For most of the America's crew, however, especially the 18-year-old enlisted sailors, the shrill whistle of the boatswain's pipe that announces reveille each morning at 6 o'clock ushers in another day of drudgery. Time stands still in the 120-degree heat of the engine rooms. Seaman Ryan Hall sits on a bucket under an air vent for two four-hour shifts a day, struggling to stay awake as he monitors a generator in one of the engineering spaces, where oil-fired boilers make steam to turn the shaft of one of the ship's four 69,000-pound propellers.

The America needs constant attention. Commissioned in 1965, it is showing its age. A month before leaving Norfolk, a senior enlisted crew member complained to his congressman: The ship was operating on only two of its six electric generators, without radar and unable to pump fuel. This would be its third six-month cruise in three years, and without the standard 18 months at home for repairs, salt water and full steaming had taken their toll.

Seaman Hall, and the men who spend three months at a stretch cleaning clogged toilets or working mess duty, say the cruise is like the movie *Groundhog Day*. Each morning begins the same day all over again. A sailor can let a week pass without climbing the steep ladders to the flight deck and squinting at the sun. Sometimes the menu serves as a calendar: Pizza for dinner means it must be Friday.

Crewmen learn to beat the boredom. Petty Officer 1st Class James "Elvis" Alexander doesn't always wait for reveille to get up in the morning; with 20 showers in his 296-man berthing, he sometimes rises at 5 to beat the lines. After working 16 hours in the ship's jet engine shop, Alexander tunes his guitar and props open his songbook. The Memphis native, who grew up 6 miles from Graceland and worked as an Elvis impersonator—he even kept his long sideburns as a Navy recruiter—leads a bluegrass trio with fiddle and banjo.

Most nights they make music on the ship's fantail, surrounded by finicky, foil-wrapped jet engines waiting to be repaired. Here, at the stern, the musicians can look at the ship's wake and see where they've been; in the daytime when the carrier steams at full power, the wake lingers all the way to the horizon. As shipmates gather, Petty Officer Alexander sings of a journey by train: "Engineer reach up and pull the whistle, Let me hear that lonesome sound. For it blends with the feeling that's in me, The one I love has turned me down."

At the far end of the America's wake, in Virginia Beach, Marita Cheney is lonesome, too. She is showing her two children a videotape before bed, one she made of her husband, Eric, a bombardier and navigator with the America's A-6E Intruder bomber squadron, reading bedtime stories to Michael, who is almost 3, and Kyle, nearly 1. "They love to watch Eric," she says. In the past year, Lieutenant Cheney has spent a total of 43 days at home. "The boys are growing," he says. "When I come back from this six monther, I'll be nothing but a picture."

In the Cheneys' family room, a chain of rings made from construction paper stretches around three walls. Every night, the children take down one link, shrinking the chain and getting that much nearer to the day their daddy comes home. "It gives the kids a concept of time, an end point," says Marita. But gimmicks that work for the children don't help their mother. "When he left, I came home and cried and cried and cried. It all of a sudden hit me. And since he's an aviator, you think the worst can happen," she says. "You have to put it in the back of your mind or you'd go crazy."

OCTOBER 18, 1993—MARINES

Eleven days ago, on October 7, Marine Col. Jan Huly was awakened by a telephone call at 4:30 a.m. in his stateroom aboard the helicopter carrier Guadalcanal. President Clinton had decided to reinforce U.S. forces in Somalia after the failed raid in Mogadishu that left 18 Army Rangers dead, and the Guadalcanal had been ordered to leave the America and speed south from the Adriatic through the Suez Canal to Mogadishu.

The marines had crossed the Atlantic in August as part of the America Joint Task Group—an early test of an effort to repackage U.S. military might, mixing and matching the capabilities of carriers, marines, Army helicopters and Ranger units and even U.S.-based air forces. The America had left Norfolk with some 235 marines and their four CH-46 Sea Knight helicopters in place of three aircraft squadrons.

The marines ordinarily sail with five ships of their own, but this time they had left two ships and their equipment behind at Camp Lejeune, in North Carolina. In exchange, Huly had been promised that his marines would have air support from the America.

But integrating the carrier's and the marines' missions had proved difficult. It had been hard to fit Marine helicopter training into the carrier's busy flight schedule: The marines' CH-46s had to be launched from the carrier's landing area, and a breakdown could shut down Navy flight operations for precious minutes. Some Marine missions, such as the rescue of a downed pilot, could not be launched from the carrier because the America did not carry the right mix of helicopters. Finally, says Bravo Company 1st Sgt. George Mason, a carrier typically operates too far from shore, so the marines and their helicopters would have had to leapfrog to shore via other ships.

Now, arriving off the coast of Mogadishu without the America, Colonel Huly is having

fresh doubts about the Joint Task Group concept. As he ponders the prospect of leading his men into war-torn Mogadishu, Colonel Huly misses the two ships he left behind. His battalion is without many of its wheeled and tracked vehicles, it is short of attack helicopters and half its artillery pieces are back in North Carolina.

Sharks in the water

But the ship Colonel Huly misses most is the one that would be carrying his air-cushioned landing craft, or LCACs, which can drive onto a beach and unload men and equipment. Somalia's beaches are very shallow, so the landing craft the marines have brought will bottom out 200 yards from shore, forcing the men to wade through 3-foot-deep water. And as Huly's staff scout the coastline for amphibious landing points, they discover that the Russians once operated a slaughterhouse along Somalia's coast and dumped carcasses in the water. The area is shark infested. "We are going to be running around in rubber boats and wading through all this," says Huly.

As Huly's dilemma suggests, the shrinking U.S. military is facing a choice: It can either send smaller, less capable units abroad or deploy larger units less often. "We're going to have fewer forces, less money," says Huly. "But over here where you're getting ready to go into harm's way, whatever you have is not enough. You always want more."

Adm. Paul David Miller, the architect of the Joint Force Packages at the U.S. Atlantic Command in Norfolk, says the America Joint Task Group is just a "steppingstone." The real test, he says, will come later this year, when another Joint Task Group, this one headed by the carrier Dwight D. Eisenhower, will sail. Admiral Miller will propose that for the first time since World War II, the United States not keep a carrier in the Mediterranean. Instead, the carrier and a Marine Expeditionary Unit may sail separately.

The Eisenhower may precede the marines by as much as two months. After six months, when the carrier is ready to head home, the marines may remain. Admiral Miller proposes that the marines sail with an attack submarine, armed with Tomahawk cruise missiles, and an Aegis cruiser; with its sophisticated command and control systems, to provide them with added firepower after the Eisenhower departs.

DECEMBER 13, 1993—LIBERTY

After 47 days at sea, the F-14 Diamondback pilots from the America, fresh from flying missions and taking cold Navy showers, are not about to go ashore and take a tour. Traditionally, at a liberty port, squadrons set up an "admin," a home base ashore, where fliers can spend nights away from the ship. The Tailhook sexual harassment scandal has tamed aviator admins. So when they arrive in Tel Aviv, the Diamondbacks find a hotel through the U.S. Embassy. An embassy staffer takes the squadron representative to a small hotel nearby; 20 guys lay out $50 each and the owner gives them an entire six-room floor.

But the owner fails to tell the night manager about the new guests. Early one morning, after the last of the pilots roll in at 5 a.m., the night manager is appalled by what she finds in one room: clothes and bottles strewn everywhere, a half-dozen junior officers sprawled in chairs and beds. She protests to the embassy, but an official there sides with the fighter pilots. "You don't understand," he tells the night manager. "These guys are just like a rock band."

Liberty for the men is no fun for their loved ones at home, who wonder what their husbands and boyfriends are doing. The rule is: What happens on cruise stays on cruise. Unspoken fears are bound to be magnified as the Navy prepares to allow women to serve on combat vessels, including aircraft carriers, later this year.

"I think it's going to be a big adjustment for the wives at home," says Marita Cheney, who finds a letter in the mailbox from husband Eric, the A-6 navigator, every other day. "Their husbands are on the ship and they're at home thinking: 'There are other women out there, what's going on, is my husband going to still want to be married to me when he gets home?' If I had any doubts about Eric, that would drive me out of my mind."

Tracy Carr's husband doesn't want his wife, a petty officer first class, serving on a ship with 4,700 men. But that's where she is. Although the Navy says women will not begin sailing on carriers until later this year, the first eight women assigned to a carrier in a combat zone are members of the squadron that flies the America's on-board delivery aircraft, which bring mail and visitors. They are usually stationed in Italy, but when the America left for Somalia at the end of October, the squadron with its eight women was brought on board.

One deck below the ship's hanger bay, a sign announces: "Female Berthing." Until the eight moved in, the rooms were used for medical isolation; the four-person spaces have showers and toilets but no lockers for the women to stow their belongings. "They weren't ready for us," Petty Officer Carr says of the ship's crew. Men in towels walk past the women's berths on the way to the showers. "If we went out in the passageway in a towel, we'd be called up to see the skipper," says Petty Officer 2nd Class Laura Leigh Johnson. And they still endure catcalls from some men.

But conditions have improved since the women came aboard. "There's still a lot of guys who haven't worked with women," says Petty Officer Johnson. When an engine panel on the C-2 aircraft pops open, Johnson, an electrician, turns down offers of a ladder and pulls herself up through the hatch in the top of the plane. Then she crawls out onto the wing and fixes the panel. "Once you earn respect and trust, the attitude starts to change," says Carr.

DECEMBER 24, 1993—CHRISTMAS EVE

Petty Officer "Elvis" Alexander, his guitar tuned and ready, has brought a little bit of Nashville to France. With the America in port for the holidays, 80 people gather around a Christmas tree in the lobby of a Marseille hotel to hear Alexander's trio play three hours of bluegrass Christmas carols. On the way back to the ship for the night, Alexander skips down the stairs of a subway station to the train platform and finds a pay phone. He dials home and reaches his wife, Barbara, and their new baby, Taylor, who was born in September—a month after her father sailed.

In one ear Alexander hears a loudspeaker announcing something in French. He finally hangs up the phone, depressed to be missing his daughter's first Christmas, and climbs the stairs to the street. A locked gate blocks his way out. It is Christmas Eve and the subway has shut down for the night. After two hours of calling French police, Elvis finds someone who can speak English and is released from the subway.

Christmas in port and good food at Thanksgiving—turkey, ham, roast beef and fixings—only remind the men that they are far from home. Back in Norfolk, the families of the F-14 Diamondbacks held their children's Christmas party during the first week of December, allowing time to mail videos to the dads at sea before the holidays.

Loretta Mora, who had been eight months pregnant on the night her husband, José, boarded the ship in the heat of August, was there smiling, dressed as Santa and cradling 11-week-old Justice Antonio Mora, dressed as a very tiny Santa. Her pregnancy had been hard; Loretta developed toxemia, and her labor lasted 27 hours before the doctors performed an emergency Caesarean. But she was buoyant amid the din of children waiting to see Santa. The Moras had picked the name Justice together; he wanted his child's name to begin with the same letter as his own but figured there are enough Josés in the world.

Loretta offers another reason. "We had a lot of problems when we first got together because he's Puerto Rican and I'm white," she says. "José always wanted to serve his country." The name Justice fit. On the America, tacked on the ceiling 1 foot above the pillow in José's rack, are his son's first booties. "I don't know the boy," he says. "I want to see my wife. I want to meet my son."

JANUARY 11, 1994—EMERGENCY

Cruises run in cycles. In the first weeks, sailors learn to leave home behind. During the holidays, they feel they may never get home. On this January day in the Adriatic, five months after setting sail from Norfolk, Capt. William W. Copeland Jr., the America's skipper, senses that his crew members think they're home already. They are scheduled to leave the Adriatic in three days, turning over responsibility for enforcing the Bosnian no-fly zone to the Saratoga, which is steaming across the Atlantic to relieve them. During flight operations, planes are touching down on the 750-foot landing area every 37 seconds. It is all becoming too routine, and the captain fears his crew may be getting complacent.

Even in peacetime, flying jets off carriers is hazardous duty: Every year there are 50 to 60 major accidents involving Navy aircraft. "We're out here just trying to keep guys focused so they don't fly into the back end of the ship and kill themselves," says Commander Collins, the leader of the Diamondback F-14 squadron.

January 11 does seem snakebit, a day of minor woes and near misses. An F/A-18 loses its radio. After catching the wire that jolts them to a halt, two aircraft blow tires as they skid across the landing area. Two more planes, including one of Collins's F-14s, lose the ability to control their wing flaps. The Diamondback Tomcat has to land with its flaps up rather than down. When the flaps are down, they allow the plane to fly at a slower speed; this time the fighter has to approach the ship too fast. To compensate, the America steams hard into the wind. As the plane touches the deck, the ship-made breeze slows the 50,000-pound F-14, preventing it from tearing the arresting wire and hurtling over the bow of the ship into the water. Later in the day, another F-14 touches down safely after its primary and backup visual landing guides fail.

Into the danger zone

Lt. David "Boog" Powell's January 11 begins routinely enough. Ten minutes before launch, he runs through a preflight checklist as his F-14 idles at the most powerful of the ship's four catapults. A former high school baseball player, Powell liked playing catcher

because he wanted to be in on every play. Now all eyes on deck are on him. A red light on the carrier's seven-story island signals four minutes to launch; two minutes later, when the light turns amber, a green-shirted crewman, crouching alongside the jet's nose wheels, signals for Powell to inch the plane forward and locks it into the catapult's shuttle. The light turns green.

Lieutenant Powell looks out to his left at the yellow-shirted catapult officer, the shooter. With his right hand pointing at the pilot, the shooter holds his left hand aloft, two fingers extended, signaling Powell to go to full power. Then, his stomach rumbling from the force of the fighter's engines, the shooter holds his hands open, palm out, as if to slap a high-five, the sign to go to full afterburner. In the seat of his pants, Lieutenant Powell can feel each of the five stages of his afterburner ignite, one at a time.

Ready to fly, he snaps a quick salute and leans his head forward, bracing for the catapult shot; the shooter salutes back, bends his knees, touches two fingers of his left hand to the deck of the ship and gestures forward, like a hunting dog pointing to its prey. On the shooter's signal, a goggled crewman on the catwalk to the plane's left presses the button that fires the catapult, hurtling Powell's F-14 from a standstill to 150 mph in two seconds. "It's the one time you don't have control of your airplane," Lieutenant Powell says.

Midflight, during a mapping mission over Bosnia, a light in Powell's cockpit signals a stall in his left engine, a routine annoyance in the F-14. He clears it, finishes his mission and heads back to the ship. It is late afternoon and the clouds are heavy, so the planes follow nighttime, low-visibility landing procedures. Circling 8,000 feet above the Adriatic, 23 miles from the ship, Lieutenant Powell sees ice, like frost in a freezer, forming on the leading edge of his plane's wings.

Powell hates circling in this stack of planes, four at 8,000 feet, another four 1,000 feet above that, and on up, with no radio communications or radar. Earlier in the cruise, when he had barely 25 carrier landings under his belt, he would spend the 20 long minutes in the holding pattern thinking about landing his jet on the tossing deck of a ship at sea at night: "Why the hell did I ask to do this job? I want to be home with my wife," he remembers thinking. "I kicked myself in the ass every night to go do it." For the first two months, his knees shook after every night landing.

Five months into the cruise, he is confident. He begins his approach to the ship, slowly descending to 1,200 feet 8 miles out. Four miles from the ship he hears a bang, like a balloon popping. Immediately the stall warning light flashes and the plane yaws sharply left. He has lost power in his left engine.

Powell thinks of everything that could go wrong: He is low on fuel, the weather is bad, it is a long way to an alternate landing field. Taught to fly first, then navigate, then communicate, he pulls the plane's nose up, corrects the yaw that has taken him off course and begins talking to his radar-intercept officer (RIO) in the back seat. Together, they run through the Navy checklist for single-engine landings and prepare to land their plane. He flies a slow right turn, 360 degrees, to get the plane back in line with the ship, alerts the America of their situation, then stays off the radio the rest of the way in. "We treated it like a normal approach," Powell says later.

Rather than slowing him down, the loss of an engine means Lieutenant Powell is going to have to land at high speed, with full afterburner on his good right engine. That way, if he misses one of the four wires that will bring his plane to a halt, he will have enough power to get airborne again. But in the F-14, with a good 9 feet between the two engines, throttling to full power in the right engine with none in the left could make the jet swerve dangerously to the left.

A good pass

The landing isn't just safe; it looks good, too. Powell and his RIO step out of the jet, which is surrounded by flight-deck crew ready to tow it out of the landing area. "I flew a good pass," he later recalls. "It was awesome, I was on deck."

Good pilots crave the chance to beat the odds. "There's a satisfaction when something happens and you're the one who's going to have to bring it down safely," says veteran pilot Andy "Slim" Whitson, the America air wing's landing signal officer and a former flight instructor whose green Jaguar, bought with his flight bonus, carries vanity tags that read BLWN BKS, for blown bucks.

"They've all got big egos and big watches," Captain Copeland, an F-14 pilot himself, says of the pilots he commands. In the Diamondback's ready room, a tailhook bolt hangs by a string from the ceiling over one pilot's seat; he was the last to "bolter" that day, meaning he missed the wires while landing and had to make another pass. On one wall is the "greenie" board, where each pilot's every landing is graded. "They're so competitive, they like being graded," says A-6 navigator Eric Cheney.

Lieutenant Leekey, the red-haired pilot, flew some 75 flights without boltering. When he finally missed, he was overheard on his radio: "Impossible," he said in a mock spanish accent. Commander Collins, the Diamondback squadron commander who flies in the back seat, ribs his pilot if they bolter: "Hey, wasn't that our stop back there?" Television sets throughout the ship carry live pictures of flight operations. Pilots, waiting to fly, sit and razz other pilots for ugly landings.

But the challenge is making the extraordinary look routine, not making the routine look extraordinary, and veteran aviators calculate how much slack to give junior officers. "If you go to war thinking you might get shot down, you're going to be overly cautious," says Capt. Vance Toalson, a former wrestler and the America's yellow-shirted Air Boss. "The confidence is necessary, but also the professionalism. If you have some cavalier aviator out there, then he needs to find another job. We don't have Tom Cruise in naval aviation."

While the lieutenants are battling to land safely, the captains and admirals have been dusting off plans to conduct airstrikes in Bosnia if NATO leaders in Brussels give the order. Later tonight, two of the carrier's four E-2C Hawkeyes will begin monitoring Bosnia's skies around the clock. Half the day's flight operations have been canceled so that pilots and flight-deck crew members who might have to work all night can sleep during the day.

Captain Copeland and his air wing commander, Capt. Bill Deaver, have just sat down to dinner about 9 p.m. when the phone hidden under the dining table in Copeland's quarters rings. There is a fire in the hangar bay: An E-2C Hawkeye aerial surveillance plane, the type that is to fly later tonight, is reported to be spitting sparks. Copeland and Deaver scramble down three ladders and find the fire extinguished. It has not reached the E-2C.

FEBRUARY 5, 1994—HOME

After six months at sea, the time has come to start tearing down the walls between shipboard life and home, one brick at a time.

For some, it will be hard to let go. "When I'm out here," says Chaplain Gil Gibson, "I miss home. When I'm home, I miss here." Home cannot supply the camaraderie or the challenges of life at sea.

For Marine Colonel Huly's operations officer, Lt. Col. Jeff Christman, the six months away from home have been an eternity: He has numbered each of his 70 letters home, and when he felt low, he played "Danny Boy" on the bagpipes in a corner of the Guadalcanal's flight deck. But he wouldn't trade the life: "I guess there's always people who wanted to be a professional soldier. I have a realistic but a romantic view of what I do. I have no illusions. But still, I like the life. I've gotten to do what I wanted to do when I was a little boy."

For Lieutenant Leekey, the red-haired F-14 fighter pilot, the end of the America's cruise means he must give up the life he has always wanted. The Navy has rejected his appeal to stay in. Leekey is slated to be discharged in June; his wife, Iris, is due to give birth to their first child on March 29. Leekey has flown since he was 13 and earned his pilot's license at 17. He doesn't know what he will do next. "My lifelong dream was to fly fighters," he says. "I don't do anything else."

As the America steams toward Norfolk, these warriors must become fathers and husbands again. Navy counseling teams came aboard in Spain to remind the men that loved ones change, grow independent, in six months without husbands and fathers. "It's pretty tough to go steaming into the house and say, 'You, get a haircut; you, clean up the back yard,'" says Colonel Huly. "There has to be some sensitivity. I know that. Of course my family will say I don't, but I know that." His wife, Patti, a veteran Marine spouse, takes a more philosophical approach: "If Robert Redford didn't get on the boat," she advises young wives, "Robert Redford isn't getting off the boat."

Too late

Six months can be a lifetime. Almost three weeks after his father underwent routine surgery, Cmdr. Vic Cerne, the executive officer of the carrier's squadron of EA-6B electronic-warfare aircraft, received an emergency Red Cross message from his wife, Cindy: There were complications. He packed a small bag and flew home from the carrier to Norfolk, where he telephoned his mother at the hospital in Oklahoma. His father came on the line, the husky man's voice sounding weak. Cerne told his dad he loved him and promised he'd see him the next day. "I'll never forget what he said next," recalls Cerne. "He said, 'Vic, hurry.'" The Cernes caught the first flight out of Norfolk the next morning, but his father died before they landed in Oklahoma. "I never left on this deployment thinking I wouldn't see him again," says Cerne.

Cerne's parents had planned to meet the ship when it came in; his father had thought surgery would make him strong enough to travel. Cerne returned to the ship after burying his father. His mother will meet him at the pier.

Norfolk still seems very far away. Every other day during the 11-day Atlantic crossing, at 7 p.m., the crew must set their watches back and relive 6 o'clock all over again. Even two days before the ship is due in Norfolk, Petty Officer 1st Class Grant Gorton, the F-14 flight-deck coordinator, cannot

relax: He is responsible for preparing all 14 of his squadron's aircraft for the next day's fly-off, when the aviators will head home a day before the ship docks. "I won't be able to sleep tonight," he says. "We have to get every one off."

Gorton has learned all the ways 50 planes idling or taxiing can kill a person: He avoids walking near an F-14's air intakes or an E-2C's propellers. He leans his body into the hot jet exhaust that can blow one overboard. His hearing has worsened in his 12 years in the Navy, despite wearing the Mickey Mouse-ear headgear required on the flight deck; after a 14-hour day of flight operations, his ears are sore from the gear. Gorton is nervous: If any of his F-14's can't fly tomorrow, a crane will have to lift them off in Norfolk.

The next day, every plane gets off as planned, the flight-deck crew waving good bye as the last A-6 Intruder departs. In the bright sunshine, with the crew wandering about the suddenly empty flight deck, the booming voice of Air Boss Vance Toalson orders them to clear Catapult 3. The America's senior shooter, Lt. Bill Clock, unties and removes his boots and in his stocking feet walks to the catapult, where his boots are tied to the catapult's shuttle. On the Boss's order—"Shooting the boots"—the catapult, which has just launched a 60,000-pound bomber, propels Bill Clock's boots, tied together, off the carrier and into the Atlantic. The America is almost home.

Loretta Mora has written José that she will wear red to the homecoming so he can find her on the crowded pier. She does: a red winter coat, a short-sleeved, tailored red dress and red high heels. Standing in the heated "mommy tent," where many of the 85 women who have given birth since their husbands sailed in August wait, Loretta stays dry in the driving rainstorm that has soaked the more than 5,000 people waiting for the America.

The big ship is tantalizingly close, with hundreds of enlisted crew members standing shoulder to shoulder along the bow and the starboard side in dress blue uniforms, and six tugboats puffing black smoke turning it toward the pier. After the America pulls alongside and the lines are fired to secure it, Loretta leaves the warmth of the mommy tent, pushing the baby carriage through shoe-deep puddles, and waits alongside the ship. In the hangar bay, José musters with the other new fathers, all weighed down by the clothes and souvenirs stuffed into their duffels. In his pocket, José carries his new son's first blue booties.

An hour passes. On the pier, Loretta removes her red coat, places it like a tent over the baby carriage and stands in the downpour in her short-sleeved red dress before finally retreating for shelter. Finally, the new fathers pass the quarterdeck, salute their ship and walk the length of the pier, through the crowd, to the mommy tent, where José Mora embraces his wife and meets his son.

The America has brought home every one of its sailors and aviators, a remarkable feat: An F-14 and an F/A-18 from the carrier Saratoga will collide in midair a week after the America reaches Norfolk. Two of the America's sailors will die in a late-night auto accident on the day it docks in Norfolk. The ship is scheduled to sail again in August 1995, on what may be its last cruise before it is taken out of commission. José Mora will spend his son's second birthday at sea.

IRRESPONSIBLE CONGRESS? HERE IS TODAY'S BOXSCORE

Mr. HELMS. Mr. President, the Federal debt stood at $4,541,171,125,410.40 as of the close of business Thursday, February 24. Averaged out, every man, woman and child in America owes a part of this massive debt, and that per capita share is $17,418.41.

TRIBUTE TO JERRY HENDRICKS

Mr. GORTON. Mr. President. A good friend and colleague of mine, Jerry Hendricks, is retiring as the Port of Port Angeles' executive director after 26 years of public service. His dedication and commitment to the Port of Port Angeles and Clallam County has been exceptional, and he will be greatly missed.

I remember a few years back when Jerry and I had dinner at the Bushwhacker Restaurant. The warm hospitality he showed me by inviting me back to his home to continue our discussion is indicative of the generosity and warmth he has shared with his community over the years. His hard work was always backed with genuine sincerity and passion for the issues of importance to his community. For this reason, I am certain he opened doors that otherwise would have remained closed.

As President of Washington Citizens for World Trade and board member of the Export Assistance Center, Jerry helped cinch Washington State's role as a leading center of international trade. Jerry will be remembered by many people in Clallam County for whom he found and created numerous jobs and economic opportunities through his work at the Port of Port Angeles. He set standards in this field that few will be able to meet. His contributions to organizations such as United Way and the Port Angeles Chamber of Commerce have exemplified what it really means to be a community leader.

I, and many others, have come to rely on Jerry's input and advice. Through numerous trips to Washington, DC, as an advocate for his community and the Port, he made sure that Washington's congressional delegation was always on top of the events that have shaped life on the peninsula. He worked to keep me apprised of the community's needs, but he also worked hard to vocalize the community's feelings and temper on key issues. No one every had to guess how families on the peninsula were affected by the cards their government dealt.

More communities should be so lucky as to have a Jerry Hendricks representing their needs and their concerns. Although he is retiring from the Port of Port Angeles, I am certain that he will continue to find opportunities to represent the voice and spirit of families and communities on the peninsula. I wish him the best.

HUGH L. WILLCOX

Mr. THURMOND. Mr. President I rise to pay tribute to Mr. Hugh L. Willcox, an able attorney and one of the leading citizens of Florence, SC, who recently passed away.

While Mr. Willcox's passing is indeed unfortunate, he lived a long and productive life. In his almost nine decades on this earth, Mr. Willcox established a well deserved reputation as both an able and respected lawyer and a dedicated civic leader, serving on a number of boards and associations. He was president of both the South Carolina and Florence Country Bar Associations and was recognized by the University of South Carolina with an honorary doctor of laws degree for his many contributions to the profession. He was also awarded the South Carolina bar's prestigious Durant Award.

The list of community activities in which Mr. Willcox was active is too lengthy to cite here, but included businesses, schools, charities, and churches. I do not believe that I am exaggerating when I say that there was not a corner of Florence that did not benefit from Hugh Willcox's interest and involvement.

Mr. President, Hugh Willcox was a personal friend of mine, and we are all saddened by his death. His family are in my thoughts and prayers at this most difficult time. He is survived by his wife, Polly Robinson Willcox; son, Hugh L. Willcox, Jr.; daughter, Julia W. Buyck; daughter in law, Henrietta W. Willcox; stepson, William Odell; stepdaughter, Alexander Odell; seven grandchildren; two great-grandchildren; and a brother, E. Lloyd Willcox.

I ask unanimous consent that a copy of Mr. Willcox's obituary from the Florence Morning News be inserted into the RECORD following my remarks.

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

[From the Florence Morning News, Feb. 5, 1994]

(By Hugh L. Willcox)

Hugh Labarbe Willcox, 88, a native of Florence and a link to this city's earliest days, died Friday, Feb. 4, 1994.

He was a son of the late Frederick L. and Clara Chase Willcox. His grandfather, Jerome P. Chase, was one of Florence's pioneer residents and its first mayor.

Funeral services are scheduled for 3 p.m. Sunday, Feb. 6, 1994, at St. John's Episcopal Church followed by burial in Mount Hope Cemetery, directed by Waters-Powell Funeral Home.

He was educated in the public schools of Florence and at Bingham Military School in Asheville. He took his undergraduate degree from the University of North Carolina and his law degree from the University of South Carolina School of Law. He was first married to the late Julia Johnson Willcox of Florence, who died in 1986.

He is survived by his widow, Polly Robinson Willcox, a son, Hugh L. Willcox Jr. of Florence; a daughter, Julia W. Buyck of

Florence; a daughter-in-law, Henrietta W. Willcox, wife of the deceased son Fred L. Willcox, of Florence; a stepson, William Robinson Odell of Charlotte, N.C.; a stepdaughter, Alexander Patterson Odell of Palm Dessert, Calif., seven grandchildren including Mark W. Buyck III, Julie B. McKissick, Hugh W. Buyck, E. Lloyd Willcox II, Henrietta W. Dotterer, Hugh L. Willcox III and Walker H. Willcox; two greatgrandchildren; and a brother, E. Lloyd Willcox of Charleston.

A distinguished and highly acclaimed lawyer, his legal career was interrupted by service in the U.S. Army from 1940 to 1946. He was stationed for a period with the 263rd Coast Artillery at Ft. Moultrie as adjutant to Florence legendary Col. Frank Barnwell, who commanded the Florence National Guard unit he had joined shortly after college. He was discharged from the army following World War II with the rank of lieutenant colonel. Since that time, he has been a senior member of the law firm of Willcox, McLeod, Buyck & Williams, the firm which was established by his father in 1895 as Willcox & Willcox.

He is past president of the S.C. Bar Association and the Florence County Bar Association, permanent member of the Judicial Conference of the U.S. 4th Judicial Circuit and member of the American Bar Association, in which he served on numerous committees including most recently the committee on state legislation.

He was honored by the University of South Carolina in 1986 when he received an honorary doctor of laws degree recognizing his long-time and exemplary public service and his distinguished legal career spanning six decades. He was trustee emeritus of the university having served on the Board of Trustees for 20 years representing the 12th Judicial Circuit.

Past chairman of the Board of Directors of Peoples Federal Savings and Loan Association and former member of the Florence Advisory Board of South Carolina National Bank, he was a director and vice president of Motel Associates Inc.

Interested in civic and educational affairs, he was past president of the board of trustees of the Florence Museum and the Florence County Historical Society and was treasure of the Florence Memorial Stadium Commission for four decades. He was a former member of the board of trustees of St. Mary's College in Raleigh, N.C., and served as chairman of the S.C. State Library Board and a member of the Tricentennial Commission for South Carolina. When the Florence public school system was governed by an annual residents meeting, he presided over the assemblage for many years.

He served as a member of the board of trustees of McLeod Regional Medical Center for more than 35 years and was recently named the hospital's first trustee emeritus. He was a former director of Mount Hope Cemetery Association and he also served on the board of Pawleys Island Civic Association and the board of directors Litchfield Country Club and was a former member of the board of the Florence Country Club.

He took great interest in St. John's Episcopal Church, where he was a life-long member and served as past senior and junior warden and in many diocesan capacities.

Other membership include Theta Chi Fraternity at the University of North Carolina, past president of Florence Kiwanis Club, past state vice commander and judge advocate of the American Legion, board of directors of the American Cancer Society and Florence United Way, Florence Heritage Foundation, National Association of Railroad Trail Counsel, past S.C. director of the Judicature Society, Palmetto Club and Centurion Society.

He received the 1986 Friends of the Florence Museum Award. In 1985, the South Carolina Bar Association presented him the Durant Award, its highest honor in recognition of his long and distinguished service to this state.

The family is at Bannockburn, his residence at 500 Howe Springs Road.

Memorials may be made to St. John's Episcopal Church, Florence Museum or University of South Carolina Education Foundation.

MARTHA RIVERS

Mr. THURMOND. Mr. President, I rise today to pay tribute to one of my State's leading citizens and a pioneer in the South Carolina broadcasting industry, Mrs. Martha Rivers, who recently passed away.

The 1950's was a decade of great changes for our Nation. In those years, the suburbs replaced cities as America's home address and radio was quickly overtaken by television as the favorite form of family entertainment. In South Carolina, Mrs. Rivers' late husband, John, introduced television to Charleston when he started WCSC–TV. For more than 30 years, Mrs. Rivers worked at the station, helping to create and expand what has turned into a very lucrative and important media market. Mrs. Rivers, along with her son, John Rivers, Jr., one of Charleston's most prominent businessmen, carried on the fine work of John Rivers, Sr., until WCSC was sold in 1987.

While working at WCSC was a full-time job, Mrs. Rivers always had time to devote to the community. Her activities included serving as president of the Charleston County Association for the Blind and the Garden Club of Charleston. She was also a member of the Junior League and was very active in St. Phillip's Episcopal Church.

Mr. President, Martha Rivers and her family have been friends of mine for a long time, and we are all saddened by her passing. She was a warm and outgoing woman, who was admired and respected by all. While she will be missed by those who knew her, her memory will live on through a park named in her honor in her hometown of Gastonia, NC and the Martha Robinson Rivers scholarship at Converse College, her alma matter. Mrs. Rivers is survived by her son, John M. Rivers, Jr.; daughters, Martha R. Ingram and Elizabeth R. Lewine; four grandchildren; two stepgrandchildren; and a great-grandchild.

I ask unanimous consent that a copy of Mrs. Rivers' obituary from the Charleston Post and Courier be inserted into the RECORD following my remarks.

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

[From the Charleston Post and Courier, Feb. 6, 1994]

LOCAL TELEVISION PIONEER MARTHA RIVERS DIES AT 83

By Robert Behre

Martha Robinson Rivers, who helped her late husband run Charleston's first radio and television stations and who supported many charitable and civic groups, died Thursday at her residence. She was 83.

Mrs. Rivers was born in Gastonia, N.C., to John Craig Robinson and Ola Stowe Craig Robinson, and graduated from Converse College in Spartanburg. She married the late John Rivers, who then was working in Greenville.

When the couple moved to Charleston, Rivers became head of corporate financing for the investment firm of McAlster, Smith and Pate. In 1937, he acquired control of WCSC radio, and he started WCSC–TV—the city's first television station—in 1953.

Mrs. Rivers served as WCSC Inc.'s secretary for more than three decades. She retired in 1987 when her son, John M. Rivers Jr., sold the station to Crump Communications Inc.

Mrs. Rivers, who resided at 41 Meeting St., also was past president of the Charleston County Association for the Blind, past president of the Garden Club of Charleston and was a member of the Junior League of Charleston.

She and her husband were avid travelers and twice made trips around the world. Former College of Charleston president Theodore S. Stern said he first got to know Mrs. Rivers during a trip to South America in the early 1970s.

"She was just the most stunning and warm individual," he said.

He noted she was instrumental in giving WCSC's early radio and television memorabilia to the college. "She had a great interest in community activities and was a great asset to the community."

Former Charleston mayor J. Palmer Gaillard Jr. said he knew Mrs. Rivers well from all her work with St. Philip's Episcopal Church and charitable groups.

"Charleston has really lost a great citizen. She was indeed a lady. In fact, the description of her is the definition of a lady," he said.

The city of Gastonia honored Mrs. Rivers by naming a park after her. She also established the Martha Robinson Rivers scholarship at Converse.

The family, through WCSC Inc., contributed to several causes in the Charleston area, including Ashley Hall school, the Gibbes Museum of Art, the Charleston Symphony Orchestra, the College of Charleston and the Charleston County School District.

She is survived by a son, John M. Rivers Jr. of Charleston; two daughters, Martha R. Ingram of Nashville, Tenn. and Elizabeth R. Lewine of New York; four grandchildren; two stepgrandchildren; and a great-grandchild.

The funeral will be at 11 a.m. today in St. Philip's Episcopal Church. Burial, directed by Stuhr's Downtown Chapel, will be in the church cemetery.

CARROL H. WARNER

Mr. THURMOND. Mr. President, I rise today to pay tribute to a dedicated public servant and a good friend, Mr. Carrol H. Warner, who passed away recently.

A graduate of Clemson University, Mr. Warner was very involved in his ca-

reer and community. An agricultural businessman, Mr. Warner served as a member of the Aiken County Board of Commissioners and since 1977 as the Chairman of the Aiken County Council. Additionally, he was a member of a number of civic organizations, including the Clemson University IPTAY Club, the Silverton Agriculture Club, the Aiken Rotary, the Aiken County Republican Party, the Wagener Lions Club, and the Kitchings Mill Community Club.

Mr. President, Carrol Warner was a personal friend of mine and I will remember him as an individual who set a high standard for civicmindedness. He was a dedicated and patriotic individual who will be greatly missed by those who knew him. He is survived by his wife, Judy; sons, Bryan, Joey, and Kevin; and a daughter, Angie. My thoughts and prayers are with his wife and children at this most difficult time.

I ask unanimous consent that a copy of Mr. Warner's obituary from the Aiken Standard be placed in the RECORD following my remarks.

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

OUR VIEW—CARROL H. WARNER

Residents of Aiken County are fortunate to have had a leader of the caliber of Carrol H. Warner. Mr. Warner, who served for 17 years as chairman of the Aiken County Council, died Feb. 5 as a result of stroke.

Friends, fellow county officials and leaders from around the state were saddened at the news of his passing.

Mr. Warner was one of the original Aiken County Council members following the institution of the South Carolina Home Rule Act of 1975.

After becoming chairman, Mr. Warner led Aiken County from a fractious, warring body to one that worked together, a leadership accomplishment he was most fond of.

In recent years the county found itself in a position of fiscal instability, but Mr. Warner's faith in elected officials and county employees never wavered. He predicted that the county would regain its financial health and it did so last year after three years of austerity.

Throughout the years, Mr. Warner was a consistent supporter of fiscal conservatism—and correctly so in our view. He backed the hard economic choices that promise stability at the end of the struggle: employee hiring freezes, a freeze on pay raises and tight limits on county purchasing.

Mr. Warner knew such decisions would not always be popular, but were necessary for the county to regain financial strength and security. In regards to his viewpoint and actions, he once said, "The buck stops here."

He lived to see the fruits of his financial positions. As a result of these measures, he pointed out in subsequent budget sessions that the county's cash flow was healthy. He said the county was building a $3 million reserve fund, with plans to increase that into a $5 million fund.

Mr. Warner was a long-time Republican, farmer and businessman. He was married to the former Judith Van Buren and was the father of four—Bryan, Joey, Angie and Kevin. The 63-year-old was a lifelong resident of Aiken County and attended public schools in Wagener. He also attended Clemson University. Warner served his country in the U.S. Air Force and was a veteran of the Korean Conflict.

Central to Mr. Warner's success as the leader of the Aiken County Council was the fact that he was always looking out for the best interest of his beloved county and the welfare of its people. And no matter the topic, he was always known to operate fairly and would listen patiently to the points of view of various citizens, even those who disagreed with his positions.

County Administrator William Shepherd, his colleague in county government and good friend, has praised Mr. Warner's ability to steer the county with an open mind.

Shepherd called the late chairman "a servant of the people. He always let them (citizens) speak their mind, even when they were criticizing him and county government."

Carrol Warner will be fondly and appreciatively remembered, and no doubt sorely missed. It is our sincere hope that Aiken County will be so blessed as to have other Warner-like "servants of the people."

MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated to the Senate by Mr. Thomas, one of his secretaries.

EXECUTIVE MESSAGES REFERRED

As in executive session the Presiding Officer laid before the Senate messages from the President of the United States submitting sundry nominations which were referred to the appropriate committees.

(The nominations received today are printed at the end of the Senate proceedings.)

MESSAGES FROM THE HOUSE

At 2:24 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. 2339. An Act to revise and extend the programs of the Technology-Related Assistance for Individuals with Disabilities Act of 1988, and for other purposes.

H.R. 3617. An Act to amend the Everglades National Park Protection and Expansion Act of 1989, and for other purposes.

At 5:57 p.m., a message from the House of Representatives, delivered by Ms. Goetz, one of its reading clerks, announced that the House agrees to the amendment of the Senate to the bill (H.R. 1804) to improve learning and teaching by providing a national framework for education reform; to promote the research, consensus building, and systemic changes needed to ensure equitable educational opportunities and high levels of educational achievement for all American students; to provide a framework for reauthorization of all Federal education programs; to promote the development and adoption of a voluntary national system of skill standards and certifications; and for other purposes, with an amendment and asks for a conference with the Senate on the disagreeing votes of the two Houses thereon; and appoints the following Members as managers of the conference on the part of the House:

For consideration of all provisions of H.R. 1804 and the Senate amendment thereto except for title II of H.R. 1804 and sections 901–914 of the Senate amendment: Mr. FORD of Michigan, Mr. KILDEE, Mr. MILLER of California, Mr. SAWYER, Mr. OWENS, Mrs. UNSOELD, Mr. REED, Mr. ROEMER, Mrs. MINK, Mr. ENGEL, Mr. BECERRA, Mr. GREEN of Texas, Ms. WOOLSEY, Ms. ENGLISH of Arizona, Mr. STRICKLAND, Mr. PAYNE of New Jersey, Mr. ROMERO-BARCELÓ, Mr. GOODLING, Mr. GUNDERSON, Mr. MCKEON, Mr. PETRI, Ms. MOLINARI, Mr. CUNNINGHAM, Mr. MILLER of Florida, Mrs. ROUKEMA, and Mr. BOEHNER.

For consideration of title II of H.R. 1804 and sections 901–914 of the Senate amendment: Mr. FORD of Michigan, Mr. OWENS, Mr. PAYNE of New Jersey, Mr. SCOTT, Mr. SAWYER, Mr. GOODLING, Mr. BALLENGER, Mr. BARRETT of Nebraska, and Mr. FAWELL.

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–2212. A communication from the Federal Housing Finance Board, transmitting, pursuant to law, the report on the low-income housing and community development activities of the Federal Home Loan Bank System for calendar year 1992; to the Committee on Banking, Housing, and Urban Affairs.

EC–2213. A communication from the Chairman of the Board of Governors of the Federal Reserve System, transmitting, pursuant to law, the report on monetary policy for calendar year 1993; to the Committee on Banking, Housing, and Urban Affairs.

EC–2214. A communication from the Federal Housing Finance Board, transmitting, pursuant to law, the report of the salary rates for graded and executive level employees for 1994; to the Committee on Banking, Housing, and Urban Affairs.

EC–2215. A communication from the President and Chairman of the Export-Import Bank of the United States, transmitting, pursuant to law, the report on compensation of employees; to the Committee on Banking, Housing, and Urban Affairs.

EC–2216. A communication from the Director of the Office of Management and Budget, Executive Office of the President, transmitting, pursuant to law, a report on appropriations legislation within five days of enactment; to the Committee on the Budget.

EC–2217. A communication from the Director of the National Science Foundation, transmitting, pursuant to law, the report on metrication for fiscal year 1993; to the Committee on Commerce, Science, and Transportation.

EC-2218. A communication from the Secretary of Commerce, transmitting, pursuant to law, the report on the preliminary spectrum reallocation; to the Committee on Commerce, Science, and Transportation.

EC-2219. A communication from the Deputy Associate Director for Compliance of the Minerals Management Service, Department of the Interior, transmitting, pursuant to law, a report on the refund of offshore lease revenues; to the Committee on Energy and Natural Resources.

EC-2220. A communication from the Acting Chief Financial Officer, Department of Energy, transmitting, pursuant to law, notice relative to the report on uncosted obligation balances; to the Committee on Energy and Natural Resources.

EC-2221. A communication from the Chairman of the Pennsylvania Avenue Development Corporation, transmitting, a draft of proposed legislation to authorize operating and administrative expenses of the Pennsylvania Avenue Development Corporation; to the Committee on Energy and Natural Resources.

EC-2222. A communication from the Administrator (Energy Information Administration), Department of Energy, transmitting, pursuant to law, the report of performance profiles of major energy producers for calendar year 1992; to the Committee on Energy and Natural Resources.

EC-2223. A communication from the Secretary of the Interior, transmitting, pursuant to law, the report of land for supplemental certification; to the Committee on Energy and Natural Resources.

EC-2224. A communication from the Administrator of the Environmental Protection Agency, transmitting, pursuant to law, a report of a review of Federal Authorities for Hazardous materials accident safety; to the Committee on Environment and Public Works.

EC-2225. A communication from the President of the United States, transmitting, pursuant to law, notice of an intention relative to Kazakhstan and Romania; to the Committee on Finance.

EC-2226. A communication from the Assistant Legal Adviser (Treaty Affairs), Department of State, transmitting, pursuant to law, a report of the texts of international agreements and background statements, other than treaties; to the Committee on Foreign Relations.

EC-2227. A communication from the Executive Secretary of the National Security Council, transmitting, pursuant to law, the report under the Freedom of Information Act for calendar year 1993; to the Committee on the Judiciary.

EC-2228. A communication from the Director of the Peace Corps, transmitting, pursuant to law, the report under the Freedom of Information Act for calendar year 1993; to the Committee on the Judiciary.

EC-2229. A communication from the Chairman of the U.S. International Trade Commission, transmitting, pursuant to law, the report under the Freedom of Information Act for calendar year 1993; to the Committee on the Judiciary.

EC-2230. A communication from the Assistant Secretary (Human Resources and Administration), Department of Energy, transmitting, pursuant to law, the report under the Freedom of Information Act for calendar year 1993; to the Committee on the Judiciary.

EC-2231. A communication from the Chairman of the U.S. Merit Systems Protection Board, transmitting, pursuant to law, the report under the Freedom of Information Act for calendar year 1993; to the Committee on the Judiciary.

EC-2232. A communication from the Chairman of the Harry S. Truman Scholarship Foundation, transmitting, pursuant to law, the annual report for calendar year 1993; to the Committee on Labor and Human Resources.

EC-2233. A communication from the Assistant Secretary of Education (Office of Special Education and Rehabilitative Services), transmitting, pursuant to law, the report of final regulations—rehabilitation services administration programs; to the Committee on Labor and Human Resources.

REPORTS OF COMMITTEES

The following reports of committees were submitted on February 23, 1994:

By Mr. JOHNSTON, from the Committee on Energy and Natural Resources, with amendments and an amendment to the title:

H.R. 1134: A bill to provide for the transfer of certain public lands located in Clear Creek County, Colorado, to the United States Forest Service, the State of Colorado, and certain local governments in the State of Colorado, and for other purposes (Rept. No. 103-228).

EXECUTIVE REPORTS OF COMMITTEES

The following executive reports of committees were submitted:

By Mr. HOLLINGS, from the Committee on Commerce, Science, and Transportation:

Ginger Ehn Lew, of California, to be general counsel of the Department of Commerce, vice Wendell Lewis Willkie II, resigned;

Greg Farmer, of Florida, to be Under Secretary of Commerce for Travel and Tourism, vice John G. Keller, Jr., resigned;

Graham R. Mitchell, of Massachusetts, to be Assistant Secretary of Commerce for Technology Policy, vice Deborah Wince-Smith, resigned;

Thomas R. Bloom, of Michigan, to be an Assistant Secretary of Commerce, vice Thomas Jones Collamore, resigned;

Thomas R. Bloom, of Michigan, to be chief financial officer, Department of Commerce, vice Preston Moore, resigned;

Ann Brown, of Florida, to be a commissioner of the Consumer Product Safety Commission for a term of 7 years from October 27, 1992, vice Carol Gene Dawson, term expired;

Ann Brown, of Florida, to be chairman of the Consumer Product Safety Commission, vice Jacqueline Jones Smith;

Linda Joan Morgan; of Maryland, to be a member of the Interstate Commerce Commission for a term expiring December 31, 1998, vice Edward J. Philbin, term expired; and

Rear Adm. Robert E. Kramek, U.S. Coast Guard, to be Chief of Staff, U.S. Coast Guard, with the grade of vice admiral while so serving.

The following officer of the U.S. Coast Guard to be a permanent commissioned officer in the grade of lieutenant (junior grade) in the Regular Coast Guard: Stephen M. Midas.

Mr. HOLLINGS. Mr. President, for the Committee on Commerce, Science, and Transportation, I also report favorably two nomination lists in the Coast Guard, which were printed in full in the CONGRESSIONAL RECORD of February 3 and 4, 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.

By Mr. NUNN, from the Committee on Armed Services:

The following named officer for appointment to the grade of lieutenant general while assigned to a position of importance and responsibility under title 10, United States Code, section 601(a): Maj. Gen. Marc A. Cisneros, 461-60-0361, U.S. Army.

(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.)

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 Mrs. FEINSTEIN (for herself, Mrs. MURRAY, Mr. KENNEDY, Mrs. BOXER, Ms. MOSELEY-BRAUN, Mr. SIMON, and Mr. METZENBAUM):

S. 1864. A bill to prohibit sexual harassment by employers with fewer than 15 employees; to the Committee on Labor and Human Resources.

By Mr. MCCAIN:

S. 1865. A bill to amend title XIX of the Social Security Act to promote demonstrations by States of alternative methods of more efficiently delivering health care services through community health authorities; read the first time.

By Mr. METZENBAUM (for himself, Mr. DECONCINI, Mr. SIMON, and Mr. REID):

S. 1866. A bill to amend the National Security Act of 1947 to improve personnel measures that enhance security for classified information, and for other purposes; to the Select Committee on Intelligence.

By Mr. DURENBERGER (for himself, Mr. MURKOWSKI and Mr. JEFFORDS):

S. 1867. A bill to expedite the naturalization of aliens who served with special guerrilla units in Laos; to the Committee on the Judiciary.

By Mrs. BOXER:

S. 1868. A bill to amend the Internal Revenue Code of 1986 to allow the casualty loss deduction for disaster losses without regard to the 10-percent adjusted gross income floor; to the Committee on Finance.

By Mr. COHEN (for himself and Mr. BOREN):

S. 1869. A bill to amend the National Security Act of 1947 to improve counterintelligence measures through enhanced security for classified information, and for other purposes; to the Select Committee on Intelligence.

By Mr. BINGAMAN:

S. 1870. A bill to provide State programs to encourage employee ownership and participation in business decisionmaking throughout the United States; to the Committee on Labor and Human Resources.

By Mr. KENNEDY (for himself and Mr. KERRY):

S. 1871. A bill to establish the New Bedford Whaling National Historical Park in New Bedford, Massachusetts, and for other purposes; to the Committee on Energy and Natural Resources.

By Mr. ROCKEFELLER:

S. 1872. A bill to expand United States exports of goods and services by requiring the development of objective criteria to achieve market access in Japan, and for other purposes; to the Committee on Finance.

SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

The following concurrent resolutions and Senate resolutions were read, and referred (or acted upon), as indicated:

By Mr. WOFFORD (for himself, Mr. LEVIN, Mrs. FEINSTEIN, Mr. LAUTENBERG, Mr. KOHL, Mr. RIEGLE, and Mr. SARBANES):

S. Con. Res. 61. A concurrent resolution expressing the sense of the Congress in support of the President's actions to reduce the trade imbalance with Japan; to the Committee on Finance.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mrs. FEINSTEIN (for herself, Mrs. MURRAY, Mr. KENNEDY, Mrs. BOXER, Ms. MOSELEY-BRAUN, Mr. SIMON, and Mr. METZENBAUM):

S. 1864. A bill to prohibit sexual harassment by employers with fewer than 15 employees; to the Committee on Labor and Human Resources.

HARASSMENT-FREE WORKPLACE ACT

Mrs. FEINSTEIN. Mr. President, I am proud to introduce the Harassment-Free Workplace Act of 1994, which is cosponsored by my colleagues Senators BOXER, MURRAY, MOSELEY-BRAUN, KENNEDY, SIMON, and METZENBAUM.

Mr. President, current Federal law contains one glaring loophole; and that is, at present, title VII of the 1964 Civil Rights Act applies only to businesses with 15 or more employees. However, an employee of a company with fewer than 15 workers has no protection against sexual harassment under current Federal law.

This loophole essentially omits some 18 million workers—which comprise 20 percent of the American work force—from protection against sexual harassment.

In order to eliminate that loophole, we are proposing legislation which is modeled on legislation now in place in the State of California which protects all workers from sexual harassment in the workplace. This legislation would simply expand current Federal protection to cover workers in businesses with fewer than 15 employees.

I think there is no question in anybody's mind that sexual harassment is a serious and ongoing problem. Since the Anita Hill-Clarence Thomas hearings of more than 2 years ago, the number of sexual harassment claims processed by the Equal Employment Opportunity Commission, believe it or not, has increased by more than 50 percent.

The 1990 Census Bureau found that roughly 18 million workers, comprising 20 percent of the American work force, as I said, are not protected by Federal law.

A survey of the National Association of Female Executives found that 53 percent of all women surveyed report being harassed at some time in their working life.

Almost 90 percent of Fortune 500 companies report receiving complaints.

So ignoring sexual harassment is not only bad policy, it is also bad business.

A 1988 study of 160 Fortune 500 companies found that sexual harassment costs the average company a total of $6.7 million a year due to absenteeism, low productivity, and high turnover, because an employee cannot continue to function at the same level when she is subjected to sexual harassment.

Many States—including my own State of California—recognize this problem.

Thirty-five States and the District of Columbia have adopted fair employment laws that offer more protection against sexual harassment for workers, according to the Congressional Research Service.

Yet, 15 States still offer no coverage beyond the Federal cutoff of 15 or more employees.

This legislation aims to level the playing field for all employees in America and create some basic laws which extend to every employee. It will mean that any employee, whether in corporate America or in small business in America, will be protected by laws against sexual harassment. It clearly defines what sexual harassment is, and it says the employer has a responsibility if it is brought to his attention to do something about it.

Much has been said about 1992 being the "Year of the Woman," but I am hopeful that 1994 will be the year for all women in the workplace to once and for all put this issue behind us.

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. 1864

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 "Harassment-Free Workplace Act".

SEC. 2. PURPOSES.

The purposes of this Act are—

(1) to provide Federal protection to small business employees from sexual harassment in their workplaces;

(2) to extend the sexual harassment provisions of current civil rights laws to private sector employers who are not currently covered by Federal law relating to sexual harassment; and

(3) to authorize the Equal Employment Opportunity Commission to enforce sexual harassment laws with respect to small businesses in the same manner as the Commission currently enforces employment discrimination laws with respect to other businesses.

SEC. 3. DEFINITIONS.

As used in this Act:

(1) COMMERCE.—The term "commerce" means trade, traffic, commerce, transportation, transmission, or communication—

(A) among the several States;

(B) between a State and any place outside thereof;

(C) within the District of Columbia, or a possession of the United States; or

(D) between points in the same State but through a point outside thereof.

(2) COMMISSION.—The term "Commission" means the Equal Employment Opportunity Commission established under section 705 of the Civil Rights Act of 1964 (42 U.S.C. 2000e-4).

(3) COMPLAINING PARTY.—The term "complaining party" means the Commission, the Attorney General, or a person who may bring an action or proceeding under this Act.

(4) EMPLOYEE.—The term "employee" means an individual employed by an employer, except that the term "employee" shall not include any person elected to public office in any State or political subdivision of any State by the qualified voters thereof, or any person chosen by such officer to be on such officer's personal staff, or an appointee on the policy making level or an immediate adviser with respect to the exercise of the constitutional or legal powers of the office. The exemption set forth in the preceding sentence shall not include employees subject to the civil service laws of a State government, governmental agency, or political subdivision. With respect to employment in a foreign country, such term includes an individual who is a citizen of the United States.

(5) EMPLOYER.—The term "employer" means a person engaged in an industry affecting commerce who has fewer than fifteen employees for each working day in each of 33 or more calendar weeks in the current and in the preceding calendar year.

(6) EMPLOYMENT AGENCY.—The term "employment agency" means any person regularly undertaking with or without compensation to procure employees for an employer or to procure for employees opportunities to work for an employer, and includes an agent of such a person.

(7) INDUSTRY AFFECTING COMMERCE.—The term "industry affecting commerce" means any activity, business, or industry in commerce or in which a labor dispute would hinder or obstruct commerce or the free flow of commerce and includes any activity or industry "affecting commerce" within the meaning of the Labor-Management Reporting and Disclosure Act of 1959, and further includes any governmental industry, business, or activity.

(8) LABOR ORGANIZATION.—The term "labor organization" means a labor organization engaged in an industry affecting commerce, and any agent of such an organization, and includes any organization of any kind, any agency, or employee representation committee, group, association, or plan so engaged in which employees participate and which exists for the purpose, in whole or in part, of dealing with employers concerning grievances, labor disputes, wages, rates of pay,

hours, or other items or conditions of employment, and any conference, general committee, joint or system board, or joint council so engaged which is subordinate to a national or international labor organization.

(9) LABOR ORGANIZATION DEEMED TO BE ENGAGED IN AN INDUSTRY AFFECTING COMMERCE.—A labor organization shall be deemed to be engaged in an industry affecting commerce if—

(A)(i) it maintains or operates a hiring hall or hiring office which procures employees for an employer or procures for employees opportunities to work for an employer; or

(ii) the number of its members (or, where it is a labor organization composed of other labor organizations or their representatives, if the aggregate number of the members of such other labor organizations) is fewer than 15; and

(B) such labor organization—

(i) is the certified representative of employees under the provisions of the National Labor Relations Act or the Railway Labor Act;

(ii) although not certified, is a national or international labor organization or a local labor organization recognized or acting as the representative of employees of an employer or employers engaged in an industry affecting commerce;

(iii) has chartered a local labor organization or subsidiary body which is representing or actively seeking to represent employees of employers within the meaning of clause (i) or (ii);

(iv) has been chartered by a labor organization representing or actively seeking to represent employees within the meaning of clause (i) or (ii) as the local or subordinate body through which such employees may enjoy membership or become affiliated with such labor organization; or

(v) is a conference, general committee, joint or system board, or joint council subordinate to a national or international labor organization, which includes a labor organization engaged in an industry affecting commerce within the meaning of any of clauses (i), (ii), (iii), or (iv).

(10) PERSON.—The term "person" includes one or more individuals, governments, governmental agencies, political subdivisions, labor unions, partnerships, associations, corporations, legal representatives, mutual companies, joint-stock companies, trusts, unincorporated organizations, trustees, trustees in cases under title 11, United States Code, or receivers.

(11) RESPONDENT.—The term "respondent" means—

(A) an employer, employment agency, labor organization; or

(B) a joint labor-management committee controlling apprenticeship or other training or retraining program, including an on-the-job training program, that serves an employer or an employee.

(12) STATE.—The term "State" includes a State of the United States, the District of Columbia, Puerto Rico, the Virgin Islands, American Samoa, Guam, Wake Island, the Canal Zone, and Outer Continental Shelf lands defined in the Outer Continental Shelf Lands Act.

SEC. 4. SEXUAL HARASSMENT.

(a) IN GENERAL.—It shall be an unlawful employment practice for a respondent to engage in a practice that constitutes sexual harassment, within the meaning of title VII of the Civil Rights Act of 1964 (42 U.S.C. 2000e et seq.) (including any regulation or administrative guideline issued under such title, or any applicable case law issued by a Federal court with respect to such title, regarding such harassment) against an employee or an applicant for employment with an employer.

(b) ANTI-RETALIATION.—It shall be an unlawful employment practice for a respondent to discriminate against any such employee or applicant because the employee or applicant has opposed any practice made an unlawful employment practice by this Act, or because the employee or applicant has made a charge, testified, assisted, or participated in any manner in an investigation, proceeding, or hearing under this Act.

SEC. 5. ENFORCEMENT, REMEDIES, AND RELATED PROVISIONS.

(a) ENFORCEMENT AND REMEDIES.—

(1) IN GENERAL.—This Act provides the powers, remedies, and procedures set forth in sections 705, 706, 707, 709, 710, 713, and 714 of the Civil Rights Act of 1964 (42 U.S.C. 2000e-4, 2000e-5, 2000e-6, 2000e-8, 2000e-9, 2000e-12, and 2000e-13) to the Commission, to the Attorney General, or to any person alleging a violation of any provision of this Act, as appropriate.

(2) DAMAGES.—

(A) IN GENERAL.—Except as provided in subparagraph (B), in an action brought by a complaining party under paragraph (1) in accordance with section 706 of the Civil Rights Act of 1964 (42 U.S.C. 2000e-5) against a respondent who engaged in a practice that violates a provision of this Act, the complaining party may be awarded compensatory and punitive damages as allowed in section 1977A(b) of the Revised Statutes (42 U.S.C. 1981a(b)), in addition to any relief authorized by section 706(g) of the Civil Rights Act of 1964, from the respondent.

(B) LIMITATIONS.—If—

(i) a complaining party is awarded, under this paragraph, compensatory damages for future pecuniary losses, emotional pain, suffering, inconvenience, mental anguish, loss of enjoyment of life, or other nonpecuniary losses, or punitive damages; and

(ii) on the day on which the complaining party is awarded damages described in clause (i) there is in effect under section 1977A of the Revised Statutes a limit on the sum of the amount of such damages that may be awarded under such section in an action in which the respondent has more than 14 and fewer than 101 employees in each of 20 or more calendar weeks in the current or preceding calendar year,

the sum of the amount of such damages that the complaining party may be awarded under this paragraph may not exceed the sum described in clause (ii).

(C) JURY TRIAL.—If a complaining party seeks compensatory or punitive damages under this paragraph—

(i) any party may demand a trial by jury; and

(ii) the court shall not inform the jury of the limitations described in subparagraph (B).

(b) EXTRATERRITORIAL APPLICATION.—Section 702 of the Civil Rights Act of 1964 (42 U.S.C. 2000e-1) shall apply with respect to the application of this Act to an employer, employing agency, labor organization, or committee, in the same manner and to the same extent as such section applies with respect to the application of title VII of such Act (42 U.S.C. 2000e et seq.) to an employer, employing agency, labor organization, or committee, respectively, as such terms are used in such Act.

(c) EFFECT ON STATE LAWS.—Section 708 of the Civil Rights Act of 1964 (42 U.S.C. 2000e-7) shall apply with respect to the construction of this Act in the same manner and to the same extent as such section applies with respect to the construction of title VII of such Act.

SEC. 6. POSTING NOTICES.

(a) NOTICE.—Every respondent shall post and keep posted, in the manner prescribed by section 711 of the Civil Rights Act of 1964 (42 U.S.C. 2000e-10), a notice describing the applicable provisions of this Act, to be prepared or approved by the Commission and to appear in an accessible format, for employees and applicants for employment with employers.

(b) PENALTY.—A willful violation of this section shall be punishable by a fine of not more than $100 for each separate offense.

SEC. 7. EFFECTIVE DATE.

This Act shall take effect 6 months after the date of enactment of this Act.

Ms. MOSELEY-BRAUN. Mr. President, I am proud to be an original cosponsor of the Harassment-Free Workplace Act. This legislation is important because it will extend legal protections against sexual harassment to every workplace in America. I believe it is critical to expand civil rights legislation to protect every American.

Under current law, the Civil Rights Act of 1964 as amended, an employee who has been the victim of sexual harassment in the workplace has the right to sue an employer for back pay and emotional distress only if she works for a company with greater than 15 employees. The law comes into play not based on the degree of harassment, or the injury caused, but as a function of the size of the company.

Mr. President, I believe this is the wrong standard. It is an arbitrary standard. I believe that all women and men should have the right to work in an environment free from harassment. Women who work in small companies are entitled to the same civil rights protections as women in large companies. That is what this bill does.

I would like to talk for a moment about the women that this bill will protect. Many of these women are the main providers for their families. They work hard and play by the rules and raise their children. They are our mothers, our sisters, and our daughters. And they have every right to equal protection under the law.

It is not enough to say that a woman working for a small company can change jobs if she is being harassed. Oftentimes, changing jobs is not a good option for a woman. For example, her employer may provide health benefits. But without portability of health care benefits, a woman with a preexisting condition might not be able to obtain affordable health care coverage at a new job.

This bill is not going to funnel money to lawyers. It will not produce unnecessary litigation. This bill will protect women who need our help. These women look to the Congress and the legal system as their last resort. Our laws must be responsive. Our country must respect the work of women at all levels, in every business, in every community.

Mr. President, small businesses are growing many times faster and creating many more jobs than corporate America. As a member of the Small Business Committee, I welcome the extension of Civil Rights Act protections to the most dynamic sector of our economy. More and more women are working in small businesses, and they deserve the protections the Congress has already awarded to women in big business.

I am proud that in my State of Illinois, the legislature reformed the Illinois Human Rights Act in 1992 to protect from sexual harassment any person who works in a company of more than one employee. In Illinois, we recognize that every person has the right to work in a harassment-free environment. But most States do not have legislation which protects all employees. That is why this Federal legislation is so important.

Mr. President, I was sent to the Senate by women and men across Illinois who thought I could make a difference. This legislation, if passed, will make an enormous difference in the lives of millions of women in Illinois and across America. I want to commend my colleague from California, Senator FEINSTEIN, for her leadership on this legislation. I intend to work closely with her to ensure passage of this bill.

Mr. SIMON. Mr. President, as chair of the Subcommittee on Employment and Productivity, which has oversight jurisdiction over the Equal Employment Opportunity Commission, I am pleased to be an original cosponsor of a measure that will provide recourse for the millions of women and men employed in the small business sector who currently have no protection under Federal sexual harassment law. While many States such as my home State of Illinois have enacted legislation to extend protection to small businesses, the increased incidence of sexual harassment in the workplace demands congressional action. Mr. President, my colleague, Senator FEINSTEIN, is introducing legislation to provide protection and recourse to those employed in businesses with fewer than 15 employees.

For the past two decades, we have seen a remarkable evolution in Federal sexual harassment law. In 1986, the Supreme Court in Meritor Savings Bank versus Vinson ratified the consensus emerging among the Federal circuits and the Equal Employment Opportunity Commission by recognizing a title VII cause of action for sexual harassment, even where the victim suffers no tangible or economic loss. Since the enactment of the Civil Rights Act of 1991, sexual harassment plaintiffs for the first time are entitled to compensatory and punitive damages, and have the right to a jury trial. More recently, the Supreme Court revisited sexual harassment issues in Harris versus Forklift Systems, Inc. and held that workers need not show severe psychological injury to prevail in sexual harassment cases.

Despite these recent developments and increased media attention to the subject of sexual harassment, sexual harassment in the workplace continues to be a pervasive problem. Some 70 percent of working women have been the victims of sexual harassment, according to several recent surveys. According to the National Institute of Business Management, 1 out of 2 women reports having been sexually harassed in the workplace within the past 2 years. The Equal Employment Opportunity Commission reports that sexual harassment complaints have increased 125 percent nationwide since 1990.

While the reported increase is significant, it does not tell the entire story. Sexual harassment is significantly underreported. In a 1992 Working Women survey, more than 60 percent of those surveyed responded that they had been harassed; however, only 1 out of 4 reported the harassment to their employers. Many women do not feel that they can safely report the problem, and many fear retaliation. Only 1 of 5 women surveyed by Working Women believes companies and the government treat complaints of harassment justly. Over 90 percent think that companies and government must do more to prevent and stop the abuse. Harassment in any workplace, whether in the public or private sector, must not be tolerated.

Sexual harassment is discrimination. Sexual harassment is about power and fear. Harassment often stems from an outdated attitude about the proper role of women, and is one way to keep women in their place. Harassment creates an onerous barrier that prevents women from reaching their potential in the workplace. Those who are harassed experience many serious ill effects such as being fired or forced to quit, undermined self-esteem, impaired health, and long-term career damage. Emotional turmoil affects work performance and forced career detours all too often translate into decreased earning power.

Harassment hurts employers and our Nation also. An earlier Working Women survey reported harassment costs a typical Fortune 500 company $6.7 million a year in absenteeism, turnover, and lost productivity. In order to compete in a global economy, all barriers that keep women and men from reaching their potential in the workplace must be removed.

Currently, title VII covers only employers of 15 or more employees. According to the Small Business Administration, approximately 89 percent of all employers operated businesses with less than 20 employees in 1990. These small businesses employed approximately 20 percent of the private work force. These statistics mean that over 18 million women and men have no recourse under Federal sexual harassment law. The proposed legislation will help ensure a nondiscriminatory workplace for all.

I urge my colleagues to join me in support of the Harassment-Free Workplace Act.

By Mr. MCCAIN:

S. 1865. A bill to amend title XIX of the Social Security Act to promote demonstrations by States of alternative methods of more efficiently delivering health care services through community health authorities.

THE COMMUNITY HEALTH IMPROVEMENT ACT OF 1994

• Mr. MCCAIN. Mr. President, I am pleased to introduce the Community Health Improvement Act of 1994, which is being cosponsored by Senators HOLLINGS and BROWN. The purpose of this legislation, which is similar to H.R. 3573 sponsored by Representative ROWLAND and cosponsored by Representative BILIRAKIS, is to enhance access to quality care for underserved populations, such as residents of rural areas and inner cities. It is strongly supported by the National Association of Community Health Centers.

As we debate health care reform, it has become increasingly apparent that millions of Americans have inadequate access to health care services as a result of where they live. A report from the National Association of Community Health Centers and George Washington University found that there are 43 million Americans who are considered medically underserved—people who can't get care when they need it. These people live in all areas of the country, but they are particularly located in rural communities and inner-city neighborhoods in which health care delivery systems are poorly developed. While some are uninsured, many have coverage but are still not able to obtain the efficient, integrated health care services they need.

The Community Health Improvement Act of 1994 will allow us to meet the needs of our medically underserved populations by building our national capacity of integrated service delivery systems. I want to emphasize that this is not a health reform bill, in the sense that it does not attempt to comprehensively address the way in which health care services are financed and delivered in this country. Of the various health reform bills that we are considering, some attempt to improve the service delivery capacity in underserved areas and some do not. Yet, all of these bills will entail some phase in and none will benefit underserved people immediately. This bill will allow us to address their problems while we are waiting for reform to go into effect. Moreover, it will not conflict with whichever health reform proposal is ultimately enacted.

Specifically, the Community Health Improvement Act would promote demonstrations by States of alternative methods of delivering health care services to underserved populations under Medicaid. It would authorize States to apply to the Secretary of DHHS to develop 5-year renewable demonstration projects establishing Community Health Authorities [CHA's]—vertically and horizontally integrated health service networks consisting of community health centers, rural health clinics, public health agencies, hospitals, and other local providers. The CHA's would enroll and care for underserved Medicaid recipients, and, to the extent financially feasible, would expand coverage to uninsured and underinsured low-income individuals.

States would obtain Federal matching funds to support the planning, development, and operation of the CHA's. The bill caps Federal payment for services provided by CHA's to the previous year's costs plus CPI, thereby funding them on a capitated basis. The CHA, not the Federal or State government, would be at financial risk for costs incurred above the capitation payment per enrollee. The National Association of Community Health Centers has advised us that the administrative costs of establishing the networks will be offset by program savings, and that the bill is likely to be graded budget neutral by CBO. It projects program savings of $2,150,000 annually for each State that has a demonstration, after the first 2 years of $250,000 in startup costs.

The bill also amends the Public Health Service Act to authorize grants to community health centers to support the planning and development of integrated health service networks that serve medically underserved areas and populations. This provision is independent of the Medicaid provision in the bill, and would allow community health centers to develop networks that are less comprehensive than the CHA's if they choose. Unlike H.R. 3573, our Senate bill does not grant malpractice protection under the Federal Tort Claims Act [FTCA] for CHA providers. This provision in the House bill would create an open-ended Federal liability for negligent actions of providers. Community health centers will maintain their FTCA coverage under current law.

While we are debating different health care reform proposals, and waiting for whatever reform plan that is ultimately enacted to go into effect, we should do everything that we can to make health care services more accessible and affordable for Americans, particularly underserved populations. The Community Health Improvement Act of 1994 offers one important way in which we can do this now. It will enhance our health care infrastructure where it is inadequate, enhance the efficiency of services in underserved areas, and enhance the affordability of care of uninsured and underinsured people.

Mr. President, I ask for unanimous consent that the text of our bill, as well as a recent New York Times article entitled "Finding, Not Paying, Doctors is Top Rural Health Concern" that indicates the need for this legislation, be included in the RECORD.

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

S. 1865

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 "Community Health Improvement Act of 1994".

SEC. 2. COMMUNITY HEALTH AUTHORITIES DEMONSTRATION PROJECTS.

(a) IN GENERAL.—Title XIX of the Social Security Act, as amended by section 13631(b) of the Omnibus Budget Reconciliation Act of 1993, is amended—

(1) by redesignating section 1931 as section 1932; and

(2) by inserting after section 1930 the following new section:

"COMMUNITY HEALTH AUTHORITIES DEMONSTRATION PROJECTS

"SEC. 1931. (a) IN GENERAL.—In order to test the effectiveness of various innovative health care delivery approaches through the operation of community health authorities, the Secretary shall operate a program under which States establish projects to demonstrate the effectiveness of such approaches in providing access to cost-effective preventive and primary care and related services for various areas and populations, including low-income residents of medically underserved areas or for medically underserved populations. A State may operate more than 1 such project.

"(b) SELECTION OF STATE PROJECTS.—

"(1) IN GENERAL.—A State is eligible to participate in the program, and establish a demonstration project, under this section only if—

"(A) the State submits to the Secretary an application, at such time and in such form as the Secretary may require, for participation in the program; and

"(B) the Secretary finds that—

"(i) the application contains assurances that the State will support the development of a community health authority that meets the requirements of this section,

"(ii) the community health authority will meet the requirements for such an authority under subsection (c),

"(iii) the State provides sufficient assurances that the demonstration project of a community health authority meets (or, when operational, will meet) the requirements of subsection (d), and

"(iv) the State will comply with the requirements of subsections (g) and (h).

"(2) CONTENTS OF APPLICATION.—Each application submitted under paragraph (1) for a demonstration project shall include at least the following:

"(A) A description of the proposed community health authority and of the area or population that the authority will serve.

"(B) A demonstration that the CHA will serve at least 1 geographic area or population group that is designated as medically underserved under section 330 of the Public Health Service Act or as having a shortage of health professionals under section 332 of such Act.

"(C) An assessment of the area's or population's need for services and an assurance that the services of the CHA will be responsive to those needs.

"(D) A list of the items and services to be furnished by the CHA under the project, broken down by those items and services that are treated as medical assistance under the State plan under this title and other items and services that will be provided by the CHA (either directly or through coordination with other entities).

"(E) An assurance that the CHA has entered into (or plans to enter into) written participation agreements with a sufficient number of providers to enable the CHA to furnish all of such items and services to enrolled individuals.

"(F) An assurance that the State plan under this title will provide payment to the authority in accordance with subsection (e).

"(G) Evidence of support and assistance from other State agencies with responsibility for providing or supporting the provision of preventive and primary care services to underserved and at-risk populations.

"(H) A proposed budget for the CHA.

"(3) PRIORITY.—The Secretary shall give priority to those applications proposing to support a CHA that includes as participating providers all Federally-qualified health centers serving the area or population or (in areas for which there are no Federally-qualified health centers) all entities that would be Federally-qualified health centers but for the failure to meet the requirement described in section 329(f)(2)(G)(i) of the Public Health Service Act or the requirement described in section 330(e)(3)(G)(i) of such Act (relating to the composition of the entity's governing board).

"(4) PERIOD OF APPROVAL.—Each project approved under this section shall be approved for a period of not less than 5 years, subject to renewal for subsequent periods unless such approval is withdrawn for cause by the Secretary or at the request of the State.

"(c) COMMUNITY HEALTH AUTHORITY (CHA) DEFINED.—In this section, the terms 'community health authority' and 'CHA' mean a nonprofit entity that meets the following requirements:

"(1) The entity serves (or will serve at the time it becomes operational under a project) a geographic area or population group that includes those designated—

"(A) under section 330 of the Public Health Service Act as medically underserved, or

"(B) under section 332 of such Act as a health professions shortage area.

"(2) The entity enrolls—

"(A) individuals and families who are medicaid-eligible;

"(B) within the limits of its available resources and capacity, other individuals who have incomes below 200 percent of the Federal official poverty level; and

"(C) within the limits of its available resources and capacity, other individuals and families who are able to pay the costs of enrollment.

"(3) Through its participating providers, the entity provides or, through contracts, arranges for the provision of (or, by the time it becomes operational, will so provide or arrange for the provision of) at least preventive services, primary care services, inpatient and outpatient hospital services, and any other service provided by a participating provider for which payment may be made

under the State plan under this title to enrolled individuals.

"(4) The entity must include (to the maximum extent practicable) as participating providers any of the following providers that furnish services provided by (or arranged by) the entity that are located in or serve the area or population to be covered:

"(A) Federally-qualified health centers.

"(B) Rural health clinics.

"(C) Local public health agencies that furnish such services.

"(D) A hospital (or other provider of inpatient or outpatient hospital services) which has a participation agreement in effect with the State under its plan under this title, which is located in or serving the area or population to be served.

"(5) The entity may include as participating providers other providers (which may include private physicians or group practice offices, other community clinics, limited service providers (such as prenatal clinics), and health professionals teaching programs (such as area health educational centers)) and take other appropriate steps, to the extent needed to assure that the network is reasonable in size and able to provide (or arrange for the provision of) the services it proposes to furnish to its enrollees.

"(6) The entity must maintain written agreements with each participating provider under which the provider agrees to participate in the CHA and agrees to accept payment from the CHA as payment in full for services furnished to individuals enrolled with the CHA (subject to the requirements of subsection (g)(4), in the case of services furnished by a provider that are described in subparagraph (B) or (C) of section 1905(a)(2)).

"(7) Under the written agreements described in paragraph (6), if a majority of the board of directors of the entity has determined that a participating provider is failing to meet any of the requirements of the participation agreement, the board may terminate the provider's participation agreement in accordance with the following requirements:

"(A) Subject to subparagraph (B), prior to any termination of a provider's participation agreement, the provider shall be entitled to 30 days prior notice, a reasonable opportunity to correct any deficiencies, and an opportunity for a full and fair hearing conducted by the entity to dispute the reasons for termination. The provider shall be entitled to appeal the board of directors' decision directly to a committee consisting of representatives of all of the entity's participating providers.

"(B) If a majority of the board of directors of the entity determines that the continued participation of a provider presents an immediate threat to the health and safety of patients or a substantial risk of improper diversion of funds, the board may suspend the provider's participation agreement (including the receipt of funds under the agreement) for a period of up to 60 days. During this period, the entity shall take steps to ensure that patients who were assigned to or cared for by the suspended provider are appropriately assigned or referred to alternative participating providers. The suspended provider shall be entitled to a hearing within the period of the suspension to show cause why the suspension should be lifted and its participation agreement restored. If dissatisfied with the board's decision, the provider shall be entitled to appeal the decision directly to a committee consisting of representatives of all of the entity's participating providers.

"(C) For all other disputes between the entity and its participating providers (including disputes over the amounts due or interim rates to be paid to a provider), the entity shall provide an opportunity for a full and fair hearing.

"(8) The entity must be governed by a board of directors that includes representatives of the participating providers and, as appropriate, other health professionals, civic or business leaders, elected officials, and residents of the area or population served. Not less than 51 percent of such board shall be composed of individuals who are enrolled in the CHA and who are representatives of the community served.

"(d) DEMONSTRATION PROJECT REQUIREMENTS.—The requirements of this subsection, with respect to a demonstration project of a CHA under this section, are as follows:

"(1)(A) All services furnished by the CHA under the project shall be available and accessible to all enrolled individuals and, except as provided in subparagraph (B), must be available without regard to an individual's ability to pay for such services.

"(B) A CHA shall prepare a schedule of discounts to be applied to the payment of premiums by individuals who are not medicaid-eligible individuals which shall be adjusted on the basis of the individual's ability to pay.

"(2) The CHA shall take appropriate steps to emphasize the provision of preventive and primary care services, and shall ensure that each enrolled individual is assigned to a primary care physician (to the greatest extent appropriate and feasible), except that the CHA shall establish a process through which an enrolled individual may be assigned to another primary care physician for good cause shown.

"(3) The CHA must make reasonable efforts to reduce the unnecessary or inappropriate use of hospital or other high-cost services through an emphasis on preventive and primary care services, the implementation of utilization review or other appropriate methods.

"(4) The State must regularly provide the CHA with information on other medical, health, and related benefits that may be available to individuals enrolled with the CHA under programs other than the State plan under this title, and the CHA must provide its enrolled individuals with enrollment information and other assistance to assist such individuals in obtaining such benefits.

"(5) The State and the CHA must meet such financial standards and requirements and reporting requirements as the Secretary specifies and must prepare and submit to the Secretary an annual independent financial audit conducted in accordance with requirements specified by the Secretary.

"(6) In collaboration with the State, the CHA must adopt and use community-oriented, patient-responsive quality assurance and control systems in accordance with requirements specified by the Secretary. Such systems must include at least an ongoing quality assurance program that measures consumer satisfaction with the care provided under the network, stresses improved health outcomes, and operates a community health status improvement process that identifies and investigates community health problems and implements measures designed to remedy such problems.

"(e) CAPITATION PAYMENTS.—

"(1) IN GENERAL.—Under a demonstration project under this section, the State shall enter into an annual contract with the CHA under which the State shall make monthly payments to the CHA for covered services furnished through the CHA to individuals entitled to medical assistance under this title in the amount specified in paragraph (2). Payment shall be made at the beginning of each month on the basis of estimates of the amounts payable and amounts subsequently paid are subject to adjustment to reflect the amounts by which previous payments were greater or less than the amount of payments that should have been made.

"(2) AMOUNT OF CAPITATION PAYMENT.—The amount of a monthly payment under paragraph (1) during a contract year, shall be equal to 1/12 of the product of—

"(A)(i) the average per capita amounts expended under this title under the State plan for covered services to be furnished under the demonstration project for similar medicaid-eligible individuals for the most recent 12-month period ending before the date of the enactment of this section, increased by (ii) the percentage change in the consumer price index for all urban consumers (all items; U.S. city average) during the period that begins upon the expiration of such 12-month period and ends upon the expiration of the most recent 12-month period ending before the first month of the contract year for which complete financial data on such index is available, and

"(B) the number of medicaid-eligible individuals enrolled under the project as of the 15th day of the month prior to the first month of the contract year (or, in the case of the first year for which a contract is in effect under this subsection, the CHA's reasonable estimate of the number of such individuals who will be enrolled in the project as of the 15th day of such month).

"(f) ADDITIONAL STATE ASSISTANCE FOR PLANNING, DEVELOPMENT, AND OPERATIONS.—

"(1) IN GENERAL.—Subject to paragraph (2), in addition to the payments under subsection (e), demonstration projects approved under this section are eligible to have approved expenditures described in paragraph (3) treated, for purposes of section 1903(a)(7), as expenditures found necessary by the Secretary for the proper and efficient administration of the State plan under this title.

"(2) SPECIAL RULES.—

"(A) LIMITATION WITH RESPECT TO ANY COMMUNITY HEALTH AUTHORITY.—The total amount of expenditures with respect to any CHA that may be treated as expenditures for administration under paragraph (1) for any 12-month period shall not exceed $250,000.

"(B) LIMITATION ON NUMBER OF YEARS.—The number of 12-month periods for which expenditures are treated as expenditures for administration under paragraph (1) for a CHA shall not exceed—

"(i) 2 for expenditures for planning and development assistance, described in paragraph (3)(A), and

"(ii) 2 for expenditures for operational assistance, described in paragraph (3)(B).

"(C) NO RESULTING REDUCTION IN AMOUNTS PROVIDED UNDER PHSA GRANTS.—No grant to a CHA or 1 of its participating providers under the Public Health Service Act or this Act may be reduced on the ground that activities of the CHA that are considered approved expenditures under paragraph (3) are activities for which the CHA or the participating providers received funds under such Act.

"(3) APPROVED EXPENDITURES.—The approved expenditures described in this paragraph are as follows:

"(A) PLANNING AND DEVELOPMENT.—Expenditures for planning and development with respect to a CHA, including—

"(i) developing internal management, legal and financial and clinical, information, and

reporting systems for the CHA, and carrying out other operating activities of the CHA;

"(ii) recruiting, training and compensating management staff of the CHA and, as appropriate and necessary, management and clinical staff of any participating provider;

"(iii) purchasing essential equipment and acquiring, modernizing, expanding, or (if cost-effective) constructing facilities for the CHA and for participating providers (including amortization costs and payment of interest on loans); and

"(iv) entering into arrangements to obtain or participate in emerging medical technologies, including telemedicine.

"(B) OPERATIONS.—Expenditures in support of the operations of a CHA, including—

"(i) the ongoing management of the CHA, including daily program administration, recordkeeping and reporting, assurance of proper financial management (including billings and collections) and oversight of program quality;

"(ii) developing and operating systems to enroll eligible individuals in the CHA;

"(iii) data collection, in collaboration with the State medicaid agency and the State health department, designed to measure changes in patient access to care, the quality of care furnished, and patient health status, and health care outcomes;

"(iv) ongoing community outreach and community education to all residents of the area or population served, to promote the enrollment of eligible individuals and the appropriate utilization of health services by such individuals;

"(v) the establishment of necessary reserves or purchase of stop-loss coverage; and

"(vi) activities relating to health professions training, including residency training at participating provider sites.

"(g) ADDITIONAL REQUIREMENTS.—

"(1) MANDATORY ENROLLMENT OF MEDICAID-ELIGIBLE INDIVIDUALS.—Notwithstanding any provision of section 1903(m), a State participating in a demonstration project under this section may require that each medicaid-eligible resident in the service area of a CHA operating under the project is not eligible to receive any medical assistance under the State plan that may be obtained through enrollment with the CHA unless the individual receives such assistance through enrollment with the CHA.

"(2) CONTINUED ENTITLEMENT TO ADDITIONAL BENEFITS.—In the case of a medicaid-eligible individual enrolled with a CHA under a demonstration project under this section, the individual shall remain entitled to medical assistance for services which are not covered services under the project.

"(3) HMO-RELATED REQUIREMENTS.—A CHA under this section shall be deemed to meet the requirements of section 1903(m) (subject to paragraph (1)) in the same manner as an entity listed under section 1903(m)(2)(G).

"(4) TREATMENT OF FEDERALLY-QUALIFIED HEALTH CENTERS AND RURAL HEALTH CLINICS.—Payments under a demonstration project under this section to a Federally qualified health center or rural health clinic which is a participating provider shall be made consistent with section 1902(a)(13)(E) for all services offered by the CHA which are provided by such a center or clinic.

"(5) OUTSTATIONING ELIGIBILITY WORKERS.—Under the project, the State may (in addition to meeting the requirements of section 1902(a)(55)) provide for, or pay the reasonable costs of, stationing eligibility workers at appropriate service sites under the project, and may permit medicaid-eligible individuals to be enrolled under the State plan at such a CHA or at such a site.

"(6) PURCHASE OF STOP-LOSS COVERAGE.—The State shall ensure that the CHA has purchased stop-loss coverage to protect against default on its obligations under the project. If an entity otherwise qualified to serve as a CHA is prohibited under State law from purchasing such coverage, the State shall waive the application of such law to the extent necessary to permit the entity to purchase such coverage.

"(h) EVALUATION AND REPORTING.—

"(1) CHA.—Each CHA in a State with a demonstration project approved under this section shall prepare and submit to the State an annual report on its activities during the previous year.

"(2) STATE.—Taking into account the reports submitted pursuant to paragraph (1), each State with a demonstration project approved under this section shall prepare and submit to the Secretary an annual evaluation of its activities and services under this section. Such evaluation shall include an analysis of the effectiveness of the project in providing cost-effective health care to enrolled individuals.

"(3) REPORT TO CONGRESS.—Not later than 3 years after the date of the enactment of this section, the Secretary shall submit to Congress a report on the demonstration projects conducted under this section. Such report shall include an analysis of the effectiveness of such projects in providing cost-effective health care for the areas or populations served.

"(i) COLLABORATION IN ADMINISTRATION.—In carrying out this section, the Secretary shall assure the highest possible level of collaboration between the Health Care Financing Administration and the Public Health Service. Such collaboration may include (if appropriate and feasible) any of the following:

"(1) The provision by the Public Health Service of new or increased grant support to eligible entities participating in a CHA, in order to expand the availability of services (particularly preventive and primary care services).

"(2) The placement of health professionals at eligible locations and collaboration with Federally-assisted health professions training programs located in or near the areas served by community health authorities.

"(3) The provision of technical and other nonfinancial assistance.

"(j) DEFINITIONS.—In this section:

"(1) MEDICAID-ELIGIBLE INDIVIDUAL.—The term 'medicaid-eligible individual' means an individual described in section 1902(a)(10)(A) and entitled to medical assistance under the State plan.

"(2) PARTICIPATING PROVIDER.—The term 'participating provider' means, with respect to a CHA, a provider that has entered into an agreement with the CHA for the provision of covered services under a project under this section.

"(3) PREVENTIVE AND PRIMARY CARE SERVICES.—'Preventive' and 'primary' services include those services described in section 1905(1)(2)(A) and included as Federally-qualified health center services.".

(b) CONTINUED MEDICAID ELIGIBILITY FOR UP TO 1 YEAR.—Section 1902(e)(2) of such Act (42 U.S.C. 1396a(e)(2)) is amended—

(1) in subparagraph (A)—

(A) by inserting "or with a community health authority under a demonstration project under section 1931" after "section 1876", and

(B) by striking "such organization or entity" and inserting "such organization, entity, or authority"; and

(2) in subparagraph (B), by striking "effective." and inserting the following: "effective (or, in the case of an individual enrolled with a community health authority under a demonstration project under section 1931, of not more than 1 year beginning on the date the individual's enrollment with the authority becomes effective).".

(c) EXCEPTION TO ANTI-KICKBACK LAW.—Section 1128B(b)(3) of such Act (42 U.S.C. 1320a-7b(b)(3)) is amended—

(1) by striking "and" at the end of subparagraph (D),

(2) by striking the period at the end of subparagraph (E) and inserting "; and", and

(3) by adding at the end the following new subparagraph:

"(F) any remuneration paid, or received, by a Federally qualified health center, rural health clinic, or other entity which is a participating provider under a demonstration project under section 1931 as part of an arrangement for the procurement of goods or services or the referral of patients or the lease or purchase of space or equipment.".

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to calendar quarters beginning on or after October 1, 1994.

SEC. 3. HEALTH CENTER PROGRAM AMENDMENTS.

(a) AUTHORIZATION OF GRANTS FOR NETWORK DEVELOPMENT.—

(1) MIGRANT HEALTH CENTERS.—Section 329 of the Public Health Service Act (42 U.S.C. 254b) is amended by adding at the end the following:

"(j)(1) The Secretary may make a grant, to an entity receiving a grant under this section or to a group of such entities, to support the planning and development of health service networks (as defined in paragraph (3)) which will serve high impact areas, medically underserved areas, or medically underserved populations within the area they serve (or propose to serve).

"(2) A grant under this subsection for the planning and development of a health service network may be used for the following costs:

"(A) The costs of developing the network corporate entity, including planning and needs assessment.

"(B) The costs of developing internal management for the network, as well as costs of developing legal, financial, clinical, information, billing, and reporting systems, and other costs necessary to achieve operational status.

"(C) The costs of recruitment, training, and compensation of management staff of the network and, as appropriate and necessary, the management and clinical staff of any participating provider.

"(D) The costs of developing additional primary health and related service sites, including costs related to purchase of essential equipment, acquisition, modernization, expansion, or, if cost-effective, construction of facilities.

"(3) In this subsection, the term 'health service network' means a nonprofit private entity that—

"(A) through its participating providers (which may provide services directly or through contract) assures the provision of primary health and related services and, as appropriate, supplemental health services to residents of the high impact area or medically underserved area or members of the medically underserved population covered by the network,

"(B) includes, as participating providers, at least all recipients of grants under this section or section 330, 340, or 340A that provide primary health and related services to the residents of the area it serves (or proposes to serve), and that may include, at the

entity's option, any other providers of primary health or supplemental health services to residents of the high impact area or medically underserved area or members of the medically underserved population covered by the network, but only if such participating providers agree to provide services without regard to an individual's ability to pay, and

"(C) is governed by individuals a majority of whom are patients, employees, or board members of its participating providers that receive grants under this section or section 330, 340, or 340A.".

(2) COMMUNITY HEALTH CENTERS.—Section 330 of such Act (42 U.S.C. 254c) is amended by adding at the end the following:

"(l)(1) The Secretary may make a grant, to an entity receiving a grant under this section or to a group of such entities, to support the planning and development of health service networks (as defined in section 329(j)(3)) which will serve high impact areas, medically underserved areas, or medically underserved populations within the area they serve (or propose to serve).

"(2) A grant under this subsection for the planning and development of a health service network may be used for the costs described in section 329(j)(2).".

(3) EFFECTIVE DATE.—The amendments made by this subsection shall take effect on the date of the enactment of this Act.

(b) EXTENSION OF AUTHORIZATION OF APPROPRIATIONS.—

(1) MIGRANT HEALTH CENTERS.—Section 329(h)(1)(A) of such Act (42 U.S.C. 254b(h)(1)(A)) is amended—

(A) by inserting "and subsection (j)" after "through (e)", and

(B) by striking "1994" and inserting "1999".

(2) COMMUNITY HEALTH CENTERS.—Section 330(g)(1)(A) of such Act (42 U.S.C. 254c(g)(1)(A)) is amended by striking "1994" and inserting "1999".

[From the New York Times, Feb. 19, 1994]

FINDING, NOT PAYING, DOCTORS IS TOP RURAL HEALTH CONCERN

(By Adam Clymer)

PARKSTON, SD, Feb. 19.—The big problems of health care sound very different in small farming towns than they do in Washington. The issues that Congressional subcommittees will begin voting on in a few days are remote, often irrelevant and frequently unknown in the rural Midwest.

Several days of conversations here made it clear that the big problem is less how to pay for health care than to make sure that there is health care to pay for.

Few people concentrate on worries about bureaucracies and health insurance purchasing alliances, though they have their doubts. Instead they talk about recruiting doctors and using other medical workers more efficiently.

Gale Walker, the administrator of the 30-bed St. Benedict's Hospital in Parkston, 60 miles west of Sioux Falls, said: "Here, it's not 'Do I have a choice? it is, 'What do I do to find a doctor or a nurse practitioner?'"

Or, said Linda Guthmiller, the assistant administrator and laboratory chief at the 25-bed Landman-Jungman Hospital in Scotland, 24 miles to the southeast, "Doctors have to start dropping their egos, and they have to let the nurses and the physicians' assistants do more."

The health care issue has hit South Dakota with full force with Hillary Rodham Clinton's visit to Lennox on Friday, a preemptive Republican attack that morning in Sioux Falls by Senator Phil Gramm of Texas, and a sudden surge in news coverage of the subject.

It was clear from comments by people who heard Mrs. Clinton, conversations with people here and in Scotland, and in a discussion with nine South Dakotans assembled on Friday evening to talk about the subject, that there seems to be a consensus on one crucial issue: the United States ought to see to it that everyone has health insurance.

After the group discussion, Kate Heligas, executive director of the South Dakota Nurses Association said, "I think until we have universal coverage, the rest of the pieces will not fit."

FEARING 'ONE SIZE FITS ALL'

Lots of people do have a vague idea of how President Clinton's plan might affect them, at least in some meaningful particular. Roy D. Nyberg, who runs the Ace Hardware Store in Sioux Falls, thinks he could not afford to increase his health insurance payments for workers to the level the plan demands, although he thinks the nation needs universal coverage. Cecelia Humphrey, an 85-year-old resident of a Sioux Falls nursing home, told Mrs. Clinton: "One thing I'm pleased about is we get to keep our doctor. I couldn't live without mine.

But as to the alternative plans from Republicans and other Democrats, hardly anyone knows what is in them. Dr. Phillip Barker, a family practitioner at St. Benedict's, dismisses them because "most of them fail to provide universal coverage," even though he thinks universal health insurance could greatly increase the demand for medical care and lead to more 90-hour weeks for isolated doctors like himself.

The one profound shared concern among South Dakotans is a fear that Republicans like Senator Gramm have capitalized on: that Washington uses a "one size fits all" approach, as Mr. Gramm, the Clinton plan's severest critic, puts it.

That concern came through, perhaps more tentatively, around the table in a motel meeting room on Friday where the nine South Dakotans gathered. Evelyn Peterson, a retired nursing educator who likes the Clinton plan's emphasis on preventive care, still worries that "every model that we've been given for rural health care has been developed in an urban area, so it doesn't fit."

LITTLE COMPETITION TO MANAGE

Vince Crawford, the director of the Veterans Administration Hospital in Sioux Falls, said, "One size fits all is nuts." If there was one message he could send to Washington, Mr. Crawford said, it would be "there needs to be a great deal of flexibility so that South Dakota and New York City can each solve their own problems."

One principle of the Clinton plan seems irrelevant here. A basic hope of the Administration is that the philosophy behind its proposals will lower costs. That philosophy, known as managed competition, requires different groups of doctors and hospitals to compete for patients' business. But South Dakota has only three cities of more than 25,000 people and only in Sioux Falls is there a big enough medical center for competition to be imaginable.

Even without managed competition, the Clinton plan, if it worked, would save money for South Dakotans. It would bring them together in an alliance that would have enough purchasing power to negotiate rates with insurance companies that now, Mr. Nyberg said, simply announce how much higher the rates will go each year.

That power of alliances has not got through here, though Mrs. Clinton tried to stress it during her visit. Even a basic supporter of her plan, Steven J. Simonin, the administrator at Landman-Jungman, mutters caustically about "this invisible alliance up in Sioux Falls or somewhere."

To much of South Dakota, Sioux Falls with its population of 100,836 and two major hospitals, is the big city. In great swaths of the state, medicine means small hospitals and the clinics they run in outlying hamlets. It is hard to get doctors. It is even hard to get physicians' assistants and nurses.

Mr. Walker, the St. Benedict's administrator, calls that his biggest problem. He spends 20 percent of his time on recruitment and retention. Last month he sent out 50 letters and got one postcard in return, asking for more information. He uses recruiting agencies that he calls "bounty hunters." He finds that small-town medicine may be attractive enough but small-town living can be a drawback.

"We don't have the opera," Mr. Walker said. "We don't have professional sports. We don't have a shopping mall." He looks for people interested in hunting, fishing and cross-country skiing.

On Friday, Mrs. Clinton spoke of how the Administration plan would stress financial incentives and tax credits to lure medical workers to rural areas. The South Dakotans in the discussion group thought that was a good idea.

'DON'T SEE A CRISIS HERE'

But Dr. Barker, whom Mr. Walker recruited, had his doubts about whether money or anything else the Federal Government might offer would bring more doctors to small towns.

Clearly there are South Dakotans who do not want the Government doing more. Introducing Senator Gramm on Friday, Dr. Walter Carlson, chairman of the professional activities committee of McKennan Hospital, said: "I guess we just don't see a crisis here. I know of no physician or hospital that has ever denied anybody health care."

And supporters of the Clinton plan or some variant have their doubts about whether the Federal Government can be relied on, too. Mr. Walker fears that pressure to cut Medicare reimbursement rates to pay for other programs will hit his hospital hard, since it has few other patients to shift costs to.

In the discussion group, several people wondered whether the Government would provide all the money it promised, recalling other programs that had been cut. And Mr. Crawford feared "too many checkers" looking over shoulders, wasting time and money. Mr. Nyberg asked, "If this program starts, where does it end?" He recalled that in 1937 employers had to pay a 1 percent Social Security tax but that now they pay 7.65 percent.

There was pessimism about the people, too. Karen Pettigrew, a nurse-midwife from Rapid City, complained: "People all seem unwilling to change from the best of all possible ideal plans, but they don't want to pay for it. Everyone wants the Cadillac for them and their children.

But strongest of all were their doubts about Washington's ability to deal with the issue. Morris Magnuson, a retired school administrator, spoke for many when he said, "It's getting so fragmented with the doctors and the hospitals and the Republicans and the Democrats."

Mr. Nyberg added: "There is a solution. It will not occur if we have partisan politics as usual."

And Ms. Pettigrew said she thought all that would result would be "a few Band-Aids,

nothing that will really bother people too much."•

By Mr. METZENBAUM (for himself, Mr. DECONCINI Mr. SIMON, and Mr. REID):

S. 1866. A bill to amend the National Security Act of 1947 to improve personnel measures that enhance security for classified information, and for other purposes; to the Select Committee on Intelligence.

PERSONNEL SECURITY ACT OF 1994

Mr. METZENBAUM. Mr. President, we were all shocked on Wednesday to learn that a senior CIA case officer had been arrested and charged with being a spy for the Soviet Union and later for the Russian Federation. It is almost beyond belief that he had allegedly been getting away with it for nearly 9 years.

Some of my colleagues, including the Republican leader and some on my side of the aisle as well, have suggested we should retaliate against Russia for engaging in espionage against us by cutting off our economic aid to them. I do not follow that logic. "I don't get it." Are my colleagues telling us that they are outraged, or surprised, or disappointed, or dumbfounded to learn that the Soviet Union, and now the Russians, have spies working for them? Is that news to them?

Are you telling me there is a Member of this body who is naive enough to believe that Russia had gotten out of the espionage business? Of course not. Did they think that the day the Soviet Union fell, we all shook hands and called home our spies?

Of course not. Whom are we kidding. We all know that was not the fact. It was not the Russians who betrayed us. It was an American CIA officer who betrayed his country for cash, and exposed our spies in Russia. The Russians are doing what we have been doing for decades in the spying business.

What riles me is the fact that they seem to be doing a better job of it than we are. The protesting Republican leader and his allies from my party could use a little reality check. Retaliation against Russia would be self-defeating.

I am frank to say that on the whole aid-to-Russia package, this Senator was not a player. I was not involved in promoting it or speaking for it or advocating it. I voted for it; I did not vote against it. But it was not something I considered a particular issue of my concern. To hear now, however, that we ought to be denying the Russians that aid because of the betrayal committed by one of our intelligence officers, to me that is absolutely absurd.

Our aid to Russia is intended to enhance our own national security. Whether Russia spies on us or not, it remains in our national security interests for them to dismantle the greater part of their missiles and nuclear warheads. Likewise, whether Russia spies on us or not, it remains in our national security interests for Russia to persevere in its economic and political reforms. Our aid is designed to assist in those areas, and it remains in our own national interest to provide it.

We have a right to be upset by the Aldrich Ames case. Every American has a right to be distressed, disturbed, and also questioning—asking, "How could this happen? How could this happen, in the Central Intelligence Agency on which we spend billions upon billions of dollars a year?" We cannot state the exact amount, because this is prohibited by law—because the administration and the Director of the Central Intelligence Agency are unwilling to make the fact known—but everybody knows it is billions upon billions of dollars. We have a right to say, "Are we getting our money's worth?" What are we getting for it if, in this particular case, something was going on for 8 or 9 years and the CIA did not know about it?

We should not be surprised, however, by the fact that the Soviets and the Russians after them used the information which Ames made available to them. We may not like spying, but that is certainly one of the so-called games that nations play. We play with game, our allies play that game and, naturally, our adversaries do so as well.

The first lesson that spies learn, moreover, is that you have to know what the other guy is doing to you. That is precisely what the Soviets and Russians were doing when they reportedly paid Mr. Ames $1.5 million to tell them about United States espionage operations and the identity of our secret sources in that country. The real concern that we should have in the CIA's failure to know what Mr. Ames had apparently been doing for all these years. For an agency on which we spend billions of dollars a year to spy on other countries not to know what is going on in their own shop is embarrassing, it is humiliating, and it is absolutely unacceptable.

A $70,000-a-year Government worker buys a half million dollar house with cash, drives a Jaguar to work, uses his charge cards as if he were the Sultan of Brunei, and nobody figures it out? How can this be? It is incredible.

Some Members of this body, instead of putting the blame where it belongs—on our own intelligence agency—want to blame Russia for having spied on us; therefore, they argue, we ought to not let them have any more aid. I do not understand that line of reasoning. There is an argument as to whether we should make aid available to Russia, but this case has nothing to do with it. While I support the aid package, I understand an argument against it. But there is no logic in cutting off our aid because the Soviet Union did a better job of breaking through our spy network than we did in breaking through theirs.

Our spies in the U.S.S.R. were getting arrested and executed for treason because of Mr. Ames's actions, and our intelligence body did not know what was going on. It is shameful; it is embarrassing; it is humiliating. But it is a reality.

What can we do about it? There is one thing we can do immediately, if we want. It would not help on the Ames case—that is behind us—but it might help on tomorrow's case or next year's case. It would help our intelligence agencies and other agencies that handle top-secret information. We can pass legislation that was proposed by the leadership of the Intelligence Committee 3 years ago giving agencies access to the financial and travel records of their employees who get top-secret access.

It is a sobering fact, Mr. President, that the modern American spy rarely betrays our country for ideological reasons and even more rarely because of blackmail. The major goals of American spies in recent years have been money—money and excitement.

In the really damaging long-term espionage cases, there were often large amounts of money changing hands, and it would be a great benefit to our counterintelligence security units if they could routinely monitor the financial status of employees and recent employees who have access to top-secret information. This would be a new intrusion upon those employees, but I think it would be a reasonable one. I would normally be protective of the privacy of all employees; but in this limited area alone, I think there is reason to make certain exceptions.

Thanks to the good work of U.S. security services and especially of the FBI, foreign intelligence services rarely have face-to-face meetings with American spies in the United States. Rather, communications in the United States is generally through the use of "dead drops" or coded radio broadcasts or through prearranged signals in classified ads.

But foreign intelligence services do have American spies travel to foreign meeting places like Mexico City, Vienna, Geneva, Berlin, Bogota, or Bangkok to meet their foreign handlers face to face. If an employee's agency would routinely check the records of airlines and other travel companies to see where its employees were traveling, that would make it much more difficult for a spy to run around the world for 5 or 10 years without the agency catching us.

Today I am introducing a bill, the Personnel Security Act of 1994, to provide U.S. agencies with access to financial and travel records that they need to do a better job of protecting themselves against foreign espionage. I invite my colleagues, especially those on

the Senate Intelligence Committee, to work with me to make a sensible contribution to combating espionage, rather than pretending that we have either the right or the ability to stop other countries from engaging in espionage efforts that we and every other state view as a normal national security protection.

Let us stop the breast beating and the Russia bashing and admit that if we want to combat foreign espionage, we have to improve personnel security at home. Let us get on with that job.

Mr. President, I send a copy of the legislation to the desk and I ask unanimous consent that a copy be printed in the RECORD.

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

S. 1866

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 "Personnel Security Act of 1994".

SEC. 2. AMENDMENT TO THE NATIONAL SECURITY ACT OF 1947.

The National Security Act of 1947 (50 U.S.C. 401 et seq.) is amended by inserting at the end thereof the following new title:

"TITLE VIII—ACCESS TO TOP SECRET INFORMATION

"ELIGIBILITY FOR ACCESS TO TOP SECRET INFORMATION

"SEC. 801. (a) The President and Vice President, Members of the Congress, Justices of the Supreme Court and judges of other courts of the United States established pursuant to Article III of the Constitution, shall, by virtue of their elected or appointed positions, be entitled to access to Top Secret information needed for the performance of their governmental functions without regard to the other provisions of this title.

"(b) Among employees of the United States Government, access to Top Secret information shall be limited to employees who—

(1) have been granted access to such information pursuant to this title;

(2) are citizens of the United States who require access to such information for the performance of official governmental functions; and

(3) have been determined to be trustworthy based upon a background investigation and appropriate reinvestigations and have otherwise satisfied the requirements of section 802, below.

"(c) Access to Top Secret information by persons other than those identified in subsections (a) and (b) shall be permitted only in accordance with the regulations issued by the President pursuant to section 802 below.

"IMPLEMENTING REGULATIONS

"SEC. 802. The President shall, within 180 days of enactment of this title, issue regulations to implement this title which shall be binding upon all departments, agencies, and offices of the Executive branch. These regulations shall, at a minimum provide that—

"(A) no employee of the United States Government shall be given access to Top Secret information owned, originated or possessed by United States, after the effective date of this title, by any department, agency, or entity of the United States Government unless such person has been subject to an appropriate background investigation and has—

"(1) provided consent to the investigative agency responsible for conducting the security investigation of such person, during the initial background investigation and for such times as access to such information is maintained, and for 5 years thereafter, permitting access to—

"(a) financial records concerning the subject pursuant to section 1104 of the Right to Financial Privacy Act of 1978;

"(b) consumer reports concerning the subject pursuant to section 1681b of the Consumer Credit Protection Act; and

"(c) records maintained by the commercial entities within the United States pertaining to any travel by the subject outside the United States: *Provided*, that—

"(i) no information may be requested by an authorized investigation agency pursuant to this section for any purpose other than making a security determination, unless such agency has reasonable grounds to believe, based upon specific and articulable facts available to it, that such person may pose a threat to the continued security of the information to which he or she had previously had access; and

"(ii) any information obtained by an authorized investigative agency pursuant to this section shall not be disseminated to any other department, agency, or entity for any purpose other than: (A) for making a security determination; or (B) for foreign counterintelligence or law enforcement purposes;

"(2) agreed, during the period of his or her access, to report to the department, agency, or entity granting such access in accordance with applicable regulations, any travel to foreign countries which has not been authorized as part of the subject's official duties; and

"(3) agreed to the Federal Bureau of Investigation, or to appropriate investigative authorities of the department, agency, or entity concerned, any unauthorized contracts with persons known to be foreign nationals or persons representing foreign nationals, where an effort to acquire classified information is made by the foreign national, or where such contacts appear intended for this purpose. For purposes of this subsection, the term "unauthorized contacts" does not include contacts made within the context of an authorized diplomatic relationship. Failure by the employee to comply with any of the requirements of this subsection shall constitute grounds for denial or termination of access to the Top Secret information concerned.

"(B) all employees granted access to Top Secret information pursuant to this subsection shall also be subject to—

"(1) additional background investigations by appropriate governmental authorities during the period of access at no less frequent interval than every 5 years, except that any failure to satisfy this requirement that is not solely attributable to the subject of the investigation shall not result in a loss or denial of access; and

"(2) investigation by appropriate governmental authority at any time during the period of access to ascertain whether such persons continue to meet the requirements for access;

"(C) access to Top Secret information by categories of persons who do not meet the requirements of subsections (A) and (B) of this section may be permitted only where the President, or officials designated by the President for this purpose, determine that such access is essential to protect or further the national security interests of the United States; and

"(D) a single office within the Executive branch shall be designated to monitor the implementation and operation of this title within the Executive branch. This office shall submit an annual report to the President and appropriate committees of the Congress, describing the operation of this title and recommending needed improvements. A copy of the regulations implementing this title shall be provided to the Select Committee on Intelligence of the Senate and the Permanent Select Committee on Intelligence of the House of Representatives thirty days prior to their effective date.

"WAIVERS FOR INDIVIDUAL CASES

"SEC. 803. In extraordinary circumstances, when essential to protect or further the national security interests of the United States, the President (or officials designated by the President for this purpose) may waive the provisions of this title, or the provisions of the regulations issued pursuant to section 802, above, in individual cases involving persons who are citizens of the United States or are persons admitted into the United States for permanent residence: *Provided*, that all such waivers shall be made a matter of record and reported to the office designated pursuant to subsection 802(D), above, and shall be available for review by the Select Committee on Intelligence of the Senate and the Permanent Select Committee on Intelligence of the House of Representatives.

"DEFINITIONS

"SEC. 804. For purposes of this title—

"(a) the term "national security" refers to the national defense and foreign relations of the United States;

"(b) the phrases "information classified in the interest of national security" or "classified information" means any information originated by or on behalf of the United States Government, the unauthorized disclosure of which would cause damage to the national security, which has been marked and is controlled pursuant to the Executive Order 12356 of April 2, 1982, or successor orders, or the Atomic Energy Act of 1954;

"(c) the term "Top Secret information" means information classified in the interests of national security, the unauthorized disclosure of which would cause exceptionally grave damage to the national security;

"(d) the term "employee" includes any person who receives a salary or compensation of any kind from the United States Government, is a contractor of the United States Government, is an unpaid consultant of the United States Government, or otherwise acts for or on behalf of the United States Government, but does not include the President or Vice President of the United States, Members of the Congress of the United States, Justices of the Supreme Court or judges of other federal courts established pursuant to Article III of the Constitution; and

"(e) the term "authorized investigative agency" means an agency authorized by law or regulation to conduct investigations of persons who are proposed for access to Top Secret information to ascertain whether such persons satisfy the criteria for obtaining and retaining access to such information.

"EFFECTIVE DATE

"SEC. 805. This title shall take effect 180 days after the date of its enactment."

Mr. SIMON. Mr. President, Senator METZENBAUM has just illustrated why it is going to be a great loss not to have him in the U.S. Senate. I hap-

pened, back many years ago, to have served in military intelligence when I was in the Army. I think the bill he offers makes a great deal of sense. I have never been on the Intelligence Committee. I will be pleased to cosponsor it.

But I rise primarily because there is a kind of an unreality to some of the conversations about what is going on with spies. Let us face it, Russia spies, we spy—we should. If tomorrow we hear a rumor that Great Britain, our good friend, is developing some special kind of weapon, we are not going to sit back and wait until we read it in the London Times. We are going to have espionage operations. That applies to our friends; it applies to our potential foes. That is the way the intelligence community operates.

For us not to look at the big picture and not to do what we can to see that Russia has a viable democracy and a stable situation, and to get all wrought up over this one instance of their spying is not in our national interest. What we have to do on the floor of this body is to serve the national interest, not the national passion. We are responding to the national passion.

Is this a tragedy? Yes. Is this going to be repeated in the future? I hate to say it, but even with the Metzenbaum legislation, it is going to happen again in the future. We are going to have double spies; other countries are going to have double spies. That is part of life today.

I am pleased to join as a cosponsor of the legislation, and I am pleased that someone brought some reality to this whole business. I have heard some of the speeches of our colleagues condemning Russia for spying. That is part of life in the world today, and we should recognize that.

By Mr. DURENBERGER (for himself, Mr. MURKOWSKI, and Mr. JEFFORDS):

S. 1867. A bill to expedite the naturalization of aliens who served with special guerrilla units in Laos; to the Committee on the Judiciary.

HMONG VETERANS' NATURALIZATION ACT OF 1994

• Mr. DURENBERGER. Mr. President, today I am introducing legislation that will relax certain immigration and naturalization requirements for Hmong veterans who served with United States forces during the Vietnam war. The bill will also relax requirements for spouses or widows of Hmong veterans.

This act recognizes the extremely important contributions and sacrifices made by thousands of Hmong and other Laotian highland groups who served in CIA-directed special guerrilla units in the Vietnam war from 1961 to 1978.

The Hmong and other highland peoples served bravely and sacrificed dearly during the war. Between 10,000 and 20,000 Hmong were killed in combat and over 10,000 had to flee their homeland in order to survive.

Although the Hmong served admirably in support of United States efforts in the Vietnam war, many of those who did survive and made it to the United States are separated from other family members and are having a difficult time adjusting to life here. Family reunification remains a vexing problem for the Hmong, one that concerns this Senator greatly.

The Hmong Veterans' Naturalization Act of 1994 will make an important contribution to efforts at reuniting families. The act will make it easier for those who served in the special guerrilla units to attain U.S. citizenship by waiving the English language and residency tests.

The single greatest obstacle for the Hmong in becoming U.S. citizens is passing the English test. Why is this so? Principally because the Hmong language is verbal, not written. Additionally, formal education is rare in the highland region of Laos where the Hmong come from. Written characters for Hmong have only recently been introduced, and whatever chances most Hmong may have had for learning the written language were disrupted by the war.

In addition to the language requirements, this bill would also waive the residency requirement for those who served, to speed up the process of family reunification. Current law permits aliens or noncitizen nationals who served honorably during World War I, World War II, the Korean war, and the Vietnam war to be naturalized, regardless of age, period of residence, or physical presence in the United States. There is a well-established precedent of relaxing naturalization requirements for military service.

The Hmong served the United States for 17 years. They suffered and sacrificed a great deal in that service. This bill recognizes the brave contribution of the Hmong people and the extreme difficulty that the Hmong have in learning English.

It is the hope of this Senator that my colleagues will join me in supporting this legislation. It gives appropriate recognition and assistance to a group in our society that has earned it in serving U.S. interests when it mattered for us.•

By Mrs. BOXER:

S. 1868. A bill to amend the Internal Revenue Code of 1986 to allow the casualty loss deduction for disaster losses without regard to the 10-percent adjusted gross income floor; to the Committee on Finance.

DISASTER LOSSES DEDUCTION ACT OF 1994

• Mrs. BOXER. Mr. President, today I am introducing legislation that will provide relief for thousands of Californians who suffered serious damage in the January earthquake. My bill will help citizens who otherwise are out of luck under current law by removing the 10-percent adjusted gross income threshold for casualty loss deductions. This legislation will apply to losses attributable to disasters occurring on or after January 17, 1994—the day of the devastating Northridge quake.

Under current law, taxpayers may deduct casualty losses only when they exceed 10 percent of adjusted gross income. Because of this threshold, many who suffer damage find themselves without recourse. In California, for example, most people do not have earthquake insurance. And those who do often have deductibles as high as $5,000 to $10,000.

We have all seen the devastating images of collapsed structures on television. But it is important to remember that most Californians affected by the earthquake suffered serious, but moderate, damage. Their windows shattered and their televisions smashed on the ground. They may have cracks in their walls or fireplace damage, but their homes still stand. These people have $5,000 in damage, or maybe $10,000. These are the taxpayers who may not get the relief they need.

Consider a simple hypothetical example. Suppose a middle-class family with adjusted gross income of $50,000 sustains $4,000 in earthquake damage. Under current law, the family has nowhere to turn because only losses in excess of $5,000 can be deducted. But under my bill, that family could deduct all losses. And where would that tax refund go? It would go back into the economy as a direct stimulus. It would create jobs for contractors and those who produce the raw materials they use. The economic benefits would ripple throughout the community.

I hope my colleagues realize that California is still lingering in the midst of a very serious recession. It seems that in the past year we've seen it all—fire, flood, earthquake, and most recently, mudslides. I believe that our Nation cannot sustain a full economic recovery without strong support from our largest State—California.

Mr. President, this legislation will ease the suffering of victims of natural disasters, and at the same time, will provide a much needed infusion of capital into damaged local economies. I hope my colleagues will join me in supporting this legislation.

I ask unanimous consent that the full text of the bill be printed in the RECORD.

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

S. 1868

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

SECTION 1. ELIMINATION OF 10-PERCENT FLOOR FOR DISASTER LOSSES.

(a) GENERAL RULE.—Subparagraph (A) of section 165(h)(2) of the Internal Revenue Code of 1986 (relating to net casualty loss allowed only to the extent it exceeds 10 per-

cent of adjusted gross income) is amended by striking clauses (i) and (ii) and inserting the following:

"(i) the amount of the personal casualty gains for the taxable year,

"(ii) the amount of the federally declared disaster losses for the taxable year (or, if lesser, the net casualty loss), plus

"(iii) the portion of the net casualty loss which is not deductible under clause (ii) but only to the extent such portion exceeds 10 percent of the adjusted gross income of the individual."

"For purposes of the preceding sentence the term 'net casualty loss' means the excess of personal casualty losses for the taxable year over personal casualty gains."

(b) FEDERALLY DECLARED DISASTER LOSS DEFINED.—Paragraph (3) of section 165(h) of such Code is amended by adding at the end the following new subparagraph:

"(C) FEDERALLY DECLARED DISASTER LOSS.—The term 'federally declared disaster loss' means any personal casualty loss attributable to a disaster occurring in an area subsequently determined by the President of the United States to warrant assistance by the Federal Government under the Disaster Relief and Emergency Assistance Act."

(c) CLERICAL AMENDMENT.—The heading for paragraph (2) of section 165(h) of such Code is amended by striking "NET CASUALTY LOSS" and inserting "NET NONDISASTER CASUALTY LOSS".

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to losses attributable to disasters occurring on or after January 17, 1994, including for purposes of determining the portion of such losses allowable in taxable years ending before such date pursuant to an election under section 165(i) of the Internal Revenue Code of 1986.•

By Mr. COHEN (for himself and Mr. BOREN):

S. 1869. A bill to amend the National Security Act of 1947 to improve counterintelligence measures through enhanced security for classified information, and for other purposes; to the Select Committee on Intelligence.

COUNTERINTELLIGENCE IMPROVEMENTS ACT 1994

• Mr. COHEN. Mr. President, I ask unanimous consent that a summary of the bill be printed in the RECORD.

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

SUMMARY OF PROVISIONS

Section 1. Gives the bill the short title of the Counterintelligence Improvements Act of 1994.

Section 2. Adds a new title to the National Security Act of 1947 to govern access to particularly sensitive classified information. To be granted access to such information, a person would be required, among other things, to permit access by U.S. Government investigative agencies to financial records, consumer credit reports, and records maintained by commercial entities within the U.S. pertaining to travel by the person outside the U.S.

Section 3. Adds a new title to the National Security Act of 1947 to provide special requirements for the protection of cryptographic information.

Section 4. Amends the Right to Financial Privacy Act of 1978 by adding a new subsection to permit a person being considered for access to particularly sensitive classified information to provide his or her consent to U.S. Government investigative agencies to obtain access to his or her financial records. This would apply for the period of the person's access to such information and for five years thereafter.

Section 5. Provides for a new criminal offense for the possession of espionage devices where the intent to use such devices to violate the espionage statutes can be shown.

Section 6. Provides for a new criminal offense for any person who knowingly sells or transfers for any valuable consideration to a person whom he knows or has reason to believe to be an agent or representative of a foreign government any document or material classified Top Secret.

Section 7. Provides that any officer or employee of the US who knowingly removes documents or materials classified Top Secret without authority and retains them at an unauthorized location shall be fined not more than $1000 or imprisoned not more than one year, or both.

Section 8. Establishes jurisdiction in certain U.S. federal courts to try cases involving violations of the espionage laws where the alleged misconduct takes place outside the U.S.

Section 9. Amends title 18 of the U.S. Code to provide for expansion of the forfeiture provision to certain espionage offenses that are not enumerated in the existing law.

Section 10. Provides that a person may be denied annuity or retired pay by the U.S. if convicted in a foreign country of offenses for which such annuity or retired pay could have been denied had such offense occurred within the U.S.

Section 11. Amends the Consumer Credit Protection Act to provide the FBI access to records sought in connection with an authorized foreign counterintelligence investigation when there are specific and articulable facts giving reason to believe the person to whom the records relate is an agent of a foreign power.

Section 12. Authorizes the FBI to obtain subscriber information from telephone companies on persons with an unlisted number who are called by foreign powers or their agents.

Section 13. Provides the Attorney General with discretionary authority to pay rewards, up to $1 million, for information leading to the arrest or conviction of espionage against the U.S. or the prevention of such acts.

Section 14. Subjects physical searches in the U.S. to the same court order procedure that is required for electronic surveillance.•

By Mr. KENNEDY (for himself and Mr. KERRY):

S. 1871. A bill to establish a Whaling National Historical Park in New Bedford, MA, and for other purposes; to the Committee on Energy and Natural Resources.

NEW BEDFORD WHALING NATIONAL HISTORICAL ACT OF 1994

Mr. KENNEDY. Mr. President, today Senator KERRY and I are introducing a bill to establish a Whaling National Historical Park in New Bedford, MA. Congressman BARNEY FRANK is introducing an identical bill in the House.

The legislation follows the recommendations of a National Park Service special resource study begun in 1990, which evaluated the historic resources of New Bedford for possible inclusion in the National Park System. That study, completed in November 1993, noted the important role of whaling in 19th century American history. It found that this theme is not currently presented in the National Park System, and that New Bedford would be the ideal site for a park commemorating that history. As the former whaling capital of the world, New Bedford provided the oil that fueled the Nation's lamps and kept the wheels of the Industrial Revolution turning. So prosperous was the whaling industry that, by mid-19th century, it had made New Bedford the wealthiest city, per capita, in the world.

New Bedford's whaling history raises many social and economic theme that are essential to a full understanding of our American heritage. Among these are the spirit of technological progress, the entrepreneurial drive that motivated daring men and women to risk their lives and fortunes on the seas, and the many cultures that took root here, brought by immigrants drawn from every corner of the globe. It was this diversity which contributed to New Bedford's position as a center of the Abolitionist Movement and made it a key stop for fugitive sales on the underground railroad. Frederick Douglass spent his first 3 years of freedom in New Bedford, working as a calker on the hulls of whaleboats.

New Bedford is also the port from which Herman Melville set sail aboard the whaler *Acushnet* in 1841, the voyage which inspired "Moby Dick," one of the greatest of all American novels. The streets that Melville and Ishmael wandered can still be visited in New Bedford today, as can the famous Seamen's Bethel, where the whalers attended religious services before setting off on their voyages.

Much of New Bedford's whaling waterfront still exists in the city's National Historic Landmark District, and the 20-acre site has become a model for historic preservation. Businesses, residents and tourists move comfortably in an environment of restored buildings, cobblestone streets, and brick sidewalks from the whaling era.

New Bedford also is the site of the Rotch-Jones-Duff House and Garden Museum, one of the finest examples of Greek Revival residential architecture in the country and the only surviving whaling-era mansion open to the public complete with its original gardens and grounds.

New Bedford's historical and cultural assets are not limited to its streets and buildings. They also include outstanding collections of artworks and archives associated with the whaling era located at the city's public library and at its renowned whaling museum. The museum houses a half-size model of the whaling bark *Lagoda* that can be boarded by visitors.

The city is also home port to the restored, 100-year-old National Historic Landmark vessel *Ernestina*, which is

the oldest Grand Banks schooner in existence and which has had a distinguished maritime career as a fishing vessel, as an Arctic explorer under Capt. Bob Bartlett, and as a packet plying the route between the Cape Verde Islands and the United States. In her packet role, she was the last sailing vessel to bring immigrants to our shores.

National park designation will be a valuable economic stimulus for tourism and associated development for the city. A report prepared to evaluate the economic impact of the proposed national park indicates it will lead to the creation of hundreds of jobs in the coming years and add millions of dollars annually to the local economy.

The Whaling Park in New Bedford will protect a nationally significant historic treasure and stimulate the economy of a city in need. It is an investment in America's past and in a city's future, and I urge my colleagues to support this legislation.

Mr. KERRY. Mr. President, I am pleased to join my good friend and colleague Senator KENNEDY in introducing legislation to establish a Whaling National Historical Park in New Bedford, MA. Our initiative is based upon a special resource study completed by the National Park Service last fall which found that the New Bedford area meets the criteria for inclusion in the National Park System.

The city of New Bedford, tucked by the sea in the southeast corner of Massachusetts has a rich and diverse history. For decades it was the center of our Nation's whaling industry. Although the whaling industry collapsed by the turn of the last century, New Bedford is to this day remembered for its seafaring heritage.

As a national park, the New Bedford National Historic Landmark District and surrounding area would enhance the National Park System by expanding its maritime history theme to include a focus on our Nation's whaling past. Particularly noteworthy are the historic town center, the waterfront with the national historic landmark schooner *Ernestina* and an array of over three dozen historically rehabilitated buildings which combine to provide a cultural resource that reflects the era of whaling.

Since 1962, a public/private partnership—initiated by the Waterfront Historic Area League of New Bedford in cooperation with the Bedford Landing Taxpayers Association, the Old Dartmouth Historical Society, private property owners, and the city of New Bedford—has raised $3.7 million in public funding and $2.7 million in private investment, rehabilitated 36 buildings, and created over 40 new businesses and 200 new jobs. Creating a New Bedford Whaling Park will preserve an important piece of seafarer heritage while simultaneously permitting the public/private partnership to expand and grow.

I am hopeful that the Senate will look favorably upon this initiative and I encourage my colleagues to support this important addition to our National Park System.

By Mr. ROCKEFELLER:

S. 1872. A bill to expand U.S. exports of goods and services by requiring the development of objective criteria to achieve market access in Japan, and for other purposes; to the Committee on Finance.

FAIR MARKET ACCESS ACT OF 1994

• Mr. ROCKEFELLER. Mr. President, today, I am joining House Majority Leader RICHARD GEPHARDT in introducing legislation designed to create a more constructive, mutually beneficial relationship between the United States and Japan. The Fair Market Access Act of 1994 proposes a way to open up Japan's economy to United States products and services. It lays out the steps to ensure that Japan fulfills promises that it has already made and responds to a rational, reasonable expectation that their markets should be accessible just like they have access to ours. This bill responds to a clear need for the extra work that it will take to break down barriers in Japan that unfairly hurt industry and workers here in America and throughout the world.

The last 8 months have been difficult ones for the United States-Japan bilateral relationship. Our failure to reach an agreement on February 11 further implementing the Framework Agreement of July 1993, has led to considerable speculation on the future of the relationship and on what each party should do to restore it to an even keel.

In contrast to much of that analysis, Mr. President, I am among those who believe that what has happened is good, that it will lead to a more mature relationship, and that the President, in contrast to his predecessors, has handled a very difficult problem properly. We have clearly gone beyond the "senior-junior partner" relationship that existed throughout so much of the post-war period and moved into a more mature relationship of equals whose interests sometimes diverge but often converge. That does not mean there are not difficult challenges ahead or that there will not be many opportunities to make mistakes. The United States-Japan relationship is full of those, and there is no particular reason to believe the future will be any different. However, I believe there have been some significant structural changes in both our countries that provide some basis for optimism—provided we are able to understand those changes and handle them skillfully. Explaining that first demands some comments on precisely what those changes are.

In Japan, I believe it is accurate to say that both political and economic fundamentals are moving in the direction we have both advocated and predicted for some time. Last summer's election in Japan, which produced a government without the Liberal Democratic Party for the first time in some 40 years, made clear the shift in political power in the country that has meant the effective break up of the LDP, as numerous members moved to other parties or started new ones, some of which are participating in the current coalition government.

The LDP's problems are a graphic illustration of the gradual erosion of the coalition of farmers, small shopkeepers, and professionals that has been its backbone since the early 1950's. Demography—the aging of Japan's population and these sectors in particular—and economics—first the industrialization and now the "technological transformation" of the country—have a lot to do with it.

Obviously, the numerous financial scandals that embroiled LDP members as well as the previous government's inability to pull the economy out of its recession were decisive factors in the election, but it is the long-term erosion of the LDP's base that is most noteworthy.

This erosion was not ignored in Japan. Both new Prime Minister Hosokawa and his ex-LDP partners, Tsutomu Hata and Ichiro Ozawa, are all careful students of Japanese politics. They recognized this trend and are building a new coalition that better reflects current demographic realities and economic priorities. That coalition will depend on urban and suburban office workers—"salarymen"—and their families as its backbone. This will have major implications for the United States, as this part of the population is more consumer-oriented and more outward-looking. It will have less of a stake in Japan's over-complex distribution system or in the protection of agriculture or manufacturing, and eventually, the politicians will follow suit.

After the election, the conventional wisdom was that the new coalition government would not last long. It was expected to pass long overdue political reform legislation and then disintegrate over fundamental policy disagreements in other areas.

In fact, the conventional wisdom is proving to be wrong. We should not underestimate the desire of people who have been out of power for 40 years to stay in now that they have finally risen to the top. Though there are serious differences between the Socialists, the former LDP parties, and Hosokawa's Japan New Party—most recently reflected in the tax cut debacle—we should not rule out their ability to subordinate those differences to their common interest in maintaining themselves in power.

The long-term survival of a Hosokawa government will, I believe,

have major implications for United States-Japan relations. We are all well aware of the long list of bilateral trade frustrations. From beef and citrus to baseball bats, lawyers, semiconductors, and supercomputers, the litany of trade disputes seems endless. Some, like construction, have ultimately become national scandals in Japan before action was taken—and the jury is still out on the effectiveness of that action. The new government and the changed political environmental, however, is likely to lead over the long term to change that will benefit us.

First, there appears to be some interest on the part of ministers to actually govern and make decisions. That may seem an odd statement in the wake of the collapse of the framework talks that many observers blamed on the Government's surrender to the bureaucrats. That blame was correctly placed, in my judgment, but it may in retrospect turn out to be the bureaucracy's last stand. During my visit to Japan in January, I had numerous meetings with politicians, bureaucrats, and ex-bureaucrats. I sensed a realization that major structural change was taking place in Japan and that the old methods, which had been remarkably successful in the past, could not deal with it. Beyond strong support for far-reaching political reform, there was no clear consensus on what should be done; but without question, as the recession deepened, a growing desire to do something different emerged.

Second, in the face of that recession, I believe that the Hosokawa government has begun to recognize the truth of what the Clinton administration has been telling it—that change in the Japanese economy is inevitable, that historic growth rates cannot be regained using traditional methods, and that the solution is the liberalization and decontrol of the economy we have been advocating.

It is interesting to observe the Japanese response to the recent appreciation of the yen. When this event, known there as endaka, occurred in 1985–87, Japan's manufacturers responded by tightening their belts, improving their productivity, keeping prices low, and capturing even more market share with their export-led growth strategy. This time, with the yen rising to 105, the response is different—a growing pattern of outsourcing manufacturing production to the United States and to low-wage countries in Asia. Instead of export-led growth, we are seeing the export of jobs. If it continues, this will mean an unemployment problem in Japan more serious than anything they have experienced in years. Already, their official unemployment rate is the highest in over 6 years—only 2.9 percent, but a serious problem in Japanese terms.

Prime Minister Hosokawa understands that the key to avoiding that disaster, with all its political implications, is to promote more domestic growth, which can only be obtained by major structural changes in the Japanese economy. Further reductions in interest rates, for example, when the real rate is close to 1 percent, or public works stimulus packages that are invariably too little too late, will not do the job. The Japanese economy simply has to begin operating on a real market basis. The cozy credit relationships or keiretsu-based procurement practices of the past will not restore growth.

The recent controversy over a major tax cut demonstrates that not all parts of the Japanese political system have learned this lesson yet. It also proves that a tax increase—which would have followed the cut—is not popular anywhere in the world—not a surprising conclusion.

Ultimately, the Japanese Government will have no choice but to do what we have been urging. It is the only thing that makes any sense. The real questions for the bilateral relationship are:

First, whether they do it in the context of the ongoing framework negotiations in recognition of what we have been saying, or whether they do it with a gloss of anti-American rhetoric to serve domestic political purposes; and

Second, how long it will take them to act.

With respect to the first question, it appears that the Prime Minister is finding it politically expedient to be perceived as standing up to the Americans at the same time he is telling his countrymen they need to import more and open up their economy. He may not be politically strong enough to do anything else. While the United States no doubt would prefer to claim victory in the framework negotiations, quite frankly, a results-oriented administration, as this one is, should take it either way because, after all, the issue for the United States is market access and the jobs that go with it.

That means the important question is the second one—how long these changes will take. This is a particularly awkward question because of the disjuncture in timing at which the two countries find themselves. The United States has had a large and growing trade deficit with Japan for years, and we have, at least since the Nixon administration, been pressing them to open their economy. While the deficit is related to macroeconomic factors as well, it is apparent from the economic history of the past decade that the Japanese economy does not respond to macroeconomic changes like exchange rate shifts in the ways our economists and their textbooks predict.

Indeed, if we have learned anything in the past 15 years it is that this economy is unique. There is no other developed economy in the world so relentlessly geared to export-led growth and the limitation of imports. It is precisely that uniqueness as well as the exhaustion of our patience after so many years of trying so many different approaches that has brought us to the present point.

Our patience is exhausted not only because of the duration and difficulty of the battle, but because its price has been paid by the American worker. There are hundreds of thousands, if not millions, of Americans who lost their jobs in the past 15 years because of Japanese imports and our inability to access their market. Automobiles, steel, machine tools, computers, semiconductors, televisions—the list seems endless. Many of those Americans have found other jobs but rarely better ones. The Clinton administration has embarked on a program to restore our competitiveness, particularly in critical technology areas, that has helped to restore national confidence and reduce unemployment, but so much damage has been done that it will be years before we fully recover.

The Japanese Government, in turn, is only beginning to recognize the magnitude of the problem and the extent to which it is now hurting their people just as it has hurt ours for so long. Their response is predictable—essentially a plea for more time and the chance to deal with things their way. In the abstract, that is not an unreasonable plea, but it comes at an unreasonable time—when America has no more patience left to give.

This dilemma is nowhere better illustrated than in the recent battle over United States access to the Japanese construction market. The Japanese construction industry has been notorious for its corruption and closed doors for years. American efforts to penetrate the dango system have gone on for years with virtually no success. Finally, after the system became a domestic political scandal in Japan, the Government began to move under the threat of American sanctions. It did so with a plea for more time—a reasonable request from Japan's perspective because they were just beginning to deal with the problem, but an outrageous one from our perspective because they should have been dealing with it for the last 10 years.

The Framework negotiations have featured the same disjuncture. Prime Minister Hosokawa argues that Japan should, in effect, have time to do it their way. We argue it is too late for further delay, and, in any event, the record of successful implementation of his predecessors' promises is bleak.

In the long run, this will work itself out. But also in the long run, as Keynes said, we are all dead. President Clinton's obligation is to meet our needs, and to insist on the restoration of some equity in the trading relationship. Doing so, of course, will help Japan as well, as I have noted.

The question the Congress faces right now is how best to assist the President in his effort to put meat on the bones of the Framework Agreement, because it is clear that in the short run, Japan is unwilling or unable to honor the commitments it made last July. A useful approach, in my judgment, is embodied in the legislation that Congressman GEPHARDT and I are introducing today. Essentially it is an effort to reinforce the President's efforts by creating a mechanism for the development of the objective criteria the Framework Agreement calls for, a process for negotiating to achieve those goals, and a process for taking action in the event the goals are not reached, either by failure to reach agreement or failure to comply with obligations that have been undertaken.

In brief, the bill would require the Commerce Department to prepare annual competitive assessments of selected sectors—initially those identified in the Framework Agreement and subsequently those that involve critical technologies, are important elements of our economy or the bilateral trade deficit, or which are requested by the U.S. Trade Representative. These assessments would estimate how well we would be doing in the Japanese market in that sector if that market were truly open.

Those assessments, in turn, would become negotiating objectives for the U.S. Trade Representative, who would decide, at 6 month intervals, which of the various sectoral objectives he wanted to pursue in bilateral negotiations. The goal of the negotiations would be to reach agreements that are designed to achieve the objectives.

In turn, there would be two circumstances under which subsequent action might be taken. An agreement could be reached but its provisions not adequately implemented, and the bill sets up a monitoring process to help make that judgment. Second, the parties could fail to reach agreement. In either case, the result becomes a cause of action under section 301 of the Trade Act of 1974.

This is a carefully developed, nuanced approach designed to further the President's goals. Its beauty is its cumulative nature. The Commerce Department will be regularly reviewing sectors and analyzing their competitiveness in Japan. USTR will be just as regularly undertaking the negotiations envisioned in the Framework Agreement with respect to those sectors. The Department's studies will serve as the foundation and goal for those negotiations. The use of section 301 is warranted in the event of failure. Indeed, use of section 301 in the case of agreements that have not been complied with is similar to the approach taken by the proposed Trade Agreements Compliance Act, which the Senate passed in 1992 and which many Senators have cosponsored again in this Congress.

The result of this mechanism will be an ongoing effort to open the Japanese market through negotiations that use an established analytical method to set goals. Negotiating priorities are left to the U.S. Trade Representative, as is the decision on final action, as in current law.

This bill creates a barometer of sorts to measure trade successes between Japan and the United States, translating the vague language of trade frameworks into the specific language of balance sheets and growth. If standards are set and reached, then clearly both nations are living up to their commitments and policies are working. If not, then agreements need to be revisited and problems worked out.

It's time for Japan to tear down its economic walls, to end protectionism, open its markets, and accept the responsibilities that come with being a world economic power. This bill is a significant step toward that end.

Will this kind of an approach solve all our problems? History would suggest that is too much to expect. At the same time, it is critical that we move forward with some action. To those who say this is managed trade, I would say that it is not intended that way. It is intended as a market-opening strategy. At the same time, however, I would reiterate the point I made earlier—the Japanese economy is unique. Every tactic we have pursued for more than 15 years has failed, notwithstanding the validity of our complaints, which most economists now agree with. Under the circumstances, it is not only appropriate but the only responsible course of action to try something new before more time passes and more jobs are lost. Such an approach is neither required nor recommended with respect to other parts of the world where we do compete—win or lose—on a market basis.

Having said that, Mr. President, I continue to be optimistic that this story will ultimately have a happy ending. In the first place, we have an administration here that understands it and is pressing the Japanese on the right issues in the right way. In the second place, we may now have a Japanese Government which, at least privately, understands that what we have been asking is good for them as well as for us; indeed, it is good for the trading system. Getting from there to real results promises to be difficult, as nearly any change in Japan is, but there is less reason for gloom now than there has been in some time.

I also want to take this chance to commend President Clinton and his team on these issues for providing leadership and direction at, this critical juncture. In his refusal to reject inaction on the Framework Agreement, he also made his commitment to strengthening this country's short-term and long-term relationship with Japan abundantly clear. We share that goal very deeply.

I also applaud Congressman GEPHARDT for his continued thoughtful leadership in trade policy and the partnership we have forged to help pave the next road in the United States-Japan relationship. We share a sense of obligation to America's families and industries, and the belief that this legislation can benefit them and the people of Japan.

Mr. President, I ask unanimous consent that the test of the bill and additional material be printed in the RECORD.

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

S. 1872

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 "Fair Market Access Act of 1994".

SEC. 2. REPORTS ON ACCESS TO JAPANESE MARKETS.

(a) INITIAL REPORT.—

(1) IN GENERAL.—Not later than 90 days after the date of the enactment of this Act, the Secretary shall submit to the Congress a report assessing the access to the Japanese market of goods and services produced or originating in the United States in each sector specifically identified in the Framework Agreement.

(2) CONTENTS OF REPORT.—The Secretary shall include in the report under paragraph (1) the following:

(A) An assessment of the market access opportunities that would be available in the Japanese market for goods and services in each sector referred to in paragraph (1) in the absence of barriers to achieving access to such market in both the public and private sectors in Japan. In making such assessment, the Secretary shall consider the competitive position of such goods and services in similarly developed markets in other countries. Such assessment shall specify the time periods within which such market access opportunities should reasonably be expected to be obtained.

(B) Objective criteria for measuring the extent to which those market access opportunities described in subparagraph (A) have been obtained. The development of such objective criteria may include the use of interim objective criteria to measure results on a periodic basis, as appropriate.

(b) SUBSEQUENT ANNUAL REPORTS.—

(1) IN GENERAL.—Not later than the date which is 1 year after the last day of the 90-day period referred to in subsection (a)(1), and annually thereafter, the Secretary shall submit to the Congress a report containing the following:

(A) An assessment of the market access opportunities that would be available in the Japanese market, for goods and services produced or originating in the United States in those sectors selected by the Secretary, in the absence of the barriers to achieving access to such market in both the public and private sectors in Japan. In making such assessment, the Secretary shall consider the competitive position of such goods and services in similarly developed markets in other

countries. Such assessment shall specify the time periods within which such market access opportunities should reasonably be expected to be obtained.

(B) Objective criteria for measuring the extent to which those market access opportunities described in subparagraph (A) have been obtained. The development of such objective criteria may include the use of interim criteria described in subsection (a)(2)(B).

(C) An assessment of whether, and to what extent, Japan has materially complied with—

(i) agreements and understandings reached between the United States and Japan pursuant to section 3, and

(ii) existing trade agreements between the United States and Japan.

Such assessment shall include specific information on the extent to which United States suppliers have achieved additional access to the Japanese market and the extent to which Japan has complied with other commitments under such agreements and understandings.

(D) An assessment of the effect of the agreements and understandings described in subparagraph (C) on the access to the Japanese markets of goods and services produced or originating in the United States.

(2) SELECTION OF SECTORS.—In selecting sectors that are to be the subject of a report under paragraph (1), the Secretary shall give priority to those sectors—

(A) in which access to the Japanese market is likely to have significant potential to increase exports of United States goods and services;

(B) in which access to the Japanese market will result in significant employment benefits for producers of United States goods and services; or

(C) which represent critical technologies, including those identified by the National Critical Technologies Panel under section 603 of the National Science and Technology Policy, Organization, and Priorities Act of 1976 (42 U.S.C. 6683).

The Secretary shall include an assessment under paragraph (1) of any sector for which the Trade Representative requests such assessment be made. In preparing any such request, the Trade Representative shall give priority to those barriers identified in the reports required by section 181(b) of the Trade Act of 1974.

(3) INFORMATION ON ACCESS BY FOREIGN SUPPLIERS.—The Secretary shall consult with the governments of foreign countries concerning access to the Japanese market of goods and services produced or originating in those countries. At the request of the government of any such country, the Secretary may include in the reports required by paragraph (1) information, with respect to that country, on such access.

SEC. 3. NEGOTIATIONS TO ACHIEVE MARKET ACCESS.

(a) NEGOTIATING AUTHORITY.—The President is authorized to enter into agreements or other understandings with the Government of Japan for the purpose of obtaining the market access opportunities described in the reports of the Secretary under section 2.

(b) DETERMINATION OF PRIORITY OF NEGOTIATIONS.—Upon the submission by the Secretary of each report under section 2, the Trade Representative shall determine—

(1) for which sectors identified in the report the Trade Representative will pursue negotiations, during the 6-month period following submission of the report, for the purpose of concluding agreements or other understandings described in subsection (a), and the time frame for pursuing negotiations on any other sector identified in the report; and

(2) for which sectors identified in any previous report of the Secretary under section 2 the Trade Representative will pursue negotiations, during the 6-month period described in paragraph (1), in cases in which—

(A) negotiations were not previously pursued by the Trade Representative, or

(B) negotiations that were pursued by the Trade Representative did not result in the conclusion of an agreement or understanding described in subsection (a) during the preceding 6-month period, but are expected to result in such an agreement or understanding during the 6-month period described in paragraph (1).

For purposes of this Act, negotiations by the Trade Representative with respect to a particular sector shall be for a period of not more than 12 months.

(c) SEMIANNUAL REPORTS.—At the end of the 6-month period beginning on the date on which the Secretary's first report is submitted under subsection (a)(1), and every 6 months thereafter, the Trade Representative shall submit to the Congress a report containing the following:

(1) With respect to each sector on which negotiations described in subsection (b) were pursued during that 6-month period—

(A) a determination of whether such negotiations have resulted in the conclusion of an agreement or understanding intended to obtain the market access opporunities described in the most recent applicable report of the Secretary, and if not—

(i) whether such negotiations are continuing because they are expected to result in such an agreement or understanding during the succeeding 6-month period; or

(ii) whether such negotiations have terminated;

(B) in the case of a positive determination made under subparagraph (A)(i) in the preceding report submitted under this subsection, a determination of whether the continuing negotiations have resulted in the conclusion of an agreement or understanding described in subparagraph (A) during that 6-month period.

(2) With respect to each sector on which negotiations described in subsection (b) were not pursued during that 6-month period, a determination of when such negotiations will be pursued.

SEC. 4. MONITORING OF AGREEMENTS AND UNDERSTANDINGS.

(a) IN GENERAL.—For the purpose of making the assessments required by section 2(b)(1)(C), the Secretary shall monitor the compliance with each agreement or understanding reached between the United States and Japan pursuant to section 3, and with each existing trade agreement between the United States and Japan. In making each such assessment, the Secretary shall describe—

(1) the extent to which market access for the sector covered by the agreement or understanding has been achieved; and

(2) the bilateral trade relationship with Japan in that sector.

In the case of agreements or understandings reached pursuant to section 3, the description under paragraph (1) shall be done on the basis of the objective criteria set forth in the applicable report under section 2(a)(2)(B) or 2(b)(1)(B).

(b) TREATMENT OF AGREEMENTS AND UNDERSTANDINGS.—Any agreement or understanding reached pursuant to negotiations conducted under this Act, and each existing trade agreement between the United States and Japan, shall be considered to be a trade agreement for purposes of section 301 of the Trade Act of 1974.

SEC. 5. TRIGGERING OF SECTION 301 ACTIONS.

(a) DETERMINATIONS BY TRADE REPRESENTATIVE.—

(1) FAILURE TO CONCLUDE AGREEMENTS.—In any case in which the Trade Representative determines under section 3(c)(1)(A)(ii) or (B) that negotiations have not resulted in the conclusion of an agreement or understanding described in section 3(a), each barrier to access to the Japanese market that was the subject of such negotiations shall, for purposes of title III of the Trade Act of 1974, be considered to be an act, policy, or practice determined under section 304 of that Act to be an act, policy or practice that is unreasonable and discriminatory and burdens or restricts United States commerce. The Trade Representative shall determine what action to take under section 301(b) of that Act in response to such act, policy, or practice.

(2) NONCOMPLIANCE WITH AGREEMENTS OR UNDERSTANDINGS.—In any case in which the Secretary determines, in a report submitted under section 2(b)(1), that Japan is not in material compliance with—

(A) any agreement or understanding concluded pursuant to negotiations conducted under section 3, or

(B) any existing trade agreement between the United States and Japan,

the Trade Representative shall determine what action to take under section 301(a) of the Trade Act of 1974. For purposes of section 301 of that Act, a determination of noncompliance described in the preceding sentence shall be treated as a determination made under section 304 of that Act.

SEC. 6. DEFINITIONS.

As used in this Act—

(1) EXISTING TRADE AGREEMENT BETWEEN THE UNITED STATES AND JAPAN.—The term "existing trade agreement between the United States and Japan" means any trade agreement that was entered into between the United States and Japan before the date of the enactment of this Act and is in effect on such date. Such term includes—

(A) the Arrangement Between the Government of Japan and the Government of the United States of America Concerning Trade in Semiconductor Products, signed in 1986;

(B) the Arrangement Between the Government of Japan and the Government of the United States of America Concerning Trade in Semiconductor Products, signed in 1991;

(C) the United States-Japan Wood Products Agreement, signed on June 5, 1990;

(D) Measures Related to Japanese Public Sector Procurements of Computer Products and Services, signed on January 10, 1992;

(E) the Tokyo Declaration on the U.S.-Japan Global Partnership, signed on January 9, 1992; and

(F) the Cellular Telephone and Third-Party Radio Agreement, signed in 1989.

(2) FRAMEWORK AGREEMENT.—The term "Framework Agreement" means the Japan-United States Framework for a New Economic Partnership, signed on July 10, 1993.

(3) SECRETARY.—The term "Secretary" means the Secretary of Commerce.

(4) TRADE REPRESENTATIVE.—The term "Trade Representative" means the United States Trade Representative.

FAIR MARKET ACCESS ACT OF 1994

GOAL

To expand United States exports of goods and services by requiring the development of

objective criteria to achieve market access in Japan.

BACKGROUND

Starting in the early 1980's, the United States has seen its trade deficit with Japan increase dramatically, to a level of approximately $60 billion in 1993. Despite repeated negotiations to achieve access to the Japanese market during this period, access for many U.S. products—particularly high value-added products—has been severely limited.

In April of 1993, President Clinton and Japan's Prime Minister met and directed their Administrations to begin discussions with the goal of resolving a number of longstanding trade disputes. Many of these disputes had been subject to negotiated agreements in the past; however, specific results in terms of market access were minimal at best.

At the Tokyo Economic Summit in July, President Clinton and then-Prime Minister Miyazawa signed the Joint Statement on the United States-Japan Framework For A New Economic Partnership, which created a process as well as a specific framework for negotiations between our two countries. While negotiations are continuing, there is some skepticism as to whether concrete milestones for success will be contained in any agreements. These milestones are necessary if we are to be able finally to achieve real access to the Japanese market. Indeed, prior to the Economic Summit Prime Minister Miyazawa indicated that outside pressure is necessary if Japan is to change.

The Japanese Government's willingness to negotiate under the framework is an acknowledgement of the problems U.S. companies face. Further investigation of barriers to our exports isn't necessary—we've examined this problem long enough. Accordingly, the legislation will short-circuit the investigation phase and go immediately to consultations. If an agreement can't be reached, action could occur.

SPECIFICS

First, the legislation will require a report by the Department of Commerce and the USTR on the trade agreements currently in force between the United States and Japan, and the operations of those agreements. The report will include specific information on the extent to which U.S. and world suppliers have been able to achieve additional access to the Japanese markets pursuant to those agreements.

Second, the legislation will require that the Department of Commerce compile an annual report on market access opportunities for U.S. firms in the Japanese market. In compiling this report, the Department of Commerce shall examine the competitive position of U.S. firms in similarly developed third country markets. The report will define objective criteria for each industry necessary to gain the access to the Japanese market that U.S. firms would have but for the existence of market access impediments.

The first report under the legislation is required 90 days after enactment. In this first report, the Department of Commerce is to give priority to developing objective criteria to those industries which are contained in the "Framework For A New Economic Partnership" agreed to by the Governments of Japan and the United States in 1993.

In defining which industries shall be included in each report, the Department of Commerce shall give priority to:

(1) Those industries where the United States can maximize the economic gain for its farmers, workers and businesses by expanding exports;

(2) Those industries which will result in the greatest employment benefits for the United States, or;

(3) Those industries which represent critical technologies.

In compiling these reports, the Department of Commerce shall include any industry which the USTR requests be included in the report. Additionally, the Department of Commerce shall consult with foreign governments, at their request, and include information on market access opportunities for world suppliers in the Japanese market.

During this period, the Administration is expected to continue its efforts to negotiate agreements in each of these areas. The goal, of course, is to achieve agreements that will result in definable market access for U.S. companies. However, if agreements aren't reached, then the targets set by the Department of Commerce could provide the basis for action under Section 301 of the trade law.

Each report is to contain information on the operations of agreements and understandings entered into before as well as after the date of enactment.

Finally, the legislation will extend the President's trade negotiating authority specifically for Japan. This is to make it clear that the unique nature of the Japanese market requires a different approach than has been used in the past in trade negotiations.●

ADDITIONAL COSPONSORS

S. 549

At the request of Mr. DOMENICI, the name of the Senator from Vermont [Mr. JEFFORDS] was added as a cosponsor of S. 549, a bill to provide for the minting and circulation of 1-dollar coins.

S. 993

At the request of Mr. KEMPTHORNE, the name of the Senator from Wisconsin [Mr. KOHL] was added as a cosponsor of S. 993, a bill to end the practice of imposing unfunded Federal mandates on States and local governments and to ensure that the Federal Government pays the costs incurred by those governments in complying with certain requirements under Federal statutes and regulations.

S. 1440

At the request of Mr. BURNS, the names of the Senator from Alaska [Mr. MURKOWSKI], the Senator from Mississippi [Mr. COCHRAN], the Senator from Wyoming [Mr. SIMPSON], the Senator from Tennessee [Mr. MATHEWS], and the Senator from Idaho [Mr. CRAIG] were added as cosponsors of S. 1440, a bill to amend the Endangered Species Act of 1973 with common sense amendments to strengthen the act, enhance wildlife conservation and management, augment funding, and protect fishing, hunting, and trapping.

S. 1458

At the request of Mrs. KASSEBAUM, the name of the Senator from Georgia [Mr. COVERDELL] was added as a cosponsor of S. 1458, a bill to amend the Federal Aviation Act of 1958 to establish time limitations on certain civil actions against aircraft manufacturers, and for other purposes.

S. 1576

At the request of Mr. COATS, the name of the Senator from North Carolina [Mr. HELMS] was added as a cosponsor of S. 1576, a bill to provide a tax credit for families, to provide certain tax incentives to encourage investment and increase savings, and to place limitations on the growth of spending.

S. 1594

At the request of Mr. SHELBY, the name of the Senator from Montana [Mr. BURNS] was added as a cosponsor of S. 1594, a bill to amend the Balanced Budget and Emergency Deficit Control Act of 1985 to require a reduction in the discretionary spending limits in each fiscal year by an amount equal to the total of any reductions made in existing programs for the previous fiscal year.

S. 1669

At the request of Mrs. HUTCHISON, the names of the Senator from Idaho [Mr. CRAIG], the Senator from New Hampshire [Mr. SMITH], the Senator from Utah [Mr. HATCH], the Senator from Wyoming [Mr. SIMPSON], the Senator from Mississippi [Mr. COCHRAN], the Senator from New York [Mr. D'AMATO], the Senator from Alaska [Mr. MURKOWSKI], the Senator from Delaware [Mr. ROTH], the Senator from North Carolina [Mr. FAIRCLOTH], the Senator from Idaho [Mr. KEMPTHORNE], the Senator from Alaska [Mr. STEVENS], the Senator from Maine [Mr. COHEN], the Senator from Virginia [Mr. WARNER], the Senator from Utah [Mr. BENNETT], the Senator from Missouri [Mr. BOND], the Senator from Kentucky [Mr. MCCONNELL], the Senator from North Carolina [Mr. HELMS], the Senator from South Carolina [Mr. THURMOND], the Senator from Oklahoma [Mr. NICKLES], the Senator from Arizona [Mr. MCCAIN], the Senator from Georgia [Mr. COVERDELL], the Senator from Texas [Mr. GRAMM], the Senator from Kansas [Mr. DOLE], the Senator from Florida [Mr. MACK], the Senator from Montana [Mr. BURNS], the Senator from Indiana [Mr. COATS], the Senator from New Hampshire [Mr. GREGG], the Senator from Arkansas [Mr. BUMPERS], the Senator from Rhode Island [Mr. CHAFEE], the Senator from Iowa [Mr. GRASSLEY], and the Senator from South Dakota [Mr. PRESSLER] were added as cosponsors of S. 1669, a bill to amend the Internal Revenue Code of 1986 to allow homemakers to get a full IRA deduction.

S. 1690

At the request of Mr. PRYOR, the name of the Senator from North Dakota [Mr. DORGAN] was added as a cosponsor of S. 1690, a bill to amend the Internal Revenue Code of 1986 to reform the rules regarding subchapter S corporations.

S. 1698

At the request of Mr. BURNS, his name was added as a cosponsor of S.

1698, a bill to reduce the paperwork burden on certain rural regulated financial institutions, and for other purposes.

S. 1703

At the request of Mr. SARBANES, the name of the Senator from Kansas [Mrs. KASSEBAUM] was added as a cosponsor of S. 1703, a bill to expand the boundaries of the Piscataway National Park, and for other purposes.

S. 1715

At the request of Mrs. HUTCHISON, the name of the Senator from Idaho [Mr. KEMPTHORNE] was added as a cosponsor of S. 1715, a bill to provide for the equitable disposition of distributions that are held by a bank or other intermediary as to which the beneficial owners are unknown or whose addresses are unknown, and for other purposes.

S. 1805

At the request of Mr. WARNER, the name of the Senator from Rhode Island [Mr. CHAFEE] was added as a cosponsor of S. 1805, a bill to amend title 10, United States Code, to eliminate the disparity between the periods of delay provided for civilian and military retiree cost-of-living adjustments in the Omnibus Budget Reconciliation Act of 1993.

S. 1819

At the request of Mrs. KASSEBAUM, the names of the Senator from Iowa [Mr. GRASSLEY] and the Senator from Mississippi [Mr. COCHRAN] were added as cosponsors of S. 1819, a bill to prohibit any Federal department or agency from requiring any State, or political subdivision thereof, to convert highway signs to metric units.

SENATE JOINT RESOLUTION 146

At the request of Mr. WOFFORD, the name of the Senator from Washington [Mr. GORTON] was added as a cosponsor of Senate Joint Resolution 146, a joint resolution designating May 1, 1994, through May 7, 1994, as "National Walking Week."

SENATE JOINT RESOLUTION 150

At the request of Mr. SARBANES, the name of the Senator from Kansas [Mrs. KASSEBAUM] was added as a cosponsor of Senate Joint Resolution 150, a joint resolution to designate the week of May 2 through May 8, 1994, as "Public Service Recognition Week."

SENATE JOINT RESOLUTION 151

At the request of Mr. LIEBERMAN, the name of the Senator from Mississippi [Mr. COCHRAN] was added as a cosponsor of Senate Joint Resolution 151, a joint resolution designating the week of April 10 through 16, 1994, as "Primary Immune Deficiency Awareness Week."

SENATE JOINT RESOLUTION 158

At the request of Mr. WOFFORD, the name of the Senator from Illinois [Mr. SIMON] was added as a cosponsor of Senate Joint Resolution 158, a joint resolution to designate both the month of August 1994 and the month of August 1995 as "National Slovak American Heritage Month."

SENATE JOINT RESOLUTION 162

At the request of Mr. SPECTER, the names of the Senator from Alaska [Mr. STEVENS], the Senator from Alaska [Mr. MURKOWSKI], the Senator from Georgia [Mr. NUNN], the Senator from West Virginia [Mr. ROCKEFELLER], the Senator from Tennessee [Mr. SASSER], the Senator from Wyoming [Mr. SIMPSON], the Senator from Massachusetts [Mr. KERRY], the Senator from Wisconsin [Mr. KOHL], the Senator from Connecticut [Mr. LIEBERMAN], the Senator from Indiana [Mr. LUGAR], the Senator from Ohio [Mr. METZENBAUM], the Senator from Oregon [Mr. HATFIELD], the Senator from Alabama [Mr. HEFLIN], the Senator from North Carolina [Mr. HELMS], the Senator from Hawaii [Mr. INOUYE], the Senator from Kansas [Mrs. KASSEBAUM], the Senator from Georgia [Mr. COVERDELL], the Senator from Idaho [Mr. CRAIG], the Senator from Missouri [Mr. DANFORTH], the Senator from Arizona [Mr. DECONCINI], the Senator from New Mexico [Mr. DOMENICI], the Senator from California [Mrs. BOXER], the Senator from Colorado [Mr. BROWN], the Senator from Montana [Mr. BURNS], the Senator from Rhode Island [Mr. CHAFEE], and the Senator from Indiana [Mr. COATS] were added as cosponsors of Senate Joint Resolution 162, a joint resolution designating March 25, 1994, as "Greek Independence Day: A National Day of Celebration of Greek and American Democracy."

SENATE CONCURRENT RESOLUTION 59

At the request of Mr. BURNS, the names of the Senator from Florida [Mr. MACK], the Senator from Utah [Mr. HATCH], and the Senator from Mississippi [Mr. COCHRAN] were added as cosponsors of Senate Concurrent Resolution 59, a concurrent resolution expressing the sense of the Congress that any Federal Government mandated health care reform should be on-budget.

SENATE CONCURRENT RESOLUTION 61—RELATIVE TO THE TRADE IMBALANCE WITH JAPAN

Mr. WOFFORD (for himself, Mr. LEVIN, Mrs. FEINSTEIN, Mr. LAUTENBERG, Mr. KOHL, Mr. RIEGLE, and Mr. SARBANES) submitted the following concurrent resolution; which was referred to the Committee on Finance:

S. CON. RES. 61

Whereas the United States and Japan have a long, deep, and rich relationship;

Whereas the security alliance between the United States and Japan is stronger than ever and essential to the Asian Pacific and the rest of the world;

Whereas the United States and Japan have also embraced a common agenda for cooperation on global issues such as population, transportation technology, and the environment;

Whereas in order to strengthen the relationship, the United States and Japan must have a mutually beneficial economic partnership, which will result in more jobs and economic opportunities for Americans;

Whereas even though the United States and Japan have negotiated over 30 trade agreements since 1980, Japan still remains less open to imports than any other G-7 nation and its regulations and practices screen out many United States products, even our most competitive products;

Whereas over the last 10 years our trade deficit with Japan has increased by 200 percent, resulting in a current trade deficit of $59,000,000,000;

Whereas last year the United States and Japan agreed to seek market opening arrangements containing objective criteria that would result in tangible progress; and

Whereas in recent negotiations Japanese representatives refused to agree to such market opening arrangements: Now, therefore, be it

Resolved by the Senate (the House of Representatives concurring), That the Congress supports the efforts of the President of the United States to open Japanese markets and to obtain measurable increases in Japan's import either through continued negotiation or enforcement of United States law.

AMENDMENTS SUBMITTED

BALANCED BUDGET CONSTITUTIONAL AMENDMENT

DANFORTH AMENDMENT NO. 1470

(Ordered to lie on the table.)

Mr. DANFORTH submitted an amendment intended to be proposed by him to the joint resolution (S.J. Res. 41) proposing an amendment to the Constitution of the United States to require a balanced budget; as follows:

On page 3, line , at the end of Section 6 add the following:

The power of any court to order relief pursuant to any case or controversy arising under this article shall not extend to ordering any remedies other than a declaratory judgement or such remedies as are specifically authorized in implementing legislation pursuant to this section.

REID (AND OTHERS) AMENDMENT NO. 1471

Mr. REID (for himself, Mr. FORD, and Mrs. FEINSTEIN) proposed an amendment to the joint resolution, Senate Joint Resolution 41, supra; as follows:

Strike all after "Assembled" and insert the following:

(two-thirds of each House concurring therein), That the following article is proposed as an amendment to the Constitution, which shall be valid to all intents and purposes as part of the Constitution when ratified by the legislatures of three-fourths of the several States within seven years after the date of its submission to the States for ratification:

ARTICLE

"Section 1. Total estimated outlays of the operating funds of the United States for any

fiscal year shall not exceed total estimated receipts to those funds for that fiscal year, unless Congress by concurrent resolution approves a specific excess of outlays over receipts by three-fifths of the whole number of each House on a roll-call vote.

"Section 2. Not later than the first Monday in February in each calendar year, the President shall transmit to the Congress a proposed budget for the United States Government for the fiscal year beginning in that calendar year in which total estimated outlays of the operating funds of the United States for that fiscal year shall not exceed total estimated receipts to those funds for that fiscal year.

"Section 3. This article shall be suspended for any fiscal year and the first fiscal year thereafter if a declaration of war is in effect or if the Director of the Congressional Budget Office, or any successor, estimates that real economic growth has been or will be less than one percent for two consecutive quarters during the period of those two fiscal years. The provisions of this article may be waived for any fiscal year in which the United States is engaged in military conflict which causes an imminent and serious military threat to national security and it is so declared by a joint resolution, adopted by a majority of the whole number of each House of Congress, that becomes law.

"Section 4. Total estimated receipts of the operating funds shall exclude those derived from net borrowing. Total estimated outlays of the operating funds of the United States shall exclude those for repayment of debt principal; and for capital investments. The receipts (including attributable interest) and outlays of the Federal Old-Age and Survivors Insurance Trust Fund and the Federal Disability Insurance Trust Fund shall not be counted as receipts or outlays for purposes of this article.

"Section 5. This article shall be enforced only in accordance with appropriate legislation enacted by Congress. The Congress may, by appropriate legislation, delegate to an officer of Congress the power to order uniform cuts.

"Section 6. Sections 5 and 6 of this article shall take effect upon ratification. All other sections of this article shall take effect beginning with fiscal year 2001 or the second fiscal year beginning after its ratification, whichever is later.".

AUTHORITY FOR COMMITTEES TO MEET

COMMITTEE ON ARMED SERVICES

Mr. PELL. Mr. President, I ask unanimous consent that the Committee on Armed Services be authorized to meet jointly with the Committee on Governmental Affairs on Thursday, February 24, 1994, at 10 a.m., in open session, to receive testimony on S. 1587, the Federal Acquisition Streamlining Act of 1993.

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

COMMITTEE ON ARMED SERVICES

Mr. PELL. Mr. President, I ask unanimous consent that the Committee on Armed Services be authorized to meet on Thursday, February 24, 1994, at 3 p.m., in open session, to consider certain pending nominations.

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

COMMITTEE ON BANKING, HOUSING AND URBAN AFFAIRS

Mr. PELL. Mr. President, I ask unanimous consent that the Committee on Banking, Housing, and Urban Affairs be authorized to meet during the session of the Senate on Thursday, February 24, to conduct a hearing on the semi-annual report of the RTC Oversight Board. The hearing will begin at 10 a.m.

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

COMMITTEE ON COMMERCE, SCIENCE AND TRANSPORTATION

Mr. PELL. Mr. President, I ask unanimous consent that the Committee on Commerce, Science, and Transportation be authorized to conduct a hearing on the nomination of Linda Joan Morgan to be a member of the Interstate Commerce Commission on Thursday, February 24, 1994, beginning at 10 a.m.

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

COMMITTEE ON COMMERCE, SCIENCE AND TRANSPORATION

Mr. PELL. Mr. President, I ask unanimous consent that the Committee on Commerce, Science, and Transportation be authorized to conduct an executive session immediately following the 10 a.m. hearing on the nomination of Linda Joan Morgan to be a member of the Interstate Commerce Commission on Thursday, February 24, 1994.

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

COMMITTEE ON ENERGY AND NATURAL RESOURCES

Mr. PELL. 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., February 24, 1994, to receive testimony on the fiscal year 1995 budget requests for the Department of the Interior and the U.S. Forest Service

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

COMMITTEE ON ENVIRONMENT AND PUBLIC WORKS

Mr. PELL. Mr. President, I ask unanimous consent that the full Committee on Environment and Public Works be authorized to meet during the session of the Senate on Thursday, February 24 to resume consideration of the Graham substitute amendment to S. 1114, the Water Pollution Prevention and Control Act of 1994.

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

COMMITTEE ON FINANCE

Mr. PELL. Mr. President, I ask unanimous consent that the Committee on Finance be permitted to meet today at 10 a.m. to hear testimony on the subject of health care alliances.

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

COMMITTEE ON GOVERNMENTAL AFFAIRS

Mr. PELL. Mr. President, I ask unanimous consent that the Governmental Affairs Committee be authorized to meet on Thursday, February 24, 1994, for a joint hearing with the Armed Services Committee on the legislation: S. 1587, the Federal Acquisition Streamlining Act of 1993.

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

COMMITTEE ON JUDICIARY

Mr. PELL. Mr. President, I ask unanimous consent that the Committee on the Judiciary be authorized to meet during the session of the Senate on Thursday, February 24, 1994 to hold a hearing on the nominations of Samuael F. Biery, Jr., to be a U.S. district court judge for the Western District of Texas, William Royal Ferguson, Jr., to be a U.S. district court judge for the Western District of Texas, Orlando L. Garcia, to be a U.S. district court judge for the Eastern District of Texas, John H. Hannah, Jr., to be a U.S. district court judge for the Eastern District of Texas and Janis Ann Graham Jack, to be U.S. district judge for the Southern District of Texas.

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

COMMITTEE ON JUDICIARY

Mr. PELL. Mr. President, I ask unanimous consent that the Committee on the Judiciary be authorized to hold a business meeting during the session of the Senate on Thursday, February 24, 1994.

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

SELECT COMMITTEE ON INTELLIGENCE

Mr. PELL. Mr. President, I ask unanimous consent that the Select Committee on Intelligence be authorized to meet during the session of the Senate on Thursday, February 24, 1994 at 2:30 p.m. to hold a closed hearing on intelligence matters.

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

SUBCOMMITTEE ON CHILDREN, FAMILY, DRUGS AND ALCOHOLISM

Mr. PELL. Mr. President, I ask unanimous consent that the Committee on Labor and Human Resources' Subcommittee on Children, Family, Drugs and Alcoholism be authorized to meet for a hearing on Child Care for Working Families: True Welfare Reform, during the session of the Senate on February 24, 1994 at 10:00 am.

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

SUBCOMMITTEE ON INTERNATIONAL FINANCE

Mr. PELL. Mr. President, I ask unanimous consent that the Subcommittee on International Finance of the Senate Banking, Housing, and Urban Affairs Committee be authorized to meet during the session of the Senate on Thursday, February 24, to conduct a hearing on Export Administration Act. The hearing will begin at 2:00 p.m.

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

ADDITIONAL STATEMENTS

SOCIAL SECURITY DISABILITY AND REHABILITATION ACT OF 1994

• Mr. CHAFEE. Mr. President, yesterday Senator COHEN introduced legislation that makes important reforms to two Social Security programs that provide benefits to the disabled. I applaud him in his effort to restore credibility to these important programs and am pleased to join as a cosponsor of the legislation.

The Social Security Disability Insurance [SSDI] and Supplemental Security Income [SSI] Programs were designed to support individuals who cannot work because of physical or mental disabilities. Included in the definition of qualifying disabilities are drug addiction and alcoholism. Indeed, 250,000 addicts receive benefits to the tune of $1.4 billion under these programs. The rationale behind this is that drug addicts and alcoholics must be supported financially while they are undergoing treatment.

Shockingly, a year-long investigation by Senator COHEN's staff on the Senate Special Committee on Aging and by the General Accounting Office [GAO] has brought to our attention that instead of helping drug addicts and alcoholics seek treatment, the programs are in many instances merely subsidizing their addictions. Because the Government has not required addicts to seek treatment, or held them accountable for how the money is spent or who manages it, the program has spun out of control and is now operating as a cash assistance program for drug addicts and alcoholics—with no strings attached.

To be certain, Congress has tried to put some restraints on the SSI Program. Addicts receiving benefits under this program may not get the money directly. Instead, the money is paid to a supposedly third party, such as a family member or friend. This so-called representative payee is supposed to be a responsible member of society who will oversee how the money is spent. Regrettably, the investigation revealed that too often this third party is also an addict, unable to manage his own life, let alone that of a fellow addict. While this provision has not been well enforced, at least there was an attempt. No such attempt is made in the SSDI Program, where the money goes directly into the hands of the addict.

The treatment requirements are also ineffective—where they even exist. Supposedly, drug addicts and alcoholics who receive SSI benefits must participate in a substance abuse treatment program—if available. Senator COHEN's investigation shows that the Social Security Administration does a sorry job of overseeing this requirement. As a result, many addicts are never held to this requirement. Again, at least the Government showed an interest in trying in the SSI Program—the SSDI Program does not even bother to make treatment a condition of benefits.

One of the ways that the Social Security Administration determines eligibility for these programs is if an individual is unable to engage in substantial gainful activity because of his or her mental or physical impairment. Yet, many addicts are engaged in substantial gainful activity that is illegal, namely drug dealing. They will admit this to the authorities to prove that they are addicts, and then will be deemed eligible for benefits.

Clearly, Mr. President, the time has come for Congress to take action. This legislation would put into place some tough new requirements. First, and most important the legislation will require that all substance abusers seek treatment, and it will increase the availability of substance abuse treatment programs. Second, addicts will no longer be allowed to designate a fellow addict as their representative payee. Instead, the money will be paid to an approved community agency which will oversee its distribution. Third, drug dealers, who are now on the rolls, will no longer be eligible for benefits.

Mr. President, we have all been trying to find ways to save money and to make Congress more accountable for the programs it authorizes. Taxpayers have been most generous in their support for the truly needy, and we should make every effort not to exploit that generosity. Individuals who are truly disabled, or addicted to drugs or alcohol and trying to change your ways should be supported. But we will no longer help those who are not trying to help themselves. This legislation puts that message into law, and I urge my colleagues to enact it as soon as possible. Thank you, Mr. President.•

EXECUTIVE SESSION

EXECUTIVE CALENDAR

Mr. PELL. Mr. President, I ask unanimous consent that the Senate proceed to executive session to consider the following nominations: Calendar Order No. 698, Calendar Order No. 699, Calendar Order No. 700, Calendar Order Number 701, Calendar Order No. 702, Calendar Order No. 704, and Calendar Order No. 705.

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

Mr. PELL. I further ask unanimous consent that the nominees be confirmed en bloc; that any statements appear in the RECORD as if read; that, upon confirmation, the motions to reconsider be laid upon the table en bloc; and that the President be immediately notified of the Senate's action.

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

The nominations considered and confirmed en bloc are as follows:

U.S. ENRICHMENT CORPORATION

Greta Joy Dicas, of Arkansas, to be a Member of the Board of Directors of the United States Enrichment Corporation.

Frank G. Zarb, of New York, to be a Member of the Board of Directors of the United States Enrichment Corporation.

Kneeland C. Youngblood, of Texas, to be a Member of the Board of Directors of the United States Enrichment Corporation.

Margaret Hornbeck Greene, of Kentucky, to be a Member of the Board of Directors of the United States Enrichment Corporation.

William J. Rainer, of Connecticut, to be a Member of the Board of Directors of the United States Enrichment Corporation.

DEPARTMENT OF THE INTERIOR

Gordon P. Eaton, of Ohio, to be Director of the United States Geological Survey, vice Dallas Lynn Peck.

DEPARTMENT OF LABOR

Bernard E. Anderson, of Pennsylvania, to be an Assistant Secretary of Labor, vice Cari M. Dominguez, resigned.

STATEMENT ON THE NOMINATION OF MEMBERS OF THE BOARD OF DIRECTORS OF THE U.S. ENRICHMENT CORPORATION

Mr. WALLOP. Mr. President, nearly 10 years ago, a group of Senators on the Energy Committee began a diligent effort to save the Department of Energy's Uranium Enrichment Enterprise from extinction. The Department was faced with declining demand for its product, rapidly increasing competition in the market, and the effects of a series of improvident bureaucratic decisions. Finally, in the Energy Policy Act of 1992, we succeeded in creating a Government Corporation with the hope that freedom to operate in businesslike manner would save this enterprise. Today's confirmation of the Board members charged with making a success of the new Corporation should gratify those of us involved in this effort. Instead, I find myself plagued by a gnawing suspicion that the administration may thwart our efforts to save this venture and maximize returns to U.S. taxpayers.

In the Energy Policy Act of 1992, this committee insisted on the transfer of the foundering Uranium Enrichment Enterprise to a newly created Government Corporation with the ultimate goal of privatization. Implicit in that undertaking was the notion that a direct correlation would exist between the success of the Corporation and the absence of Government interference in its operations.

Through capable, efficient management, the new Corporation began its operations on schedule and under budget. My concerns today lie not with the Corporation's management, but with the ominous signals from the administration that it intends to exert over the management a degree of influence that, if unchecked, will eventually result in the Corporation's demise.

For example, the HEU deal concluded last month with Russia sets a purchase price that is above the cost at which the Corporation can produce the product itself. Such an arrangement does not appear to be related to any sensible business practice.

More recently, the administration's budget proposal for 1995 includes a provision that requires operational changes at the Corporation in order to offset the administration's objectives for other programs. Both of these events demonstrate exactly the kind of bureaucratic malaise we sought to eliminate by directing that the new Corporation operate in a businesslike, profit-motivated manner.

The nominees before us today all profess to have the same goals for the Corporation that we envisioned. That is encouraging. It is also encouraging that each of the nominees has proven capabilities in a wide variety of business arenas. However, if they are to succeed, they must be uniformly unwavering in their resolve to keep the administration out of the affairs of this Corporation. Otherwise, the Corporation's customers will remain distrustful of its ability to be competitive in such a challenging market and the Corporation will surely fail.

I have supported the confirmation of these nominees because they have convinced me of their singleminded purpose to make this Corporation a successful business venture and that they will not permit the administration to thwart that goal through micromanagement of the Corporation's business decisions. I wish the Directors well in accomplishing this task and will keep a watchful eye on their progress.

STATEMENT ON THE NOMINATION OF GORDON P. EATON

Mr. WALLOP. Mr. President, I rise in support of the nomination of Mr. Gordon Eaton to be Director of the U.S. Geological Survey.

Mr. Eaton has a distinguished background as an Earth scientist as well as good experience as an administrator which will stand him in good stead to take on the responsibilities of this important information-gathering agency. Mr. Eaton holds an M.S. and Ph.D. in geology from the California Institute of Technology and currently serves as the director of the Lamont-Doherty Earth Observatory of Columbia University. From 1963 to 1981, he served in a variety of high-level positions at the Survey.

I believe Mr. Eaton to be a dedicated public servant and well qualified for the position to which he has been nominated.

U.S. ARMY

Mr. PELL. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of the following nomination reported today by the Committee on Armed Services: Maj. Gen. Marc A. Cisneros, to be lieutenant general.

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

The clerk will report the nomination.

The assistant legislative clerk read the nomination of Maj. Gen. Marc A. Cisneros, to be lieutenant general.

Mrs. HUTCHISON. Mr. President, Gen. Marc Cisneros is going to participate tomorrow in the changing of command at Forth Sam Houston in San Antonio, TX. He is being promoted from major general to lieutenant general so that he can take command of a very important base located in San Antonio.

Major General Cisneros is a native of Brownsville, TX. He is a graduate of St. Mary's University. He entered the Army in 1961 when he was commissioned as a second lieutenant in field artillery. During his distinguished career, he served two combat tours in the Republic of Vietnam. He was commander, U.S. Army South, for the liberation of Panama during Operation Just Cause in 1989.

Tomorrow, he will assume command of the 5th U.S. Army at Fort Sam Houston, a position for which he is extremely well qualified. I wish to be the first to congratulate him on his promotion and to welcome him back to Texas.

I would especially like to thank Senator SAM NUNN, the chairman of the Senate Armed Services Committee, and the ranking member, Senator STROM THURMOND, for agreeing to expedite this nomination. Also, I would like to thank the two distinguished leaders, Senators MITCHELL and DOLE, for allowing us to agree to this promotion for General Cisneros so that he can take part in the change of command ceremony tomorrow in San Antonio, TX.

I thank the Chair. I yield the floor.

Mr. PELL. I ask unanimous consent that the nominee be confirmed; that any statements appear in the RECORD as if read; that the motion to reconsider be laid upon the table; and 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.

LEGISLATIVE SESSION

The PRESIDING OFFICER. Under the previous order, the Senate will now return to legislative session.

INDEPENDENT COUNSEL REAUTHORIZATION ACT OF 1994

Mr. PELL. Mr. President, I ask that the Chair lay before the Senate a message from the House of Representatives on S. 24, a bill to reauthorize the Independent Counsel Law for an additional 5 years, and for other purposes.

The PRESIDING OFFICER laid before the Senate the following message from the House of Representatives:

Amendment: Strike out all after the enacting clause and insert:

SECTION 1. SHORT TITLE.

This Act may be cited as the "Independent Counsel Reauthorization Act of 1994".

SEC. 2. FIVE-YEAR REAUTHORIZATION.

(a) REAUTHORIZATION.—Section 599 of title 28, United States Code, is amended by striking "1987" and inserting "1993".

(b) EFFECTIVENESS OF STATUTE.—Chapter 40 of title 28, United States Code, shall be effective, on and after the date of the enactment of this Act, as if the authority for such chapter had not expired before such date.

SEC. 3. ADDED CONTROLS.

(a) COST CONTROLS AND ADMINISTRATIVE SUPPORT.—Section 594 of title 28, United States Code, is amended by adding at the end the following new subsection:

"(1) COST CONTROLS AND ADMINISTRATIVE SUPPORT.—

"(1) COST CONTROLS.—

"(A) IN GENERAL.—An independent counsel shall—

"(i) conduct all activities with due regard for expense;

"(ii) authorize only reasonable and lawful expenditures; and

"(iii) promptly, upon taking office, assign to a specific employee the duty of certifying that expenditures of the independent counsel are reasonable and made in accordance with law.

"(B) DEPARTMENT OF JUSTICE POLICIES.—An independent counsel shall comply with the established policies of the Department of Justice respecting expenditures of funds, except to the extent that compliance would be inconsistent with the purposes of this chapter.

"(2) ADMINISTRATIVE SUPPORT.—The Director of the Administrative Office of the United States Courts shall provide administrative support and guidance to each independent counsel. No officer or employee of the Administrative Office of the United States Courts shall disclose information related to an independent counsel's expenditures, personnel, or administrative acts or arrangements without the authorization of the independent counsel.

"(3) OFFICE SPACE.—The Administrator of General Services, in consultation with the Director of the Administrative Office of the United States Courts, shall promptly provide appropriate office space for each independent counsel. Such office space shall be within a Federal building unless the Administrator of General Services determines that other arrangements would cost less.".

(b) INDEPENDENT COUNSEL PER DIEM EXPENSES.—Section 594(b) of title 28, United States Code, is amended—

(1) by striking "An independent counsel" and inserting—

"(1) IN GENERAL.—An independent counsel"; and

(2) by adding at the end the following new paragraphs:

"(2) TRAVEL EXPENSES.—Except as provided in paragraph (3), an independent counsel and persons appointed under subsection (C) shall be entitled to the payment of travel expenses as provided by subchapter 1 of chapter 57 of title 5, including travel or transportation expenses in accordance with section 5703 of title 5.

"(3) TRAVEL TO PRIMARY OFFICE.—An independent counsel and any person appointed under subsection (c) shall not be entitled to the payment of travel and subsistence expenses under subchapter 1 of chapter 57 of title 5 with respect to duties performed in the city in which the primary office of that independent counsel or person is located after 1 year of service by that independent counsel or person (as the case may be) under this chapter unless the employee assigned duties under subsection (l)(1)(A)(iii) certifies that the payment is in the public interest to carry out the purposes of this chapter. Any such certification shall be effective for 6 months, but may be renewed for additional periods of 6-months each if, for each such renewal, the employee assigned duties under subsection (l)(1)(A)(iii) makes a recertification with respect to the public interest described in the preceding sentence. In making any certification or recertification under this paragraph with respect to travel and subsistence expenses of an independent counsel or person appointed under subsection (c), such employee shall consider, among other relevant factors—

"(A) the cost to the Government of reimbursing such travel and subsistence expenses;

"(B) the period of time for which the independent counsel anticipates that the activities of the independent counsel or person, as the case may be, will continue;

"(C) the personal and financial burdens on the independent counsel or person, as the case may be, of relocating so that such travel and subsistence expenses would not be incurred; and

"(D) the burdens associated with appointing a new independent counsel, or appointing another person under subsection (c), to replace the individual involved who is unable or unwilling to so relocate.

An employee making a certification or recertification under this paragraph shall be liable for an invalid certification or recertification to the same extent as a certifying official certifying a voucher is liable under section 3528 of title 31.".

(c) INDEPENDENT COUNSEL EMPLOYEE PAY COMPARABILITY.—Section 594(c) of title 28, United States Code, is amended by striking the last sentence and inserting the following: "Not more than 2 such employees may be compensated at a rate not to exceed the rate of basic pay payable for level V of the Executive schedule under section 5316 of title 5, and all other such employees shall be compensated at rates not to exceed the maximum rate of basic pay payable for GS-15 of the General Schedule under section 5332 of title 5.".

(d) ETHICS ENFORCEMENT.—Section 594(j) of title 28, United States Code, is amended by adding at the end the following new paragraph:

"(5) ENFORCEMENT.—The Attorney General and the Director of the Office of Government Ethics have authority to enforce compliance with this subsection.".

(e) COMPLIANCE WITH POLICIES OF THE DEPARTMENT OF JUSTICE.—Section 594(f) of title 28, United State Code, is amended by striking "shall, except where not possible, comply" and inserting "shall, except to the extent that to do so would be inconsistent with the purposes of this chapter, comply".

(f) PUBLICATION OF REPORTS.—Section 594(h) of title 28, United States Code, is amended—

(1) by adding at the end the following new paragraph:

"(3) PUBLICATION OF REPORTS.—At the request of an independent counsel, the Public Printer shall cause to be printed any report previously released to the public under paragraph (2). The independent counsel shall certify the number of copies necessary for the public, and the Public Printer shall place the cost of the required number to the debit of such independent counsel. Additional copies shall be made available to the public through the Superintendent of Documents sales program under section 1702 of title 44 and the depository library program under section 1903 of such title."; and

(2) in the first sentence of paragraph (2), by striking "appropriate" the second place it appears and inserting "in the public interest, consistent with maximizing public disclosure, ensuring a full explanation of independent counsel activities and decisionmaking, and facilitating the release of information and materials which the independent counsel has determined should be disclosed".

(g) ANNUAL REPORTS TO CONGRESS.—Section 595(a)(2) of title 28, United States Code, is amended by striking "such statements" and all that follows through "appropriate" and inserting "annually a report on the activities of the independent counsel, including a description of the progress of any investigation or prosecution conducted by the independent counsel. Such report may omit any matter that in the judgment of the independent counsel should be kept confidential, but shall provide information adequate to justify the expenditures that the office of the independent counsel has made".

(h) PERIODIC REAPPOINTMENT OF INDEPENDENT COUNSEL.—Section 596(b)(2) of title 28, United States Code, is amended by adding at the end the following new sentence: "If the Attorney General has not made a request under this paragraph, the division of the court shall determine on its own motion whether termination is appropriate under this paragraph not later than 3 years after the appointment of an independent counsel and at the end of each succeeding 3-year period.".

(i) AUDITS BY THE COMPTROLLER GENERAL.—Section 596(c) of title 28, United States Code, is amended to read as follows:

"(c) AUDITS.—By December 31 of each year, an independent counsel shall prepare a statement of expenditures for the fiscal year that ended on the immediately preceding September 30. An independent counsel whose office is terminated prior to the end of the fiscal year shall prepare a statement of expenditures by the date that is 90 days after the date on which the office is terminated. The Comptroller General shall audit each such statement and shall, not later than March 31 of the year following the submission of any such statement, report the results of each audit to the Committee on the Judiciary and the Committee on Government Operations of the House of Representatives and to the Committee on Governmental Affairs and the Committee on the Judiciary of the Senate.".

SEC. 4. MEMBERS OF CONGRESS.

Section 591(c) of title 28, United States Code, is amended—

(1) by indenting paragraphs (1) and (2) two ems to the right and by redesignating such paragraphs as subparagraphs (A) and (B), respectively;

(2) by striking "The Attorney" and all that follows through "if—" and inserting the following:

"(1) IN GENERAL.—The Attorney General may conduct a preliminary investigation in accordance with section 592 if—"; and

(3) by adding at the end the following new paragraph:

"(2) MEMBERS OF CONGRESS.—Whenever the Attorney General determines that it would be in the public interest, the Attorney General may conduct a preliminary investigation in accordance with section 592 if the Attorney General has received information sufficient to constitute grounds to investigate whether a Member of Congress may have violated any Federal criminal law other than a violation classified as a Class B or C misdemeanor or an infraction.".

SEC. 5. GROUNDS FOR REMOVAL.

Section 596(a)(1) of title 28, United States Code, is amended by striking "physical disability, mental incapacity" and inserting "physical or mental disability (consistent with prohibitions on discrimination otherwise imposed by law)".

SEC. 6. NATIONAL SECURITY.

Section 597 of title 28, United States Code, is amended by adding at the end the following:

"(c) NATIONAL SECURITY.—An independent counsel shall comply with guidelines and procedures used by the Department in the handling and use of classified materials.".

SEC. 7. EFFECTIVE DATE.

The amendments made by this Act shall become effective on the date of the enactment of this Act.

Mr. PELL. I ask unanimous consent the Senate disagree to the House amendment and agree to the request for a conference with the House on the disagreeing votes of the two Houses, and that the Chair be authorized to appoint conferees.

There being no objection, the Presiding Officer appointed Mr. GLENN, Mr. LEVIN, Mr. PRYOR, Mr. COHEN, and Mr. STEVENS, conferees on the part of the Senate.

MEASURE READ FOR THE FIRST TIME

Mr. PELL. Mr. President, I understand that S. 1865, the Community Health Improvement Act of 1994, introduced earlier today by Senator MCCAIN, is at the desk.

The PRESIDING OFFICER. That is correct.

Mr. PELL. I ask for its first reading.

The PRESIDING OFFICER. The clerk will report.

The bill clerk read as follows:

A bill (S. 1865) to amend title 19 of the Social Security Act to promote demonstrations by States of alternative methods of more efficiently delivering health care services through community health authorities.

Mr. PELL. I now ask for the second reading of the bill.

The PRESIDING OFFICER. Is there objection?

Mr. PELL. I object on behalf of the Republican leader.

The PRESIDING OFFICER. Objection is heard.

The bill will lay over and will receive its second reading on the next legislative day.

ORDERS FOR FRIDAY, FEBRUARY 25, 1994

Mr. PELL. Mr. President, on behalf of the majority leader, I ask unani-

mous consent that when the Senate completes its business today, it stand in recess until 10 a.m., Friday, February 25, that following the prayer, the Journal of proceedings be approved to date and the time for the two leaders reserved for their use later in the day; that the Senate then resume consideration of Senate Joint Resolution 41, the balanced budget constitutional amendment, with the time for debate on Friday, extending until 6 p.m., with the time controlled as provided for under the provisions of a previous unanimous-consent agreement.

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

RECESS UNTIL 10 A.M. TOMORROW

Mr. PELL. Mr. President, if there is no further business to come before the Senate today, I now ask unanimous consent that the Senate stand in recess as previously ordered.

There being no objection, the Senate, at 7:17 p.m., recessed until tomorrow, Friday, February 25, 1994, at 10 a.m.

NOMINATIONS

Executive nominations received by the Senate February 24, 1994:

DEPARTMENT OF STATE

RYAN CLARK CROCKER, OF WASHINGTON, 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 STATE OF KUWAIT.

ARVONNE S. FRASER, OF MINNESOTA, FOR THE RANK OF AMBASSADOR DURING HER TENURE OF SERVICE AS THE REPRESENTATIVE OF THE UNITED STATES OF AMERICA ON THE COMMISSION ON THE STATUS OF WOMEN OF THE ECONOMIC AND SOCIAL COUNCIL OF THE UNITED NATIONS.

EDWARD S. WALKER, JR., OF MARYLAND, 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 ARAB REPUBLIC OF EGYPT.

NATIONAL COUNCIL ON DISABILITY

MARCA BRISTO, OF ILLINOIS, TO BE A MEMBER OF THE NATIONAL COUNCIL ON DISABILITY FOR A TERM EXPIRING SEPTEMBER 17, 1995, VICE SANDRA SWIFT PARRINO, TERM EXPIRED.

IN THE AIR FORCE

THE FOLLOWING NAMED OFFICER FOR REAPPOINTMENT TO THE GRADE OF LIEUTENANT GENERAL WHILE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY UNDER TITLE 10, UNITED STATES CODE, SECTION 601:

To be lieutenant general

LT. GEN. JOSEPH W. RALSTON, 270-40-9172, U.S. AIR FORCE.

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT TO THE GRADE OF LIEUTENANT GENERAL WHILE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY UNDER TITLE 10, UNITED STATES CODE, SECTION 601:

To be lieutenant general

MAJ. GEN. LAWRENCE E. BOESE, 408-68-6649, U.S. AIR FORCE.

IN THE NAVY

THE FOLLOWING NAMED REAR ADMIRALS (LOWER HALF) OF THE RESERVE OF THE U.S. NAVY FOR PERMANENT PROMOTION TO THE GRADE OF REAR ADMIRAL IN THE STAFF CORPS, AS INDICATED, PURSUANT TO THE PROVISION OF TITLE 10, UNITED STATES CODE, SECTION 5912:

MEDICAL CORPS OFFICER

To be rear admiral

REAR ADM. (LH) JAMES RAYMOND FOWLER, 252-58-3354/2105, U.S. NAVAL RESERVE.

JUDGE ADVOCATE GENERAL'S CORPS OFFICER

To be rear admiral

REAR ADM. (LH) FRED STEPHEN GLASS, 242-56-2365/2505, U.S. NAVAL RESERVE.

SUPPLY CORPS OFFICER

To be rear admiral

REAR ADM. (LH) LYLE ROSS HALL, 574-12-0730/3105, U.S. NAVAL RESERVE.

CONFIRMATIONS

Executive Nominations Confirmed by the Senate February 24, 1994:

DEPARTMENT OF LABOR

BERNARD E. ANDERSON, OF PENNSYLVANIA, TO BE AN ASSISTANT SECRETARY OF LABOR.

U.S. ENRICHMENT CORPORATION

GRETA JOY DICUS, OF ARKANSAS, TO BE A MEMBER OF THE BOARD OF DIRECTORS OF THE U.S. ENRICHMENT CORPORATION FOR A TERM OF 2 YEARS.

FRANK G. ZARB, OF NEW YORK, TO BE A MEMBER OF THE BOARD OF DIRECTORS OF THE U.S. ENRICHMENT CORPORATION FOR A TERM OF 2 YEARS.

KNEELAND C. YOUNGBLOOD OF TEXAS, TO BE A MEMBER OF THE BOARD OF DIRECTORS OF THE U.S. ENRICHMENT CORPORATION FOR A TERM OF 3 YEARS.

MARGARET HORNBECK GREENE, OF KENTUCKY, TO BE A MEMBER OF THE BOARD OF DIRECTORS OF THE U.S. ENRICHMENT CORPORATION FOR A TERM OF 4 YEARS.

WILLIAM J. RAINER, OF CONNECTICUT, TO BE A MEMBER OF THE BOARD OF DIRECTORS OF THE U.S. ENRICHMENT CORPORATION FOR A TERM OF 5 YEARS.

DEPARMENT OF THE INTERIOR

GORDON P. EATON, OF OHIO, TO BE DIRECTOR OF THE U.S. GEOLOGICAL SURVEY.

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.

IN THE ARMY

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT TO THE GRADE OF LIEUTENANT GENERAL WHILE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY UNDER TITLE 10, UNITED STATES CODE, SECTION 601(A):

To be lieutenant general

MAJ. GEN. MARC A. CISNEROS, 461-60-0361, U.S. ARMY.

EXTENSIONS OF REMARKS

VIETNAM EMBARGO

HON. GERALD B.H. SOLOMON

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, February 24, 1994

Mr. SOLOMON. Mr. Speaker, the Clinton administration has just made one of the most outrageous and unspeakable policy decisions I have seen in my 16 years in Congress.

Lifting our trade embargo against the heinous Government of Vietnam is a slap in the face of every veteran of a foreign war, every family member of such a veteran, and anyone who truly believes in freedom.

The Clinton administration has just given away the last bit of leverage we had to get a full accounting of our missing.

Sure, Hanoi will offer up bits and pieces of evidence on the way to full diplomatic relations.

But with the embargo lifted, the skids are already greased for this. The logic of lifting the embargo leads inexorably toward establishing full diplomatic relations, and Hanoi knows this.

Thus, they now have no incentive to really come clean on the MIA issue.

Unless, of course, one believes that the regime in Hanoi thinks like we do, and will respond to kind gestures. Indeed, this is precisely the mentality of those who supported lifting the embargo all these years.

Just be nice to them, and they will be nice to us, right?

Well, Mr. Speaker, that is a lot of hogwash. The Vietnamese regime does not think like us.

The regime in Hanoi is an unelected, illegitimate, Communist dictatorship, with one of the worst human rights record in the world.

Every major human rights monitoring organization, including the President's own State Department, acknowledges this.

This is the same regime that signed the Paris Peace Accords in 1973 and began violating them immediately.

This is the same regime that invaded South Vietnam in 1975 with Soviet tanks, forcing our disgraceful final withdrawal, aided and abetted by liberal American politicians.

And, Mr. Speaker, this is the same regime that lied about how many of our men it was holding at the time of the peace accords. We know this for a fact.

And just who is it that believes all of this hogwash about Hanoi's good intentions, Mr. Speaker?

Well, lo and behold, it is the same people who got it wrong on Vietnam in the first place.

The same ones who cheered on our enemies 25 years ago.

The same ones who told us that the Viet Cong, the Viet Minh and, yes, even the Khmer Rouge were just "agrarian reformers."

The same people who denied that Ho Chi Minh was a Communist, despite the fact that he founded the Indochinese Communist Party in 1930.

The same ones who got it wrong about the Soviets, the cold war, Euromissiles, and the Sandinistas.

Remember the doctrine of moral equivalence? The nuclear freeze? Bumper stickers that said "Nicaragua Is Not Our Enemy?"

The list is endless. These people were wrong about all of these things over three decades, and they are wrong about Vietnam today.

They never understood the fundamental nature of Communist totalitarianism, Mr. Speaker.

They never understood, and still don't understand, that when talking about Communist countries, it is imperative to distinguish between rulers and ruled.

That is why it is folly to think that we are doing the Vietnamese people a favor by lifting the embargo.

And that is why it is folly to believe that this action will induce the Hanoi tyrants to be more forthcoming about our MIA's.

Indeed, the thinking of those who supported lifting the embargo is so far off base that it is hard to believe that they really believe their own rhetoric.

In my view, what we have here is an attempt—yet another attempt—by those who were on the wrong side of history to wash their hands of that history.

I can imagine the guilt that some of these people must feel, Mr. Speaker.

They cheered on guerrilla movements and regimes that turned out to be barbarian enemies of America.

They refused to support our troops and then watched 58,000 of them die and hundreds of thousands more get wounded.

They hounded us out of Vietnam and, oops, then they realized that some of our boys were still there.

And, of course, their beloved cause, socialism, has disintegrated before their eyes, unmasking what has been an unspeakable nightmare for scores of countries and billions of human beings.

This guilt has to be especially deep for draft dodgers, Mr. Speaker.

Imagine, in addition to all of the above rude awakenings, having to live with the fact that, due to your cowardice and selfishness, someone else may have died in Vietnam.

But instead of admitting that they were on the wrong side of history;

Instead of admitting that they aided and abetted a barbaric enemy during Vietnam and the cold war;

Instead of admitting that they were selfish;

Or that they were cowards;

These people have chosen, once again, the easy and selfish way out.

They have washed their hands of history, so that the final rewriting of it can begin.

It all makes me sick to my stomach, Mr. Speaker.

CELEBRATING AFRICAN-AMERICAN ORGANIZATIONS DURING BLACK HISTORY MONTH—FEBRUARY 1994

HON. ROMANO L. MAZZOLI

OF KENTUCKY

IN THE HOUSE OF REPRESENTATIVES

Thursday, February, 24, 1994

Mr. MAZZOLI. Mr. Speaker, February is the month set aside to acknowledge the contributions made to this Nation by African-Americans, and the rich contributions of Louisville and Jefferson County, KY, African-Americans.

The Intergovernmental Black History Committee began in 1981 in Louisville to recognize the achievements and contributions of African-Americans in the workplace, in the community, and in our country. From its genesis as an adjunct to the U.S. Army Corps of Engineers, the committee has grown into an organization comprised of 22 Federal, State, and local sponsoring agencies.

Efforts are also underway in the capital of Kentucky, Frankfort, to raise the awareness of Kentuckians to the contributions of African-Americans to the history and culture of the Commonwealth. A 15-member African-American Heritage Commission has been established by Governor Brereton Jones to advise the Education, Arts and Humanities cabinet as well as to encourage other public and private agencies to recognize African-American contributions. From this effort, a statewide network is planned which will promote the selection and preservation of sites and artifacts significant to black history.

Black History Month gives us all the opportunity to recognize and honor those who made significant contributions to the United States, to Kentucky, to Louisville and Jefferson Counties, and all the States and localities of our Nation.

INDEPENDENT COUNSEL LAW

HON. RONALD D. COLEMAN

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Thursday, February 24, 1994

Mr. COLEMAN. Mr. Speaker, on February 10, 1994, my attendance was required in my hometown of El Paso, TX. Unfortunately, this meant that I was unable to participate in the debate on H.R. 811, the independent counsel reauthorization. If I had been in attendance I would have supported the Bryant amendment to H.R. 811 and final passage of the legislation.

Since 1978, independent counsel investigations have cost the American taxpayers over $45 million. H.R. 811 contains fiscal and administrative controls which will restrain spending by independent counsels and increase oversight of their activities, while preserving

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

Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

their autonomy and ability to investigate officials in a fair and even manner. It does not prohibit the appointment of an independent counsel in matters involving Members of Congress, but leaves it to the discretion of the Attorney General.

I fully support H.R. 811 and urge the conferees once appointed to move in an expeditious manner so that Attorney General Reno will not be without this important tool.

TAX-EXEMPT MUNICIPAL BONDS

HON. WILLIAM J. JEFFERSON

OF LOUISIANA

IN THE HOUSE OF REPRESENTATIVES

Thursday, February 24, 1994

Mr. JEFFERSON. Mr. Speaker, I am introducing today a bill in the form of a technical amendment to the rules governing the private use exception found in the provisions of the Code relating to tax-exempt municipal bonds. More specifically, this bill deals with these provisions as applied to the contracting out of the operations and maintenance [O&M] of water and wastewater facilities owned by the municipalities that issue these bonds.

Municipalities today face ever increasing costs of labor and compliance with Federal and State regulations governing the treatment of water and wastewater. Many modern cities contract with private businesses to provide cost-efficient O&M services. These contracts serve several desirable purposes. First, these contracts enable the municipalities to deliver the same or, in most cases, improved services to their citizens while at the same time being able to maintain the cost of providing those services at a reasonable level, that is, without the need to increase taxes or fees, furthermore, contract O&M also helps municipalities to avoid employee layoffs and, when necessary, to provide the municipality with a means of funding the alternate employment of laid-off workers.

These cost-savings techniques can be achieved only with a long-term contract for the O&M of the water and wasterwater facility, because a longer term enables the private firm to recover its initial investment in the facilities. Congress has provided a means of assisting municipalities in funding the capital cost of public facilities through the use of tax-exempt bonds. However, Congress did not intend these benefits to inure to private businesses through exclusive use of essentially public facilities. In order to qualify for tax-exempt financing, the municipality must therefore own and use the facility. The rules provided by the Congress, however, to prevent such private uses impose a requirement upon the municipality to: First, limit the term of any O&M contract to 5 years, and second, to provide in the contract that the municipality may terminate the contract, without penalty, at the end of the third contract year.

The bill I introduce today revises the first requirement by lengthening the allowable term of the O&M contract to 15 years and eliminates the second requirement. The lengthening of the contract term is meant to comport more closely to usual and customary business practice, and also works to cause a corresponding reduction in the contract price for O&M.

The application of these requirements to water and wastewater O&M contracts serves no discernible public purpose, since it is not possible to privately use a publicly owned water or wastewater facility. Therefore, I invite my colleagues to cosponsor this bill.

SALUTE TO THE MULTIPLE SCLEROSIS ASSOCIATION OF AMERICA

HON. THOMAS M. FOGLIETTA

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, February 24, 1994

Mr. FOGLIETTA. Mr. Speaker, I rise to recognize and commend the Multiple Sclerosis Association of America, in the Philadelphia area, for being acknowledged by the National Aeronautics and Space Administration [NASA] for implementing—to the benefit of MS sufferers—a space-derived personal cooling system.

The cool suit lowers body temperature and alleviates MS problems with breathing, talking, and fatigue to provide a better quality of life.

The Multiple Sclerosis Association of America has placed cool suits in more than 50 MS care centers in the United States. Additionally, the Multiple Sclerosis Association has sponsored a 12-week, detailed study of the microclimate system.

The system, which consists of a head cap and a torso vest, is a spinoff from space technology. It regulates body temperature with a cooling unit and pump. It can lower a patient's core temperature 1 degree Fahrenheit in 30 to 40 minutes, according to a NASA report.

Multiple Sclerosis Association of America founder, John Hodson, Sr., estimates that more than 100,000 MS patients will be able to get microclimate treatment.

The Multiple Sclerosis Association of America offers their members and families a wide variety of services free of charge, including a toll-free 24-hour hotline, patient educational information and referral, therapeutic equipment, peer counseling, barrier-free housing, a bimonthly newsletter, a health resource panel, social and group activities, public advocacy and support, and volunteer assistance and support groups.

Since 1970, the Multiple Sclerosis Association of America's main thrust lies in the belief of MS'ers helping MS'ers. Cofounder Ruth Hodson, a MS patient, created this unique self-help organization with the goal of offering practical and knowledgeable advice and support to fellow MS'ers.

Most of the Multiple Sclerosis Association of America's board of directors are MS patients; yet they have battled this disease to develop a successful, national health care association dedicated to meeting the needs of others. The Multiple Sclerosis Association of America generated 513 million audience public information impressions in 1993 on television and radio nationally. Through these audience impressions, it received over 10,000 calls on its 1–800 nationwide hotline number.

By the year 2000, Multiple Sclerosis Association of America plans to build 15 to 20 barrier-free apartment complexes across the country.

The Multiple Sclerosis Association of America has brought great credit upon itself as an organization, its founder, John Hodson, Sr., its staff, and the thousands of volunteers that it motivates and coordinates.

Mr. Speaker, I salute the Multiple Sclerosis Association of America for the excellence of the organization's aid to MS sufferers and the organization's high reputation.

TRIBUTE TO BUTTEVILLE GENERAL STORE

HON. MICHAEL J. KOPETSKI

OF OREGON

IN THE HOUSE OF REPRESENTATIVES

Thursday, February 24, 1994

Mr. KOPETSKI. Mr. Speaker, I rise to pay tribute to the longest operating general store in my home State of Oregon. This general store, in Oregon's Fifth Congressional District, is located in the community of Butteville. The Butteville General Store is often overlooked, but played a major role in the development of the area.

Butteville is named for a well-known hill, about a mile to the southwest, called La Butte by the early settlers on French Prairie. The village, laid out by Messrs. Abernathy and Beer, started with a few scattered cabins, but soon became known as La Butte, and by 1850, was recognized as Butteville. Because of its location, Butteville was expected to grow rapidly into a metropolis. It lay at the extreme northern edge of French Prairie, along the Willamette River, 16 miles above Oregon City. Much of its trade was drawn from the prairie ranchers, many of whom were retired French-Canadian trappers for the Hudson's Bay Co. Wheat and other produce was handled at the Butteville warehouse and shipped north for export to the Sandwich Islands and China.

The Butteville General Store came into existence through the efforts of Francis Xavier Matthieu. Matthieu was born in Terrebonne, near Montreal, Canada. He migrated to St. Louis where he joined the American Fur Co. and spent the next 3 years as a fur trapper. Tired of a trapper's life, Matthieu met the Emigrant Company of 1842 at Fort Laramie and decided to travel to Oregon.

Reaching Oregon City late in September, Matthieu learned of the French-Canadians settled on the prairie approximately 16 miles up the Willamette River. He pushed on to Champoeg, where he received a warm welcome from his fellow countrymen.

Through the long winter, Matthieu stayed with his countrymen and was able to allay many of their fears concerning the possibility of future rule by the United States. He undoubtedly convinced many it would be safe to join the American settlers in forming a temporary government. He played an important role in establishing the Provisional Government of Oregon, casting a favorable vote in the historic Champoeg meeting of May 2, 1843. That same day Matthieu was chosen a constable for the district.

In 1846, Matthieu took a donation claim, about a mile southwest of Butteville. Butteville attained its majority when Matthieu opened a general mercantile business in 1850 or 1851.

He had many friends among his Canadian-French countrymen, and when he opened his store, in a building constructed half of logs and half of crude boards, many of his countrymen came from considerable distance to trade with him.

At least a portion of Matthieu's store sales were paid for in trade. This meant trappers, settlers, and Indians exchanged such products as beaver skins, buckskin, salt, salmon, wheat, shingles, and saw logs, for staple commodities; or, as frequently occurred, they gave these as payment for indebtedness contracted with one another.

So significant was the advent of this store that it has sometimes been erroneously stated that Francois Xavier Matthieu was Butteville's founder.

Mr. Speaker, the Butteville General Store continues to exist as a center of commerce and a place where residents and visitors alike may reflect on the area's history and settlement.

JAKE GAITHER, GREAT AMERICAN

HON. CARRIE P. MEEK

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Thursday, February 24, 1994

Mrs. MEEK of Florida. Mr. Speaker, and Members of the House, I rise today to pay tribute to Alonso Smith "Jake" Gaither. Jake was the legendary head football coach of Florida A&M University from 1945 to 1969. He passed away last Friday. He was 90 years old.

Gaither coached the Rattler football team for 25 seasons compiling 203 wins, 36 losses, and 4 ties. His winning percentage of .844 has been exceeded by only five college coaches in history, although none have won as many games. Three times he was chosen as college football's national coach of the year by the Associated Press, the American Football Coaches Association, and the National Association of Intercollegiate Athletics. He is the only college football coach ever to receive college football's "triple crown." He was elected to the College Hall of Fame of the National Football Foundation and the same year received the Amos Alonzo Staff and the Walter Camp Awards. No other college coach since has received all three awards, let alone received them all in the same year.

But that is only part of Jake Gaither's legacy. Coach Gaither was much more than an innovative football coach who taught the likes of Paul "Bear" Bryant, Ara Parseghian, Woody Hayes, Eddie Robinson, Bobby Bowden, and others at his annual coaching clinics. Much of what Jake Gaither leaves behind had nothing to do with football and everything to do with teaching his boys lessons to see them through life. Jake and his wife, Sadie, never had children, so each of his players in essence became a part of their family. He taught his "boys" character. He taught them values.

Gaither once said, "I can teach a lot more character winning than I can losing." Gaither taught a lot of character. He was determined to work on the whole youngster, not just the athlete. He told his boys, "You will be gentlemen off the field and on. You will be good Floridians off the field and on. You will be good Americans off the field and on."

Gaither also said, "A coach shouldn't be as concerned about what kind of player he's developing in college as what kind of man he's made in 15 years."

Perhaps former Congressman Don Fuqua said it best: "Few men have achieved the success that Jake Gaither has known in his profession. Few men have achieved such universal respect and love from his fellow man. Few men have known the thrill that has come to this compassionate giant in taking young men and instilling confidence and pride in them to the extent that those lessons are never forgotten."

Mr. Speaker, we have lost not only a great teacher, motivator, and innovator, but a great Floridian and, indeed, a great American.

CONGRATULATIONS AND THANKS TO MARK W. COSTA

HON. KEN CALVERT

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, February 24, 1994

Mr. CALVERT. Mr. Speaker, one of the things that makes America the truly great country that it is, is its spirit of voluntarism—the willingness of citizens from all backgrounds and occupations to give of their time and talents to make their communities better places in which to live and work.

The community of Corona, CA, has been fortunate to have an exceptionally dedicated group of citizens who give freely of their energies and talents to make our city and country such desirable places to live. One of these exceptional citizens is Mr. Mark Costa.

Mr. Costa has been involved in a wide range of civic activities. He has served on the Historic Preservation Society, the Chamber of Commerce Executive Committee, and the Corona Public Library Board of Trustees.

He is also the past president of the Corona/Norco Amateur Club, and a communications specialist with the Orange County Fire Department. In addition, he helped organize the Corona Police Department Emergency Communications Volunteer Program.

Mark is a native of our county, and a graduate of Corona High School and Riverside Community College. He has been a successful businessman and a dedicated family man. He and his wife, Teresa, are the kinds of people we are proud to call our neighbors.

On behalf of the citizens of the 43d Congressional District, I wish to extend my thanks and appreciation to Mr. Mark Costa for his service as president of the Corona Chamber of Commerce and for all he has done for our community.

PROHIBIT THE RECEIPT OF EXPLOSIVES WITHOUT A FEDERAL PERMIT

HON. JACK QUINN

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, February 24, 1994

Mr. QUINN. Mr. Speaker, today I am introducing legislation to require a Federal permit to receive explosives and to require a background check before a purchase of explosives.

This past Christmas, four bombs exploded in western New York and killed five people. The explosives to make these bombs were purchased using a fake ID and transported across State lines. Currently, anyone with a proper identification can walk in, fill out a Federal form, and purchase explosives. No permits are required and no background checks are conducted if the purchaser states he will not cross State lines.

In 1993, 46,000 transactions occurred utilizing this loophole in Federal regulations. This represents 455 million pounds of explosives. This is alarming to say the least.

My legislation will close this dangerous Federal loophole by abolishing this walk in authorization and require everyone who purchases explosives, except for purchases of small amounts of low explosives like gunpowder, to have a Federal permit. In addition, my bill will also utilize the instant background system established by the Brady bill for screening purchases by individuals not licensed by the Bureau of Alcohol, Tobacco and Firearms.

Mr. Speaker, it is imperative that we close this loophole before anyone else is killed or injured. I urge your support for this legislation and urge all my colleagues to join me in bringing responsible restrictions on the purchase of explosives.

EDITORIAL TELLS US WHO IS LOSING THE WAR ON ILLEGAL DRUGS

HON. GERALD B.H. SOLOMON

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, February, 24, 1994

Mr. SOLOMON. Mr. Speaker, the National Institute of Drug Abuse reveals that more American teenagers are using a variety of drugs than they did just 2 years ago.

The report also indicates that this bothersome trend reverses the trend of the 1980's toward decreased drug use.

So what does that tell us? It tells us that we were winning the drug war in the 1980's, but are now starting to lose it.

Is anyone really surprised, Mr. Speaker, that the first President to represent the 1960's counterculture should decline to continue the war against drugs? President Clinton has all but abolished the National Drug Control Policy Office in his first year in office. He has appointed a Surgeon General who thinks drugs should be legalized.

Yes, Mr. Speaker, we are losing the war on drugs, because the fortress is now being guarded by our enemies in this war.

I place in today's RECORD an editorial from the largest daily newspaper in our district, the Albany Times-Union, which laments, as do I and every American, the ground we have lost in a war we must win if our children and grandchildren are to have a viable future.

[From the Albany (NY) Times Union, Feb. 12, 1994]

A DRUG WAR SETBACK

The issue: A new survey shows drug use is up among teenagers.

Our opinion: The Clinton administration can't afford to send mixed messages on this scourge.

The national effort against illegal drug use has been dealt a setback.

An extensive survey just conducted for the National Institute on Drug Abuse reveals more American teenagers are using a variety of illicit drugs than they did just two years ago.

The percentage increases are small—1 or 2 or 3 percent depending on the drug—but they are alarming. That's because this increase marks a departure from the trend of generally decreased use that began in the late '70s and early '80s. It is also worrying, however, because the same survey found that fewer teenagers disapprove of drug use today than just a short time ago.

What does this all mean?

Most surely that the "war" against illegal drug use will never be completely "won." The drug abuse problem, like the alcohol abuse problem which began earlier, will always be with us.

That means, in turn, that society's efforts to control drug abuse must also not flag.

Unfortunately, the campaign has already been relaxed. We no longer see as many anti-drug messages in the mass media, for example, as we did a few years ago, and there even might have been "messages" sent out of Washington that drug abuse is not such a great problem. Some critics, at any rate, have interpreted President Clinton's decreased staffing of the National Drug Control Policy Office in that light; just as others viewed the surgeon general's suggestion that drugs be legalized as a backing down in the drug fight.

However that might be, it is patently clear that we cannot let down our guard. The message must continue to be drummed: These drugs are illegal and they are dangerous. This truth, no matter how great the effort of dissemination, will never get through to everyone. But recent experience seems to show that any easing up in the campaign will mean ground lost.

NELLE HORLANDER: HONORED FOR SERVICE TO THE COMMUNICATIONS WORKERS OF AMERICA

HON. ROMANO L. MAZZOLI

OF KENTUCKY

IN THE HOUSE OF REPRESENTATIVES

Thursday, February 24, 1994

Mr. MAZZOLI. Mr. Speaker, today, I am paying well-deserved tribute to Nelle Pitcock Horlander for her long and productive career as Kentucky representative of the Communications Workers of America [CWA], AFL–CIO.

When one looks over the life and career of Nelle Horlander, one cannot help but be impressed by her many achievements and accomplishments.

Nelle was born in Dry Fork, KY, and attended a one-room school house. Nelle eventually moved to Louisville, and completed her studies at the University of Louisville in 1948. Her entire life from that point on has been dedicated to service to her fellow man and woman.

Nelle's first job was at Walgreen Drugs and from there she moved to Southern Bell. It was at this point in her life that she began to serve her coworkers by becoming active in the Communication Workers Union, and in 1969, Nelle found her true calling in life, and went to work full-time for the CWA. She has devoted her talents to the CWA union for the past 44 years, 20 of which have been spent at the helm of the Kentucky CWA.

Her achievements in her CWA career include: Union steward, secretary/treasurer and president of local 10310; committee memberships in the Legislative/Political Committee and Education Committee; Retirees Club Liaison; and, member of the CWA's Organizing Committee, Building Committee, Bylaws Committee, and Community Services Committee.

Nelle has also been active in the community in the Metro United Way, the Goals for Greater Louisville Organization, the Kentucky Health Care Coalition, and the Metropolitan Housing Coalition. She has also served the Democratic Party of Jefferson County and the Kentucky Democratic Party in numerous ways over the years.

In 1975, Nelle received the League of Women Voters Citizenship Award. In 1977, she was awarded the Brotherhood Award by the National Conference of Christians and Jews, Kentuckiana Chapter. Nelle said in her acceptance speech: "In the spirit of Sisterhood, I proudly accept the Brotherhood Award." And, so, from that time on, the award has been known as the Brotherhood/Sisterhood Award.

It has been a privilege knowing and working with Nelle in our community. I join her coworkers, her friends and her family: husband, Harold Horlander; children, Shelly and Jeffrey; and grandchildren, Anson, Austin and Ashley, in wishing her all the best and continued good fortune in the future.

TRIBUTE TO LARRY ISENBERG

HON. HERB KLEIN

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Thursday, February 24, 1994

Mr. KLEIN. Mr. Speaker, I rise today to pay tribute to Larry Isenberg, who has served as municipal attorney in the borough of Pompton Lakes for the past quarter of a century. I am very proud to join with his family and many friends as he is honored for his many years of service.

In addition to his position with the borough, Mr. Isenberg has kept a strong commitment to the community. He maintained a law practice in Pompton Lakes with his father, Gershon Isenberg, in which he provided legal services to the Pompton Lakes/Riverdale First Aid Squad at no charge.

The Isenberg Family has been civically active to Pompton Lakes in other ways. They are founding members of the Pompton Lakes Jewish Center. Moreover, Larry and his wife, Ellie, were both active members of the Pompton Lakes High School Band Boosters when their four sons attended high school.

The Borough of Pompton Lakes has benefited from Mr. Isenberg's time and service. It is with great pleasure that I join with my colleagues in wishing him many more wonderful years and continued success.

TRIBUTE TO RAYMOND W. LABARGE

HON. RICHARD E. NEAL

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Thursday, February 24, 1994

Mr. NEAL of Massachusetts. Mr. Speaker, today I wish to extend my recognition and sincere thanks to Raymond W. LaBarge for over 40 years of leadership and outstanding civic involvement. Raymond, a lifelong resident of Leeds, MA, exemplifies unsurpassed dedication and commitment to the needs of the local community. Raymond has exhibited exceptional public service both as an elected official and as a citizen volunteer.

Raymond has held various elected offices throughout his 44 years of public service, and has left a significant impact on the neighborhoods of Leeds, Florence, and the city of Northampton. Raymond served on the Northampton City Council from 1983 to 1993 and enthusiastically worked to implement improvements in the city and surrounding neighborhoods. He was concerned with the upkeep and repair of bridges, streets, and sewer lines and worked to maintain the public infrastructure. Raymond advocated beautification and worked to provide the residents with open space for recreation. Raymond supported sound neighborhood planning, and was always receptive to the input of residents.

Education is another area which benefited greatly from Raymond's years of public service. Raymond demonstrated his strong commitment to education through direct action on the Northampton School Committee from 1977 to 1983. Raymond served as the ward Seven representative for 6 years, school committee vice-chair for 2 years and as chair of the budget committee for 1 year.

In light of Raymond W. LaBarge's record of action and accomplishments in public service and community activities, I believe that he is well deserving of public recognition and sincerest gratitude. Through his hard work and commitment he has touched the lives of many people and positively influenced the city he has unselfishly served over his career. Raymond has earned the respect and admiration of the people of Leeds, Florence, and the city of Northampton, and I join them in saluting this fine citizen.

PASSAGE OF H.R. 3345 IMPERATIVE

HON. RONALD D. COLEMAN

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Thursday, February 24, 1994

Mr. COLEMAN. Mr. Speaker, on February 10, 1994 my attendance was required in my hometown of El Paso, TX. Unfortunately, this meant that I was unable to cast my vote in support of H.R. 3345, the work force restructuring legislation. Passage of H.R. 3345 is imperative if the administration is to achieve its goal of reducing the Federal work force by 252,000 full time positions.

The Senate is expected to pass a significantly different version of H.R. 3345 which will require the agency to contribute 26 percent of the salary for civil service retirees who accept the buyout incentive. The Senate position will require a greater agency contribution than the House version of H.R. 3345 which requires a 17-percent contribution for employees electing regular retirement and a 9-percent contribution for employees electing to take an early retirement.

The House-passed H.R. 3345 will allow the agencies to offer more buyouts than the Senate version. Thus, reducing the amount of Federal employees subject to a reduction in force. As we know, reductions in force result in a disproportionate number of women and minorities being laid off. This is unacceptable in a time when President Clinton is trying to promote a Federal work force that resembles all Americans. H.R. 3345 will also empower the agencies to selectively offer the incentive, allow the agencies to target middle management for reduction.

My office has been contacted by hundreds of Federal employees in my district who will retire if offered an incentive. However, without the incentive most have said they will stay in their current position unless they are laid off. I fully support the House position on this measure and urge the conferees once appointed to adopt the House version.

INVESTMENTS IN RETIREMENT VEHICLES

HON. WILLIAM J. JEFFERSON

OF LOUISIANA

IN THE HOUSE OF REPRESENTATIVES

Thursday, February 24, 1994

Mr. JEFFERSON. Mr. Speaker, today I am introducing legislation to correct what I believe to be an unintended consequence of the existing provisions of the Tax Code governing investments in retirement vehicles. This bill will allow taxpayers who lose their jobs due to corporate downsizing to roll over tax-free any lump-sum payment received as part of the termination into an individual retirement account [IRA] or similar qualified vehicle.

Without this legislation, many workers, generally 5 to 10 years shy of retirement age, will see between 40 to 50 percent of these payments eaten up by Federal, State, and local income taxes. Of course, if these lump-sum payments are made out of excess funds in a qualified retirement plan funded by the employer, this problem does not arise. This, however, is not always the case. Given the generally dismal rate of underfunded private corporate retirement plans, these payments will often come out of the general revenues of the company rather than from a qualified plan, and will thus not qualify for the tax-exempt rollover provisions that currently exist under the code. I do not believe that workers rendered jobless in this manner should have to suffer a penalty of this magnitude simply because the employer failed in its responsibility to fund adequately the retirement plan.

I therefore invite my colleagues to join me in cosponsoring this legislation, and I respectfully request that this statement be officially entered into the RECORD.

THE TRUTH ABOUT BOMBING IN BOSNIA

HON. PHILIP M. CRANE

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Thursday, February 24, 1994

Mr. CRANE. Mr. Speaker, even as a former educator, I know that while classroom learning has its value, hands-on involvement is what separates the merely knowledgeable from the truly expert. Expert opinion often falls short compared to the knowledge of actual experience.

Using that criterion, our colleague, the distinguished gentleman from California [Mr. CUNNINGHAM], is undeniably an expert when it comes to aviation and the use of air strikes. His experiences in Vietnam and throughout his distinguished military career give him a rare expertise.

In a recent Christian Science Monitor opinion piece, Mr. CUNNINGHAM makes a powerful argument against the use of air strikes in Bosnia, a position I wholeheartedly endorse. While it may be frustrating for the President, Members of Congress, and the American public to watch the tragedy unfold, the fact of the matter is airstrikes would only lead to a greater tragedy.

The ballet of the precise strikes publicized during Desert Storm would look more like mud wrestling if the United States were to launch an attack on gun positions in Bosnia. Targets are likely to be protected by rough terrain and therefore difficult to destroy. More importantly, I believe public opinion will quickly be reversed as civilian casualties mount and American pilots are killed or captured. We must not put American lives at risk when the opportunity for success is so low.

Congress enjoys quite a luxury having the benefit of Mr. CUNNINGHAM's considerable knowledge, and we should not ignore that advantage. I am submitting his article for the RECORD because I believe every Member of Congress should carefully read and consider an expert's words and ideas. As our resident expert points out, air strikes are not a video game. Real lives are at stake, both on the ground and in the air. Both the President and Congress should consider those facts before we put American lives at risk.

[From the Christian Science Monitor, Feb. 16, 1994]

THE TRUTH ABOUT BOMBING IN BOSNIA

(By Randy Cunningham)

Three hundred air missions over Vietnam and five air-to-air victories taught me harsh lessons about surgical airstrikes: Chiefly, air missions are hardly surgical. Targets are destroyed much less frequently than one might suppose. If we embark on these strikes in Bosnia—or worse, if we allow the United Nations to direct American airstrikes for us—our pilot losses could be great and our impact low.

Let me first state what airstrikes are not: They are not Star Wars, video games, or precise and painless operations. Airstrikes are deadly and costly. The planes are flown by real people. In training operations alone one out of five United States Navy fighter pilots are killed. They leave families behind. As a Top Gun instructor and Adversary Squadron commander, I attended chapel services for lost comrades.

In war, it's worse. Dying for your country is serious enough, and every combat pilot knows that risk. Under no circumstances should we put our military men and women under UN command.

But why are airstrikes not more affective? Imagine speeding in a car across an interstate overpass at 700 m.p.h., dropping a golf ball out of the window and in the cup dug into the cross-street below. That is about as close as one can get to a real airstrike. Except in a real airstrike, the enemy is shooting at you, and you are flying in three dimensions, not driving in two.

Wielding air power is very difficult, even for the most talented military commander. Fortunately, our experiences in Vietnam and the Persian Gulf teach us quite a bit.

The jungles of Vietnam hid deadly artillery and surface-to-air missiles all too well. We normally flew on clear days. We could see the missiles coming and take evasive action. But in the Balkan winter we would be flying beneath an overcast sky, and our aircraft would be silhouetted against the clouds. (Flying under cloud cover in mountainous Bosnia would be risky even without enemy fire.)

In late 1971 in North Vietnam I flew in Operation Proud Deep, a massive strike that required Navy pilots to bomb Hanoi's supply depots and airfields. Despite bad weather, we were ordered to fly. Blinded by overcast, we were sitting ducks for surface-to-air missiles the size of telephone poles, rocketing toward us at twice the speed of sound. Anti-aircraft artillery was another threat. In five days, we lost over a dozen aircraft and pilots. Target destruction was minimal.

We were ordered to break the most common-sense rule of air power: Never attack through an overcast sky. In the Balkan winter, overcast is the order of the day, and the mountains there bristle with anti-aircraft artillery. Military planners would be tragically foolhardy to ask our pilots to place their lives at such extraordinary risk.

But even on the clearest days, surface-to-air missile and anti-aircraft attacks are a constant danger. On May 10, 1972, after I had downed three enemy MiGs over North Vietnam, I turned my F-4 Phantom back toward the carrier Constellation in the South China Sea. Still 40 miles inland, a surface-to-air missile I saw too late exploded near my plane, disabling most of my controls. I barrel-rolled the burning aircraft until we reached the mouth of the Red River. My Radar Intercept Officer Willie Driscoll and I ejected just as the plane exploded. As we

parachuted down, we watched the Viet Cong assemble on the beach, ostensibly to take us prisoner. But a Marine Corps helicopter rescued us in the water, just in time. If our pilots get shot down over Bosnia, I can't believe they would be as lucky or as blessed as we were to avoid capture.

Operation Desert Storm began with a blistering six-week air attack. Pilots dropped more tons of bombs in those six weeks than we did in all our years in Vietnam. And each Desert Storm bomb was generally more effective, thanks to high-tech targeting equipment not available to Vietnam-era pilots. The air war of early 1991 severely weakened the Iraqi army for Gen. Norman Schwarzkopf's masterful ground assault.

Even so, military writer Rick Atkinson, in his Gulf-war history "Crusade," finds that after millions of air missions, including thousands purposely sent on "Scud patrols," battle damage reports cannot conclusively say if we destroyed a single Iraqi Scud site.

And that was over open Iraqi desert. Our F-117 stealth fighters attacked heavily defended sites at night. But the ancient city of Sarajevo lies deep in a valley that is surrounded on all sides by steep, forested mountains, where Bosnian Serbs have placed heavy artillery. Surreptitious low-level nighttime raids would be nearly impossible.

Flying at 600 knots toward Mr. Zuc, four miles north of Sarajevo, the most eagle-eyed, well-equipped American pilot will have awful trouble finding even one artillery piece, much less destroying it. And should our pilots find and target an artillery piece (there are surely tens of thousands of guns in those mountains), they must fly toward the target, dodging small-arms fire or missiles from the ground. The pilot has to release the ordnance at just the right moment, then pull up and away while dodging more missiles. Even under optimum conditions, it's treacherous. And it can take days for battle damage assessments to determine whether the target was hit.

Can our pilots bomb from high altitude? Yes, but great altitude decreases accuracy. "Carpet bombing" from B-52s is a weapon of terror. Don't count on "smart" bombs to do the job. More than 95 percent of the bombs the allies dropped on Iraq were the conventional "dumb" kind.

But let us assume that despite all these concerns, airstrikes are ordered. The Bosnian Serbs can read history: As the North Vietnamese did, they will place their artillery in residential areas. They may even gather UN peacekeepers (read "hostages") around critical weapons sites. Americans will not stomach such horrors. We are not a warlike nation. Even our warriors much prefer peace, and would recommend staying out of wars if, as in Bosnia, our interests are not at stake.

Defense Secretary William Perry and Joint Chiefs Chairman John Shalikashvili both caution against American airstrikes. Experience shows that these missions just won't work and they'll get our pilots killed. A similar commitment of ground troops would prove costlier, in human lives and dollars, than Vietnam.

THE NATIONAL POLITICAL CONGRESS OF BLACK WOMEN

HON. THOMAS M. FOGLIETTA

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, February 24, 1994

Mr. FOGLIETTA. Mr. Speaker, I rise today to salute Dr. C. Delores Tucker, State Representative Thaddeus Kirkland, Mayor Barbara Bohannan-Sheppard and deserving others who will be honored by the Chester, PA, Chapter of the National Political Congress of Black Women [NPCBW], at it's first honorary and scholarship luncheon on February 26, 1994.

As I recognize this year's distinguished honorees, I reflect on their contributions to the community of Chester—on Mayor Bohannan-Sheppard's Summit on Violence and citywide Clean and Green Program, Dr. Tucker's fight against the dangers of gangsta rap music, and on the recent weekend-long Education Summit sponsored by Representative Kirkland which addressed, among other urban issues, the epidemic of violence which is overrunning our schools. Dr. Tucker, Representative Kirkland, Mayor Bohannan-Sheppard and their fellow honorees are distinguished citizens who truly live up to this year's theme, "African-Americans Making a Difference," and I am delighted to be attending this special event to congratulate them in person.

In addition to the distinguished honorees, the Chester NPCBW itself deserves honorable mention for it's achievements throughout the past year. From the development of a community reading club for enhanced educational awareness, to raising $3,000 for fire victims last year, to the establishment of a partnership with the Delaware County Chamber of Commerce that will further excellence in business by minorities, the generous people of the Chester NPCBW have enriched the lives of everyone in their community.

I join with these upstanding members of the Chester Chapter of the National Political Congress of Black Women in commending this year's honorees on their faithful service to the community.

OPAL CREEK FOREST PRESERVE ACT OF 1994

HON. MICHAEL J. KOPETSKI

OF OREGON

IN THE HOUSE OF REPRESENTATIVES

Thursday, February 24, 1994

Mr. KOPETSKI. Mr. Speaker, today I am introducing legislation to establish the Opal Creek Forest Preserve in the Detroit Ranger District of the Willamette National Forest, OR.

Mr. Speaker, Opal Creek is, plain and simple, among the crown jewels of Northwest old-growth forests. Old-growth forests are unique ecosystems serving as critical wildlife habitat for hundreds of vertebrate and invertebrate animals, plants, and fungi. Old-growth forests provide clean and plentiful water. This is the water which supports the streams where wild runs of salmon and other anadromous and resident cold water fish are wholly dependent on high quantity and high quality water for migration, spawning, and rearing.

Old-growth forests also provide unique and outstanding opportunities for educational study, scientific research, and recreation. The establishment of an old-growth preserve at Opal Creek will contribute significantly to the quality of life for the residents of Oregon and my great State's many visitors.

The area containing what is known as the Opal Creek forest is one of the largest remaining intact low elevation old-growth forest ecosystems in the Western Oregon Cascades. Opal Creek forest contains outstanding geological and botanical features, including trees up to 1,000 years of age, and is significant to the aboriginal and early mining history of Oregon. The Opal Creek forest area includes four lakes, 45 miles of free-flowing streams, 50 waterfalls, and according to the most recent figures provides recreational opportunities for more than 12,000 visitors annually. Opal Creek forest's recreational use is increasing at a rate in excess of 50 percent per year.

Unfortunately, Mr. Speaker, Opal Creek forest continue to be threatened by additional logging, which will cause irreparable harm to the outstanding ecological, scientific, educational, and recreational values of the area. for too long, this area has been left in limbo, with the continual threat of logging hanging like a storm cloud on the horizon of this gift of nature. Planning for educational and recreational use of the area does not go forward as long as timber harvests remain a possibility.

The battle over Opal Creek has divided the community: it is time to end this war. Environmentalists want Opal Creek preserved. Many in the timber industry recognize that if the Forest Service offered a sale of Opal Creek forest timber, it would be challenged immediately in court, and never be consummated. I have taken great pains to work with the U.S. Forest Service, representatives for the environmental community, members of the timber community, as well as a mining interest whose operations within the preserve area are approved. This legislation makes certain the interests of all are protected, and I would like to emphasize that the mining operation provides 80 quality jobs for the people in the region. My office has spent considerable energy ensuring that this venture will go forward in a manner consistent with this legislation's primary objective.

In this legislation I have tried to address all facets of Opal Creek, in order to ensure a pristine area safe in perpetuity. The area will be protected so that the residents of Oregon's 5th district, OR, and the rest of the Nation will have an opportunity to learn about, and experience first-hand, the ecological significance of virgin, coniferous forests. In short, Mr. Speaker, this legislation represents a balanced approach to ensure that a unique, pristine area is forever protected from logging activity.

Finally, Mr. Speaker, I urge the expeditious consideration of this important measure.

TAKE A NUMBER PLEASE

HON. GERALD B.H. SOLOMON

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, February 24, 1994

Mr. SOLOMON. Mr. Speaker, "They have just finished discussing their weekend dates and Thelma picks up a folder from the top of the pile and says, "This one is requesting a 506A'."

"What's a 506A?" Louise asks.

"George Washington Hospital's emergency room wants to know if the Government will pay for a broken leg that the patient suffered when he fell off his pickup truck.

"You can't authorize payment until the doctor submits a 1049C swearing to the seriousness of the break and tells us how much plaster he plans to use to set the leg. If he intends to mix more than is allocated under guidelines L subparagraph 45, he must apply for a 932. Where is the patient now?

"On the same stretcher they carried him in on 2 months ago when the original application was filed with this department."

Sounds pretty ridiculous, huh? This is an excerpt from a column by Washington Insider Art Buchwald. He foresees Government-run health care as all Americans will if the Clinton plan is enacted, one big bureaucracy that will ration health care to save money. The Clinton plan paves the way for "take a number medicine" and I for one don't think the American public will want their loved ones waiting months for medical attention.

IMPROVING CARE FOR MEDICARE PATIENTS

HON. MIKE KREIDLER

OF WASHINGTON

IN THE HOUSE OF REPRESENTATIVES

Thursday, February 24, 1994

Mr. KREIDLER. Mr. Speaker, we all want the best quality care for Americans who depend on the Medicare Program. But the system of fee-for-service medicine that serves most Medicare patients makes it harder for physicians to provide that quality. Too often, a doctor has no systematic way of knowing what other professionals a patient is seeing, what services they are providing, or what it all costs. This lack of information is a disservice to patients and to doctors who want to play a more active role in managing their care and protecting their health.

That is why I am introducing legislation that would require the Health Care Financing Administration, through a demonstration project, to provide physicians with periodic reports on the care their Medicare patients are receiving from other providers. These reports would give doctors information they need to make referrals and treatment recommendations in their patient's best interests. They would also help doctors who care about the cost of Medicare to identify cost-effective choices for their patients. The information in these reports could serve as a foundation for future incentives for professionals to use Medicare resources most effectively in their patients' interests.

This bill is based on a suggestion from Dr. David Munoz, an internist in Tacoma, WA, who serves many elderly patients on Medicare. Dr. Munoz cares about his patients and about the costs of their treatment. He has done a lot of work to develop an information system that will help him make the best decisions and recommendations about their care, but he and others like him need systematic feedback from Medicare to help their patients make the best choices. That is why the Washington State Medical Association has adopted a resolution endorsing the concepts in this legislation.

The bill requires the Secretary of Health and Human Services to establish a demonstration project in which physicians could choose to receive periodic Medicare referral reports, in either printed or electronic format, showing what other covered services their Medicare patients have received, what professional or facility provided them, the charges made, and the amounts Medicare paid. This information would be available only with respect to patients who had agreed to its release to their doctors. The Secretary would be required to consult with representatives of affected provider groups, beneficiaries, and health data collectors in designing the project, which could operate in several geographical areas. Physicians seeking reports would also receive orientation and training to help them make the best use of this information.

I urge my colleagues to support this important step toward better care for Medicare beneficiaries.

The bill follows:

H.R. —

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

SECTION 1. ESTABLISHMENT OF DEMONSTRATION PROJECT ON MEDICARE REFERRAL REPORTS.

(a) IN GENERAL.—Not later than January 1, 1995, the Secretary of Health and Human Services (hereafter in this Act referred to as the "Secretary") shall establish a demonstration project under which, with respect to providers of physicians' services for which payment may be made under part B of title XVIII of the Social Security Act within the designated area of the project, the Secretary shall periodically furnish a medicare referral report (as described in subsection (b)) to the provider on any individual entitled to benefits under such title to whom the provider furnishes such services during the period the project is in effect (subject to subsection (c)). The Secretary shall furnish such reports upon the request of a provider of physicians' services under such title and at such other times as the Secretary may consider appropriate.

(b) MEDICARE REFERRAL REPORT DESCRIBED.—

(1) IN GENERAL.—In this section, a "medicare referral report" means, with respect to an individual, a report (in such format as the Secretary may establish) containing the following information:

(A) Any item or service furnished to the individual during the period the project is in effect for which payment may be made under title XVIII of the Social Security Act.

(B) The identity of the individual or entity furnishing such item or service.

(C) The illness, injury, or condition (including any applicable diagnostic code) on which the furnishing of the item or service is based.

(D) The amount of payment made for the item or service under such title.

(E) The amount of charges submitted to the Secretary with respect to the item or service (if any) by the individual or entity furnishing the item or service.

(2) FORMAT.—A medicare referral report shall be provided in such electronic and printed formats as the secretary may establish, and shall be furnished to a provider in the format the provider specifies.

(c) PATIENT CONSENT REQUIRED.—

(1) IN GENERAL.—No medicare referral report may be furnished under the project with respect to information relating to any individual unless the individual has provided written consent to the Secretary (in such form as the Secretary may require) for the reporting of such information.

(2) RENEWAL OF CONSENT.—The Secretary may limit the period for which the consent provided pursuant to paragraph (1) shall be effective and establish a process under which an individual may renew the consent for an additional period.

(d) CONSULTATION REQUIREMENT.—In carrying out this Act, including the selection of the areas in which the demonstration project will be carried out, the development of formats for medicare referral reports, and the provision of orientation and training services under section 2, the Secretary shall consult with representatives of primary care and other health professionals, hospitals and nursing homes, medicare beneficiaries, health maintenance organizations and other managed care providers, and health data collectors.

SEC. 2. ORIENTATION AND TRAINING ON USE OF REFERRAL REPORTS.

In carrying out the demonstration project established under section 1, the Secretary shall provide orientation and training services to assist providers of physicians' services who are participating in the project in using the medicare referral reports to effectively manage patient care, including information regarding limitations on the usefulness of such reports in making clinical decisions or evaluating the effectiveness of treatments.

PMA ADVERTISEMENTS—WASTING MILLIONS THAT COULD BE SPENT ON RESEARCH

HON. FORTNEY PETE STARK

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, February 24, 1994

Mr. STARK. Mr. Speaker, you can learn a lot about glossing-over your image if you closely study the practices of the Pharmaceutical Manufacturers Association. The PMA represents more than 100 of America's pharmaceutical and biotech companies. And the PMA loves to talk about themselves. Every year they spend about as much on advertising as research and development.

A friend of mine recently sent me a spoof on the PMA's current multimillion dollar TV-ad campaign and I'd like to share it with the country.

A girl: "My family has a history of breast cancer. So this is very important to me."

A woman: "My daughter has Gaucher's disease. We just don't have $300,000 a year for the cure."

A daughter: "My mom has been taking estrogens—Premarin, I think it is—for about 10 years. And the price has more than tripled in that time. The advertising they're doing, they just have to stop. It's just too expensive."

Narrator: "America, we hear you, and we share your urgency. Right now pharmaceutical companies have thousands of people searching for ways to spend billions of dollars marketing their drugs. Researchers seem to be close to finding cures to fight breast cancer, AIDS, and Alzheimer's. If they just would spend less on marketing and advertising, and focus on finding cures we can afford, we'd all be better off."

I am a strong supporter of drug research, Mr. Speaker, and I am deeply, deeply concerned that the PMA continues to spend billions on advertising which could have and should have been spent on research. For example, the Wall Street Journal estimates that the PMA's recent TV-ad campaign cost roughly $17 million—what a waste.

What upsets me most is that after the multimillion dollar ad campaigns, and after attempts to water-down health care reform, the PMA says "We don't have any more money for research! We're going to continue to gouge America's seniors with skyrocketing prices. And if you try to stop us from reaping monopolistic profits, we'll just stop making new drugs!"

Frankly, Mr. Speaker, these scare tactics are getting old. I don't think anyone believes that the pharmaceutical manufacturers—our Nation's most profitable industry—are so desperate. America's wising up, and it wants the PMA to stop wasting our money on glossing-over its image—it's costing us new, innovative drugs.

Mr. Speaker, we must not let the drug makers' greed stop us from working toward health care reform and reasonable prescription drug prices for consumers. Health reform will not compromise the PMA's ability to research new drugs—however, it might make them think twice about wasting money on their image.

IN RECOGNITION OF THE 140TH ANNIVERSARY OF THE MARIPOSA GAZETTE AND MINER

HON. RICHARD H. LEHMAN

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, February 24, 1994

Mr. LEHMAN. Mr. Speaker, it gives me great pride to rise before my colleagues today to pay tribute on the 140th anniversary of the founding of the Mariposa Gazette and Miner, as well as the 75th anniversary of its ownership by the Dexter and Campbell families.

I'm proud because the Gazette, which is published in Mariposa County in my congressional district, is recognized as California's oldest weekly newspaper of continuous publication. I'm told there is no known instance of its missing an issue since the first one was published on a wintery day in January 1854.

That is a commendable fete, especially when one stops to reflect on what has gone on in our Nation over the last 14 decades.

For 140 years the Gazette has stood as guardian through its news columns, protecting our first amendment and the Constitution and informing our citizenry.

It chronicled the news of the gold rush and disputes over mining law and has faithfully told the history in both words and pictures of Yosemite National Park, easily recognized as Mariposa County's crown jewel and one of this country's finest landmarks.

As faithful as the Sun rising over Half Dome, the Gazette endures. For that, I want to offer my heartfelt congratulations on its publication on March 2, 1994, of the 140th volume of the Mariposa Gazette and Miner.

HONORING THEODORE M. GRAY ON THE OCCASION OF HIS RETIREMENT FROM THE OHIO STATE SENATE

HON. PAUL E. GILLMOR

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Thursday, February 24, 1994

Mr. GILLMOR. Mr. Speaker, it gives me great pleasure to rise today and pay tribute to Ted Gray, on the occasion of his retirement from the Ohio State Senate.

I have had the pleasure of knowing Ted since my days in the State senate. In fact, Ted was the president pro tempore of the senate when I was first sworn in. His professionalism and dedication to service have been recognized by the voters of Ohio for over 43 years. His knowledge and expertise will be missed in the State legislature.

A lifelong resident of Ohio, Ted was elected to his office in 1950 at age 23. He has gone on to serve in that capacity longer than any other legislator in our State's history. At 38, he was elected by his colleagues as majority leader, the youngest person ever elected to this position.

In this capacity, he organized two statewide ballot campaigns: Legislative reapportionment and a $750 million capital improvement bond issue. The V.F.W., Ohio Jaycees, Council of State Governments, and other groups too numerous to mention have all recognized Ted as an outstanding legislator.

Mr. Speaker, America is blessed by the number of outstanding individuals who choose to devote their lives to public service. Ohio is fortunate to have had Ted Gray working on its behalf. Today I ask my colleagues to join me in congratulating him on a job well done and wish him the best in the years ahead.

TRIBUTE TO THE AMERICAN SOCIETY OF CINEMATOGRAPHERS

HON. HOWARD L. BERMAN

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, February 24, 1994

Mr. BERMAN. Mr. Speaker, I am honored to pay tribute to the American Society of Cinematographers on the occasion of its 75th anniversary. This honorary society, the oldest of its kind in the motion picture industry, embodies the fascinating history of Hollywood, from silent films to the video revolution. Its founding members created the art of motion picture photography with hand-cranked cameras in open air studios, lit only by the sun.

The ASC "invitation only" membership of 160 makes it the most prestigious organization of its kind in the world. Its members have won more Academy Awards and Emmys than any other collection of artisans in the industry.

Critics have long argued whether film is a director's medium or a writer's medium. The debate is far too narrow. Without the artistry of cinematographers, there would be no magic in the movies. In honoring the ASC, we honor those who craft creates the images on film that have delighted and intrigued moviegoers for three quarters of a century.

I ask my colleagues to join me in saluting the American Society of Cinematographers and its distinguished members for their unique and indispensable contributions to one of America's most successful industries.

FOREIGN POLICY GOALS OF RUSSIA TODAY

HON. LEE H. HAMILTON

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Thursday, February 24, 1994

Mr. HAMILTON. Mr. Speaker, on January 25, 1994, I asked Ambassador Strobe Talbott a series of questions about Russian foreign policy, and how Russian foreign policy differs from that of the former Soviet Union.

On February 18, 1994, I received a response from the Department of State. The text of that response follows:

QUESTION FOR THE RECORD SUBMITTED TO STROBE TALBOTT BY CONGRESSMAN HAMILTON

Foreign Policy Goals of Russia Today. What are the major foreign policy goals of Russia today. How do those foreign policy goals differ from those of the USSR? What is Russia's policy towards Eastern Europe, Western Europe, Asia, NATO, and PFP?

Answer: The overall goal of Russian foreign policy has been to create an international environment propitious to the continued pursuit of internal reform and to the advancement of Russian security, political, and economic interests.

This has led to a Russian policy of partnership and cooperation toward the United States and Western Europe. Given its urgent domestic problems, Moscow neither wants nor needs a competitive relationship with the West. Russia's long-term goal is integration into the democratic community of market-oriented countries—which will yield Russia important political and economic benefits.

The Russians view Partnership for Peace (PFP) as an important element of an emerging new European security architecture. Russia has expressed the intention to participate actively in PFP. The form of Russian participation is currently under discussion.

In connection with PFP, Russia has expressed an intention to conclude substantive agreements opening the way for broad and intensive cooperation between Russia and NATO. President Yeltsin has stated that he could envision Russia eventually entering NATO in a "package" with other applicants. We believe NATO membership for each individual country ought to be considered on its own merits.

Official Russian spokesmen have stated that the countries immediately bordering Russia represent a region of vital security interest for Russia and that stability in this region is a primary goal of Russian foreign policy.

Russian policy toward Eastern Europe and the Baltics recognizes the sovereignty and independence of these countries. As part of this policy, Russia is in the process of removing its troops from Central and Eastern Europe.

Russian policy toward Asia has been to promote peaceful and stable relations with its eastern neighbors and, to the extent possible, participate in the burgeoning economic dynamism of that region. The key unresolved territorial issue involves Japan and the Northern Territories.

The goals and objectives of Soviet foreign policy were much different and fundamentally hostile to U.S. interests. Viewing international relations as a zero-sum game with the United States as their chief rival and adversary, the Soviets undertook a global policy of expanding their influence wherever possible.

Soviet leaders' first priority was to maintain totalitarian control in the Soviet Union.

They sought to dominate Eastern Europe through communist satellite regimes and the presence of Russian troops.

The Soviet Union sought to diminish U.S. presence and influence in Western Europe.

It also sought to undermine U.S. influence in other regions of the world, including the Middle East and Asia. Russian relations with China were marked by great suspicion, competition, and, at times, armed conflict.

A TRIBUTE TO DR. GEORGE ECONOMOS

HON. MICHAEL BILIRAKIS

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Thursday, February 24, 1994

Mr. BILIRAKIS. Mr. Speaker, I rise today to pay tribute to a dear friend, a friend who, I believe, lived the American dream to the fullest.

Dr. George Economos passed away on February 16, 1993, after a battle with lung cancer. My thoughts and prayers go to his wife, Stavroula Perdikis Economos, and his children, Demetra Economos Anas, Gregory George Economos, and Themis Economos Johnson.

Dr. Economos received his medical degree from the University of Athens Medical School in 1950. He then came to the United States where he studied for and received a second medical degree, this time from the University of Vermont.

He came to Washington in the mid-1950's and served his internship residency at George Washington University Medical Center. He then chose to serve in the Army Medical Corps at Fort Polk, LA.

After the Army service, Dr. Economos returned to Washington where he opened a private practice. For 7 years he was medical director of the District of Columbia Childrens Center in Laurel.

Under the Reagan administration, Dr. Economos was a consultant to the White House Health Service. He then retired in 1988.

Mr. Speaker, this fine record of public service is why I say that Dr. Economos lived the American dream to the fullest. His dedication to his profession was such that he attended medical school a second time so that he could become a practicing physician in the United States. This was a clear signal that this man would rise to become the respected physician that he indeed was.

Dr. Economos also gave back to his community—and was recognized for this. He was awarded the titles of Archon Aktourias and Archon of humanitarian service, The highest awards that a layman in the Greek Orthodox Church can receive.

The life story of Dr. George Economos is truly one of the shining examples of what an individual can achieve in this country if he is dedicated, if he is diligent, and if he has good in his heart.

Dr. Economos is a true inspiration to all who knew him and richly deserves to be recognized here for all his good works. His life should be an example to all future generations.

TRIBUTE TO ADM. DAVID E. JEREMIAH ON THE OCCASION OF HIS RETIREMENT FROM ACTIVE MILITARY SERVICE

HON. IKE SKELTON

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Thursday, February 24, 1994

Mr. SKELTON. Mr. Speaker, I rise today to pay special tribute to a great American, to an outstanding and forward thinking military leader. On February 25, of this year, our Navy, the Congress and the Nation loses the services of a dedicated officer, public servant, and naval surface warfare officer. Adm. David E. Jeremiah, the vice chairman of the Joint Chiefs of Staff will end his active military career effective Friday, February 25, 1994, retiring in ceremonies at Fort Myer, VA, after 38 years of distinguished military service.

As Admiral Jeremiah returns to civilian life, I want to salute the remarkable career of this outstanding naval officer—a public servant who was devoted to the cause of freedom and the cause of peace.

A native of Portland, OR, Admiral Jeremiah graduated from the University of Oregon in 1955 and entered active duty via the Navy's Officer Candidate program in 1956. Serving on seven Pacific Fleet destroyers, including command of U.S.S. *Preble* (DDG 46), Admiral Jeremiah has sailed far and wide projecting American power and might, as well as the hand of friendship during countless foreign goodwill port calls.

In July of 1982, Admiral Jeremiah was designated rear admiral (lower half). While serving as Commander, Cruiser-Destroyer Group Eight, from August 1984 until April 1986, he commanded Task Force 60 in the Mediterranean and directed the capture of the Egyptian airliner carrying the hijackers of the Italian cruise ship Achille Lauro. In April 1985 he was designated a rear admiral. Between January and March 1986 he directed actions resulting in the sinking of two Libyan warships and the destruction of an anti-air missile site during freedom of navigation operations in the Gulf of Sidra.

Admiral Jeremiah's shore assignments have included two tours in the Office of the Chief of Naval Operations and a tour in the Office of the Assistant Secretary of Defense for Program Analysis and Evaluation. After serving as executive assistant to the Commander in Chief, U.S. Pacific Fleet, from October 1980 until May 1982, he was reassigned to Washington, DC, and served as executive assistant to the Chief of Naval Operations until July 1984. In June 1986 he assumed duties as director, Navy Program Planning and in July of that year he was promoted to vice admiral.

Admiral Jeremiah received his fourth star in September 1987 and became the 23d Commander in Chief, U.S. Pacific Fleet, that same month. He was appointed by the President as the second individual to be named the vice chairman of the Joint Chiefs of Staff, assuming that position on March 1, 1990. He began his second term on March 1, 1992, and he is the first vice chairman to assume full member status on the Joint Chiefs of Staff.

A visionary military leader, Admiral Jeremiah, by way of speeches and articles, has repeatedly extolled the promise of American technology, and challenged scientists, technologists, and strategists to broaden their outlook and strategic horizon. Early-on during his tour as vice chairman he commissioned the forward looking study, Project 2025 to consider the security environment we are likely to face in the next 30 years. During an era of dynamic change, this study has bound the limits of uncertainty, and afforded the military planner, the tactician and the strategist a reasonable facsimile of the global security environment over the course of the next generation. Admiral Jeremiah envisioned the project as a means for injecting long-term strategic vision in U.S. military planning during a time of profound international upheaval, when the shape of the battlefield of the future was not envisioned because of the still unfolding revolution in military and commercial technologies.

In time of peace and war, his tenure as vice chairman included more that a year as acting chairman of the Joint Chiefs of Staff, providing military advice directly to two Presidents. His forthright advice and counsel helped shape national policy. As chairman of the Joint Requirements Oversight Council, and vice chairman of the Defense Acquisition Board, he forged the capability and character of future service forces, providing maximum defense capabilities within available defense resources. His tireless dedication to the best interests of the United States and its Armed Forces while actively leading numerous councils and boards directly improved the Nation's ability to project integrated, multiservice combatant, peacekeeping and humanitarian forces around the globe. In an era of exceptional change, reappraisal and restructuring, Admiral Jeremiah's astute analysis of complex technical and acquisition reform issues were instrumental to the success of the Bottom-Up Review.

During these 38 years of service, Admiral Jeremiah has received numerous personal awards and decorations which include the Naval Distinguished Service Medal with three gold stars, Legion of Merit with gold star, Meri-

torious Service Medal with gold star, and the Navy Achievement Medal with combat "V." He was awarded the Presidential Citizens Medal in July 1991 by President Bush for significant contributions during the Persian Gulf crisis and the successful liberation of Kuwait.

Additionally, Admiral Jeremiah is the Surface Navy's "Old Salt," which traditionally acknowledges the senior surface warfare officer on active duty with the earliest date of qualification as a fleet officer of the deck. He has held this honorable accolade since February 1, 1991. As the "Keeper of the Seas," he is acknowledged to be a proven sailor whose years of experience at sea make him a professional and reliable shipmate in peace, and an exemplary leader in war. This last truly captures the essence of Admiral Jeremiah's capabilities and contributions to our country.

I join the Nation in expressing our heartfelt appreciation to Admiral Jeremiah for his outstanding service to our country. I wish him and his wife Connie and their two daughters Krista and Jodi all the best in the years to come, and I look forward to the contributions I am confident he will continue to make. "Bravo Zulu," and "Fair winds and following seas" Admiral.

SLOUCHING TOWARD DYSTOPIA

HON. BOB LIVINGSTON

OF LOUISIANA

IN THE HOUSE OF REPRESENTATIVES

Thursday, February 24, 1994

Mr. LIVINGSTON. Mr. Speaker, I would like to insert into the CONGRESSIONAL RECORD a terrific column by Michael Barone, which discusses the thesis of the distinguished Charles Murray to the effect that we should abolish welfare. Murray says that welfare has probably caused far more social and economic problems than it has solved, and he is probably right.

Anyway, Barone's essay speaks for itself: Politicians should indeed consider Murray's thesis with all seriousness, before our current welfare system ruins too many more lives than it arguably already has.

The column follows:

[From U.S. News & World Report, Dec. 20, 1993]

SLOUCHING TOWARD DYSTOPIA

(By Michael Barone)

In this optimistic season, two thoughtful writers warn that we are stumbling toward dystopia. That's the opposite of utopia—a situation, says Webster, "in which conditions and the quality of life are dreadful."

Begin with Charles Murray, whose October Wall Street Journal op-ed piece, "The Coming White Underclass," is still crackling in Washington and around the country. Murray recalls that when New York Sen. Daniel Patrick Moynihan wrote his 1965 warning about the disintegration of the black family, 26 percent of black births were to unwed mothers. Today, the figure among whites is 22 percent—only 4 percentage points lower. Meanwhile, the share of African-American births out of wedlock has soared to 68 percent, and we now have a criminal underclass that is terrorizing certain neighborhoods and producing horrors visible to all on local nightly newscasts. Murray now predicts that illegitimacy rates will increase as rapidly among low-income whites in the 1990s as they did among low-income blacks in the 1960s: "You will have an underclass that is about four or five times the size of the one we have now," he said in a recent appearance on "This Week With David Brinkley."

The result: a country with a Latin American level of violence and the possibility that Latin authoritarianism could follow. The United States today has 11 murders per 100,000 members of the population. Colombia, despite brave efforts by public officials, registers 70 per 100,000—about the same as Washington, D.C. In this dystopia, the affluent would most likely live as they do in Latin America—behind walls topped with shards of glass and with riflemen patrolling their lawns. And the great mass of people would live as many of our poorest citizens do today—in a society where violent males kill other men and abuse women.

How do we avoid this dystopia? Murray's answer: We must abolish welfare, all of it, for unmarried women. Encourage adoption, let extended families provide help, set up decent orphanages for children whose mothers cannot and whose fathers will not take care of them. But do not make payments that have the effect of supporting and sanctioning the existence of a criminal underclass.

Multicultural dangers. Journalist William McGowan found his dystopia in Sri Lanka, a once peaceful country with a parliamentary democracy and a British legal system. The unraveling of Sri Lankan society began with ethnic and religious quotas in schools and jobs, which led to riots, to "razor wire and guard dogs," and to civil war in 1983. "Sri Lanka failed to build a stable multiethnic, multicultural society because it embraced many of the very concepts and ideas that multiculturalists in the West have advocated," McGowan wrote in his 1992 book, Only Man Is Vile.

Today, in New York, there are some dangerous similarities: racial quotas and preferences that have produced racially charged politics, casting a cloud over the genuine achievements of the intended beneficiaries. Quota efforts to promote "diversity" have produced biased and incomplete news coverage, notably in the New York Times in this year's mayoral race. McGowan warns that "identity politics can be extraordinarily divisive, and can polarize a nation's politics, undermining economic productivity, weakening its educational institutions and straining the bonds that tie a people together." The United States, even New York City, is a long way from Sri Lanka but may be on the same road. All the evil effects of "identity politics" are already apparent.

If Murray and McGowan are right, two public policies—welfare for unwed mothers and racial and ethnic quotas—are moving us toward dystopia. Yet both policies were adopted only incidentally. Welfare originally was intended for widows and divorcées, and Frances Perkins, Franklin Roosevelt's labor secretary, almost got unwed mothers excluded on moral grounds; at the time, no one imagined that illegitimacy would burgeon as it has. For their part, racial and ethnic quotas were adopted by courts and the Nixon administration as a way to speed the desegregation of American institutions.

Now, Republicans routinely campaign against quotas but have done nothing about them in office; Democrats claim to be against them, but have supported them utterly. There is a lesson in experience: The great universities have imposed quotas, which has sparked violence, censorship and discord among students, while the military has insisted on colorblindness—and is now the most integrated and racially fair segment of our society. The Clinton administration, which hasn't yet filled two key civil rights positions, could do a Nixon-on-China and abolish quotas; unfortunately, it has staffed its own administration using a quota system that has yielded many women and black graduates of elite law schools and precious few Vietnam veterans or white ethnics.

On welfare reform, the administration is still mulling. But all its present plans call for continued subsidy of unwed mothers, and none of its opponents or critics has the nerve to call for consideration of Murray's solution. The will is there among the voters to get off the road to Charles Murray's and William McGowan's dystopias. But the politicians seem willing to let us stumble on.

GETTING READY TO DIE YOUNG

HON. LOUIS STOKES

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Thursday, February 24, 1994

Mr. STOKES. Mr. Speaker, recently I read an article in the Washington Post which caught my attention. It discussed a growing fear among our Nation's children which demonstrated to me just how drastically the times have changed. The article entitled "Getting Ready To Die Young," brings to our attention children, many under 12 years of age, who are planning their own funerals. It is unfortunate that today's youth are exposed to crime, drugs, and violence which infests their communities and plagues American society. Many children have witnessed family members dying a violent death, while others know of classmates, friends, and neighbors who have been killed. As a result of their environment, they conclude that death is imminent and, consequently, plan for another of life's events—their own funeral.

The article states that children have prepared drafts of statements for their mourners to say at their funeral. Students, not yet high school age, have told family and friends how and where they want to be buried, and what songs they want to be played while they lay in their coffin. In my teenage years, I remember planning for my senior prom, my high school graduation and my first day of college. These events to which I, and so many others of us, so often looked forward, are also the same events which we frequently recall with fond memories in our older years. It is deplorable that our children, our Nation's greatest resource, have given up hope for such memories. It is alarming that here in our Nation's capital, and in cities throughout the United States, students plan for their funerals with the same consideration as one would plan for a wedding. Because I do not want the severity and the magnitude of this issue to be overlooked, I believe that it is important to share this article with my colleagues.

The article follows:

[From the Washington Post, Nov. 1, 1993]

GETTING READY TO DIE YOUNG: CHILDREN IN VIOLENT D.C. NEIGHBORHOODS PLAN THEIR OWN FUNERALS

(By DeNeen L. Brown)

Jessica Bradford knows five people who have been killed. It could happen to her, she

says, so she has told her family that if she should get shot before her sixth-grade prom, she wants to be buried in her prom dress.

Jessica is 11 years old. She has known since she was in fifth grade what she wanted to wear at her funeral. "I think my prom dress is going to be the prettiest dress of all," Jessica said. "When I die, I want to be dressy for my family."

In the last five years, 224 children younger than 18 have been killed in the District either as targets of shootings or as bystanders. The carnage has been taken in by children who live close to the gunfire, such as Jessica, and by some children removed from it.

As they've mastered Nintendo, double Dutch and long division, some children have sized up their surroundings and concluded that death is close at hand. So, like Jessica, they have begun planning their funerals.

According to interviews with about 35 youths and adults who work with them, children as young as 10 have told friends how they want to be buried, what they want to wear and what songs they want played at their funerals. Some young people dictate what they want their mourners to wear and say they want their funeral floral arrangements to spell out the names of their favorite brands of clothing.

Jessica, a sixth-grader at Payne Elementary School and a cheerleader at the Boys and Girls Club across the street from her home near 17th Street and Massachusetts Avenue SE, has heard gunfire as she walked to the grocery store. She has seen a body on her playground.

"Most 11-year-olds think about their funerals all the time," Jessica said, as she sat in her living room with her mother and aunt. "Most of my friends who are 11 live around violence. When I die, I hope it won't be from violence. I don't want to get shot."

Community activists, social workers and psychologists who have studied the effects on young people of living amid violence say children who plan their own funerals are showing that they do not expect to live long.

"It's strange to hear young kids talking about dying, but that goes along with the times," said Sharon Brooks, 32, an instructor at the Boys and Girls Club. "For them to come tell you someone was murdered the night before is just like regular conversation."

William W. Johnson, a former police officer who works with youths in the District, said death is almost a daily reality for some.

"It's happening around them. . . . These kids come home to dope, guns and killing. We're living in a war zone," Johnson said. "They actually believe they are not going to be around. If you look at the circumstances and the facts, they have enough to think that way."

According to the D.C. Department of Human Services, 50.8 percent of young people 15 to 24 years old who died in the city during the last decade were victims of homicide. A recent national report on violence and youth by the American Psychological Association said teenagers are 2½ times as likely to be victims of violent crimes as people over 20.

Douglas Marlowe, a psychologist at Hahnemann University Hospital in Philadelphia, said children often become fascinated with death during adolescence. Usually, he said, young people romanticize death or read literature about death in an effort to gain control over dying.

But Marlowe said planning a funeral is "extremely fatalistic" and is not a normal part of adolescent development. "Once they start planning their own funerals, they have given up. They are not trying to conquer death anymore," he said. "They are now turning themselves over."

Jessica's mother and aunt said they were not surprised when the 11-year-old started talking about her funeral because she has known so many people who have died.

A year ago, the brother of former police chief Isaac Fulwood Jr., Theodore, was killed three blocks from Jessica's house. About a month later, Jessica's 21-year-old cousin, Stanley Richard Hunter Jr., was killed. Two weeks after that, Hunter's 18-year-old friend was slain in a drive-by shooting. Then an elderly woman who lived three doors away from Jessica was gunned down in her house because she had witnessed a slaying and was to testify in the case.

With so much violence around her, Jessica's aunt, Wilma Hunter, says she understands the girl's wish to be buried in her prom dress.

"When I was growing up, we always expected to live," Hunter said. "Now it's almost like they really can't be sure they will live to be an adult when they see people dying around them."

Hunter works with mentally retarded children at a center in Montgomery County. She has helped rear Jessica and her sisters. She said her nieces have awakened at night crying because they have dreams and visions about funerals.

Rona Fields, a psychologist who has studied children living in war zones in Northern Ireland, the Israeli-occupied West Bank, Beirut and Southeast Asia and in violent U.S. cities, said she sees similarities in the way children react to violence.

Fields said she has seen children in Palestinian camps acting out burials, literally digging their own graves and lying in the holes.

"The children who dig their own graves and put themselves in it are not necessarily pathological; they are children whose experience of the world is glorification of the victim and the hero," Fields said.

Young people here who plan their funerals often fall into two groups, according to adults who work with them. There are "good kids" who have seen many of their friends die violently, and there are those who are involved in selling drugs and think someone may be after them.

Howard Reed, 15, said he doesn't sell drugs and knows of no one who is after him, but still he is not sure whether he will live. He said he has escaped bullets at nightclubs and is wary of being in the wrong place at the wrong time.

"Things just go wrong in this world," he said. "If people don't like you or they don't like the way you walk or talk, they are going to try to take care of it."

Howard, a ninth-grader at Hine Junior High School, has told friends that if he should die soon, he wants his funeral to be "different than everybody else's."

"I don't want my hands like this," he said, folding them across his chest. "I want to be buried with peace signs. And I don't want my funeral to be in a church. I want it at Rollins Funeral Home, and I want to be buried at Harmony [Memorial Park]. I want to wear sweats and tennis shoes. I don't want to be buried in a suit."

Howard's mother said she wants her son to be a lawyer when he grows up. But she said it also is necessary to plan for early death. She has talked with her children about the possibility. "I've told them life is nothing to be played with," said Howard's mother, who did not want her name used. "Bullets don't have any names. You can be anywhere and get hit by a bullet."

Alicia Brown, 14, an eighth-grader at Eliot Junior High, lives near C and 17th streets SE, where her mother says parents are afraid for their children to go to school.

Alicia, who wants to be a lawyer, said, "I pray to God, I hope I make it through this day. It seems like people are just killing without thinking.

"One friend got killed, and he was just riding a bike. I figured the bullet could have hit me. Sometimes, I picture my funeral. Because when I go to a friend's funeral, I picture myself. Things come in my mind. It could be me laying there."

"When her friends do die, I try to talk to her about it," said Alicia's mother, Isha Williams, 30, whose family owns a photography studio. "For a young mind, they are handling death as casually as going to a movie now. For them, it's an everyday thing."

During Ericca Benton's senior year at McKinley High School, four classmates were fatally shot. She started to think that she wasn't going to make it, so she sat down one day and began planning her funeral.

"On the top of the page, I wrote my name a couple of times because I like to write my name," said Benton, now a 21-year-old senior at the University of Maryland-Eastern Shore. "Then I wrote the songs I want sung. Then I wanted a tape of me talking, telling everybody I'm all right. I'm real dramatic, you know. But I was serious. Then I wrote who I want to talk. . . . And I told my mother what to wear."

She then sealed the envelope and gave it to her mother.

Some youths say they have rearranged their lives to avoid death. "You can't go to a club; it's like a death trap," said Raymond Rouse, 17, who lives near Ninth and O streets NW. "You are liable to get hit by a bullet or something. Rich kids don't have to think about this. They keep talking about stress. They haven't seen stress until they live out here."

Rouse and two friends, Cornelius Edmonds, 18, and Chris Thomas, 17, grew up in a neighborhood where there are frequent shootings. They said they think about death because they see it so often. They knew Mustaffi "Lucky" Miller, a 16-year-old who was fatally shot two weeks ago. They knew Leonard "Stinkaman" Cole III, also 16, who was killed in 1991 after a dispute with a rival gang.

Survival, they say, is a skill they have had to learn. They are careful about offending, because "if you did something to somebody, somebody is going to get a 'get-back' [retaliation]," Edmonds said.

The three say they think about death and accept it. "If it's your time, it's your time," Edmonds said. "If somebody is looking for me, I can't get nervous. If I know somebody is trying to get me, I'm going to get them first."

Rouse, who like many young people seems to believe he is invincible, said: "I ain't going to worry about it. If it catches me it catches me."

Thomas said he doesn't believe he's going to die, "because I'm just not going to let anybody kill me."

They have dreams about getting out of the neighborhood, marriage and manhood.

Edmonds, who said he just got out of jail for doing something "stupid," wants to be a computer engineer. His friends laughed at him because he doesn't have a computer.

Rouse wants to move to Virginia and sell real estate. Thomas wants to get a job that

makes money. "If I had some money, I would be gone," he said. "I would go down to Florida."

Rouse looked at Thomas curiously. "They kill people down there," he said. "You ain't seen the news?"

Their dreams are cut short by not knowing how long they will survive the neighborhood. "I've said when it happens to me," Edmonds said, "I want them to sing at my funeral, you know, that new song on the radio, 'This Is to My Homeys.'"

The song is actually titled "Gangsta Lean." It is a ballad by a group called DRS about young men dying. It was the most-requested song recently at WPGC-FM radio. The video version shows a boy's body propped up in a coffin in the "gangsta lean."

Many of the young people interviewed said they can relate to the song's lyrics:

"This song is dedicated to my homeys in that gangsta lean. Why'd you have to go so soon? It seems like yesterday we were hangin' 'round the hood. Now I'm going to keep your memory alive like a homey should."

Although many teenagers say they fear dying, death has become honored in some communities, said David Arnett, 32, the manhood training coordinator at Union Temple Baptist Church in Southeast Washington.

"Just as the lives some of the youngsters lead have been glorified, those who die in that life have been glorified as well," Arnett said.

Arnett said that when he hears his students talking about their funerals, he interrupts quickly.

"I try to interject, 'You know how you want to die. How do you want to live?'" Arnett said. "I say, 'Would you consider planning your life as well as you plan your death?'"

POLICE PARTNERSHIPS FOR CHILDREN

HON. DAN GLICKMAN

OF KANSAS

IN THE HOUSE OF REPRESENTATIVES

Thursday, February 24, 1994

Mr. GLICKMAN. Mr. Speaker, few people will dispute that violence is at epidemic proportions in this country. In fact, the United States has the dubious distinction of leading the industrialized world in homicides. And increasingly, these homicides involve the youth of our country. More and more we see that children are the victims, perpetrators, or witnesses of crime and violence. Exposure to this violence—as victim, witness, or even perpetrator—poses a serious threat to these children. Exposure to violence causes serious mental health and emotional problems that can harm development and growth in children. We acknowledge the posttraumatic stress disorder that affects Vietnam and other veterans. I submit to you that the youth of our country are the most overlooked warriors on the front lines of the crime war in this country today, and they're bearing the battle wounds.

Today, along with the majority leader, Mr. GEPHARDT, and my colleague, Ms. DELAURO, I introduced a bill that is an affirmative effort to try to protect our children from violence. It is an attempt to help them cope and learn from violence rather than allowing them to be destroyed by it. Our legislation creates a program to form police partnerships for children, where police departments will team up with child and family service organizations in the community to jointly address the tragedy of children and violence.

Daily, our Nation's police officers confront the horror of violence and its effects on children. Violence involving children has a direct impact on police officers both in terms of police officer safety and in terms of police personnel morale. More often than not, police officers want to help the kids they see in trouble, but they don't have the ability or the authority. It's frustrating to everyone. The police officers know firsthand about the cyclical nature of violence among children. They know that the children of today, who are exposed to violence without treatment, are likely to be the perpetrators of tomorrow. For the police, the cycle of violence is not a theory—it is cold, hard reality. They need the tools to help these kids on their beat. Our bill provides those tools.

The bill we are introducing today is modeled on an innovative and successful partnership between the Yale Child Study Center and the New Haven Police Department. This legislation centers around community cooperation and community action. It promotes maximum local flexibility to meet the needs of different communities. This police partnerships for children legislation will allow local departments to provide children exposed to violence with intervention by trained police personnel and/or child mental health professionals. It will increase community policing efforts by providing training for law enforcement in child, family, and cultural issues. It will encourage interaction and collaboration with schools, corporations, and other community members to build coalitions for the prevention of community violence. Basically, it will facilitate community resource centers directed at helping our kids survive the violence in the streets.

What can be sadder than a young child who cannot dream and imagine a future? A child who has no belief in the future has no reason to care about the present. But with a partnership between law enforcement and the community we can begin to create a present that is worth living, and we can identify high-risk children and families so that services can be provided to them early, rather than later—before, instead of after they become involved in crime.

I have said it again and again, Congress cannot get rid of all the violence through legislation, and it certainly can't solve all of our problems overnight. Solving the current violence crisis will take every citizen and every community challenging the behaviors and action that society has allowed to become acceptable. But in the meantime, we in Congress are obligated to do something—to take whatever actions we can to contribute to long-term solutions and to contribute to a change in acceptable societal behavior. This bill is a part of that contribution, and should be part of a more comprehensive and collaborative approach to preventive action.

Our kids learn from our example. Let's show them cooperation, open minds, and peaceful coalitions. Let's give them police partnerships.

TRIBUTE TO H. DEAN COVINGTON OF ROME, GA

HON. GEORGE (BUDDY) DARDEN

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, February 24, 1994

Mr. DARDEN. Mr. Speaker, Rome, GA, lost one of its most outstanding citizens recently when H. Dean Covington, a decorated war veteran, public servant, and civic leader, passed away. I rise today to mourn his death and to extend condolences to his wife Charlene and his 5 children, 13 grandchildren, and 2 great-grandchildren.

Dean served in the Georgia House of Representatives from 1947 to 1952 and practiced law in Rome for 50 years. He was an adviser to the U.S. Department of Defense for 20 years. Dean was also the founder of the Rome Vocational School—now named Coosa Valley Technical Institute—and WROM radio station.

Born in Rome on March 14, 1916 Dean attended the Darlington School and the University of Georgia, where he received bachelor's and law degrees. During World War II, he was an Army intelligence officer with the 20th Armored Division and helped liberate the Dachau concentration camp. For his service to his country, he was awarded the Bronze Star.

Deal also gave freely of his time to areas outside his profession. He served on the boards of Shorter College, the Ethel Harpst Home for Children, and local chapters of the Boys' Clubs of America and the Red Cross. He served as a member of my Service Academy Selection for 6 years.

Through all his good works, Dean proved himself to be dedicated to public service and capable of achievement at the highest levels. Throughout his life, he demonstrated intelligence, integrity, sound judgment, and an unyielding commitment to the people of Rome. Mr. Speaker, H. Dean Covington will be sorely missed, but he will continue to serve as a role model for Romans who witnessed his love for his community.

THE 100TH ANNIVERSARY OF THE UKRAINIAN NATIONAL ASSOCIATION

HON. JAMES T. WALSH

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, February 24, 1994

Mr. WALSH. Mr. Speaker, I rise today in honor of the 100th anniversary of the Ukrainian National Association [UNA], the oldest and largest Ukrainian-American organization in the United States. The UNA has a proud history of fortifying the national identity, culture and pride of Ukrainian-Americans, many of whose families suffered great hardship and sorrow in leaving their native Ukraine.

From its humble beginnings in 1894 with 13 branches, the UNA has expanded to its present 370 branches—or lodges—in 27 States of the United States and 7 provinces of Canada. Currently UNA has nearly 66,000 members and over $100 million in assets.

Through its network the UNA maintains close contact with its membership. Officers of the branches see to the needs of their members, participate in various local Ukrainian activities, and provide leadership in the Ukrainian-American community.

In addition to providing for the life insurance needs of the Ukrainian-American community by offering low-cost protection, the UNA provides members with a wide range of educational, cultural, social and charitable benefits. Through its many diverse programs, the UNA has helped preserve the national traditions and customs of Ukrainians in the United States and Canada, thereby contributing to the richness of American culture.

As part of its fraternal benefit work, the UNA provides over $120,000 in scholarships annually to its members. It operates a retirement home for its senior citizens, provides mortgages to its members, and is a patron of the Ukrainian community's cultural and religious activities. Over the years the UNA has provided low-interest mortgage loans for the construction of many Ukrainian churches and community centers in the United States and Canada, strengthening the religious and cultural bonds in the community.

In addition to publishing Svoboda, the oldest Ukrainian language newspaper in the world, UNA has been publishing an English language newspaper, The Ukrainian Weekly, for over 60 years, and a monthly children's magazine, Veselka. Over the years the UNA has also financed numerous books on Ukrainian subjects.

Service to its members and the greater Ukrainian-American community has been the hallmark of the UNA throughout its history. It has remained the cornerstone of the Ukrainian-American community because its membership encompasses community leaders whose dedication, self-sacrifice and hard work have preserved its identity. While serving its members UNA has never forgotten the people of Ukraine. UNA has helped Ukraine build a democratic and free market society, and look to a second century of service and achievement as rich as its first.

I salute them, on behalf of all Central New Yorkers, and have great respect for the substantial and vibrant local Ukrainian community.

EDWARD P. WASHABAUGH: ENTREPRENEUR, LEADER, ROLE MODEL

HON. JAMES A. BARCIA

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Thursday, February 24, 1994

Mr. BARCIA of Michigan. Mr. Speaker, I rise with a great deal of joy today to tell you the story of the most productive life of a man for whom I have a great deal of respect and admiration, Mr. Edward P. Washabaugh of Bay City, MI. I also rise with a great deal of sadness to tell you that this man who has meant so much to so many in my home community has left us for his eternal rewards.

Growing up in Bay City, I could see the work of a very proud and capable gentleman every day. Others of us have seen similar examples of excellence in other parts of the country. Many of us admire the University of Notre Dame football stadium, state-of-the-art auto production facilities like the Packard Motor Car Plant of Detroit and the Grey Iron Foundry in Saginaw, and Veterans' Administration hospitals in Indianapolis and Des Moines. Edward Washabaugh was privileged to work on each of these projects after he graduated as an engineer from the Carnegie Institute of Technology, now better known as the Carnegie-Mellon Institute. His experience and capabilities earned him the post of the director of the Works Progress Administration from 1933 to 1941 in Bay City, before continuing in public service as a captain in the Army Corps of Engineers during World War II.

Edward Washabaugh demonstrated his entrepreneurial skills when he started Northern Concrete Pipe, where he revolutionized the precast concrete pipe industry by inventing ways to have pipes pass through others in order to develop an effective and safe sewer system that was duplicated throughout the world. He ran Northern Concrete Pipe as both a world class engineer and a most astute businessman until his retirement 2 years ago as a very productive 84-year-old role model for others who would do well to duplicate his formula and work effort for success and excellence. Even at this age he still set an example for younger workers by putting on his hard hat and going to work on the plant floor.

And even with all of the demands of an innovative and thriving business, Mr. Washabaugh still had time for outstanding involvement with his church, the St. Maria Goretti Church, the Knights of Columbus, and American Legion Post No. 18.

I am sure that all of our colleagues will want to join me in extending our very sincere condolences to Beatrice, his wife for over 60 years, his son William, his 12 grandchildren, and 15 great grandchildren. Edward Washabaugh had a most successful and productive life. He leaves us with outstanding work and an example for others. He leaves his family with an outstanding heritage. We should all be so fortunate.

NATIONAL FFA WEEK

HON. WILLIAM H. NATCHER

OF KENTUCKY

IN THE HOUSE OF REPRESENTATIVES

Thursday, February 24, 1994

Mr. NATCHER. Mr. Speaker, this week is National FFA Week and once again it is a pleasure to join with the members and leaders of the National FFA Organization as they celebrate this event. FFA is a vocational student organization for high school students enrolled in agricultural education classes in the public high schools and area vocational centers. More than 417,000 FFA members across the Nation are gaining valuable leadership skills through agriculture and community service projects. This year's theme, "FFA—Leadership for America," is a good one because of the emphasis on leadership in this organization.

My home State of Kentucky had 150 FFA chapters and 12,622 members this past year. Over 1,150 of these members and leaders attended 1 week of FFA leadership development training at the Kentucky FFA Leadership Training Center in Hardinsburg, KY. This training is designed to help individuals develop their skills as leaders of their local chapters. Because of the efforts of these FFA leaders, members of Kentucky FFA have been successful at national, State, and regional levels.

In the Second Congressional District of Kentucky, the district I represent in Congress, several chapters competed in National FFA contests at the National FFA Convention in Kansas City, MO, last year. I am delighted to recognize the following FFA chapters for the awards they received at this convention: Breckinridge County—Silver Plaque for Farm Business Management, Central Hardin—Bronze Plaque for Floriculture, Spencer County—Silver Plaque for Meats Judging, Breckinridge County—Silver Plaque for Parliamentary Procedure, and Spencer County—Bronze Medal for Prepared Public Speaking.

I would also like to recognize those from the district I represent who were winners at last year's State FFA Convention in Louisville. They are: Brent Baker of Adair County in Beef Production, Angela Jury of Central Hardin in Floriculture, Scott Humphrey of Spencer County in Forage Crop Production, Kevin Duke of Davies County in Forest Management, Chris Wilson of Metcalfe County in Specialty Crop Production, Angie Montgomery of Spencer Country in Swine Production, the Spencer County FFA Chapter in Chapter Safety and in Building Our American Communities, Jeffrey Bewley of North Hardin in Computers in Agriculture, Amanda Ramer of West Hardin in Tobacco Essay, Chad Shaw of Metcalfe County in AIC Contest—First Place, Travis Dowell of Breckinridge County in AIC Contest—Second Place, Brad Underwood of Taylor County in AIC Contest—Fourth Place, the Breckinridge County FFA Chapter in Chapter Meeting, Farm Business Management and FFA Commodity Marketing, Charles Tichenor of Spencer County in Prepared Public Speaking, Jayme Taul of Breckinridge County in Impromptu Speaking Beef, Dana Ritchie of Central Hardin in Impromptu Speaking Crop, Melodie Stull of Breckinridge County in Impromptu Speaking Horse, Lyle Knifely of Taylor County in Impromptu Speaking Swine, and Mark Royse of Marion County in Impromptu Speaking Turf and Lawn Care.

In addition, the following FFA chapters from Kentucky's Second Congressional District were recognized as Gold Emblem Chapters at the State FFA Convention: Warren Central, Breckinridge County, Bullitt Central, Warren East, Marion County, Metcalfe County, North Hardin, Barren County, Spencer County, Central Hardin, LaRue County, and Daviess County. West Hardin Junior was recognized as a Gold Emblem Junior Chapter and Edmonson County was recognized as a Silver Emblem Chapter.

I am proud to have Regional Star State FFA Members and State and Regional Star State Agribusinessmen in the Second Congressional District of Kentucky. Earl Fleming Wright of Breckinridge County and Brent Louis Baker of Adair County are 1993 Regional Star State FFA Members in Production. Jason W. Karrer of Spencer County is the 1993 State Star Agribusinessman. Scottie Clan of Central Har-

din and Chris Cowan of Adair County are 1993 Regional Star State Agribusinessmen.

At this time, I would like to commend all of those associated with the FFA organization, not only in Kentucky, but throughout the Nation for their many accomplishments in the science of agriculture. FFA is an organization that provides many young people with an opportunity to learn about agriculture while training them to become leaders in their communities. FFA really is "Leadership for America."

TRIBUTE TO EDWARD "DOC" JAMES

HON. PETER J. VISCLOSKY

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Thursday, February 24, 1994

Mr. VISCLOSKY. Mr. Speaker, it is with great honor that I rise today to pay tribute to an exceptional citizen of the First Congressional District of Indiana, the late Edward William "Doc" James.

Doc passed away on Thursday, January 27, 1994. He was the first son born to Dr. Randle and Eddie Frances James, on December 8, 1921, in Memphis, TN.

Mr. James graduated from Froebel High School in Gary, IN, in 1941. He went on to study at Western Michigan University where he lettered in football, basketball, and track. Mr. James' career began with his enlistment in the U.S. Navy, and followed with illustrious positions as probation officer for the Juvenile Court, superintendent of sanitation for the city of Gary, president of the Ol' Timer's Club, chairman of the Teamsters International Black Caucus, chairman of Lake County Grievance Board, and co-chairman of the Teamsters Human Relations Committee. He also served as a board member for the A. Philip Randolph Institute and the Trade Winds Rehabilitation Center.

Doc was the Teamster Local No. 142 business agent for over 25 years, and he also held the office of vice president. He functioned as secretary for the Lake County Democratic Party, served on former President Harry S Truman's Speaker's Bureau, and maintained membership in the American Legion and the NAACP. In addition, Doc coached the 1960 World Champion Biddy Basketball for the city of Gary, served as international organizer for the Brotherhood of Teamsters, and as a connecting link of the Northern Indiana Chapter of Links, Inc., an organization encouraging youth participation in local social and political activities.

He leaves to mourn his passing, a devoted wife, Violet [nee Hower]; son, Edward Jr. and wife Carolyn; godson, John Hower; grandchildren, Kim, Randall, Candice, Brandi, and Gregory; sister-in-law, Gloria Bernal of Jacksonville, Florida; brother-in-law, Victor Hower of Gary; cousins, Gregory and Jerard Huntington, and Helen McBride—all of Chicago, IL; and a host of other beloved family and friends.

I would like to take this opportunity to commend Mr. Edward William "Doc" James for all of his contributions to Gary, IN. He was a man admired for his strong spirit, and will truly be missed by family, friends, and citizens of the city of Gary.

TRIBUTE TO REV. LEONETTA BUGLEISI

HON. BOBBY L. RUSH

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Thursday, February 24, 1994

Mr. RUSH. Mr. Speaker, I rise today to pay special tribute to the Reverend Leonetta Bugleisi. On Sunday, February 27, Reverend Bugleisi will be installed at Beverly Unitarian Church, in Chicago, IL. She received her master's of divinity from United Theological Seminary, a United Church of Christ seminary in St. Paul, MN, in 1989. Since completing seminary, she served as an intern at First Universalist Church in Minneapolis, MN (one of the fastest growing Unitarian Universalist churches in the country); provided ministry to Unitarian Universalist. Fellowship of Mankato, MN; and, most recently, was the full-time minister of Emerson Unitarian Universalist Chapel in St. Louis, MO.

Reverend Bugleisi believes in applying the seven Unitarian Universalist principles to one's daily life. She affirms and promotes positive forces such as truth, democracy, and the worth of each person. I am certain she will use her ministry at Beverly Unitarian Church to broaden awareness and strengthen spirituality in her congregation and in the greater community. It is people like Reverend Bugleisi who are so instrumental in creating clear responses to the problems we face on an individual, community, and global level.

I commend her and the Beverly Unitarian Church for their dedication to the spiritual lives of their congregation and to the good of the greater community, and wish her the best of luck in the days ahead.

TRIBUTE TO ROBERT H. BELLINA

HON. JERRY F. COSTELLO

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Thursday, February 24, 1994

Mr. COSTELLO. Mr. Speaker, I rise tody to recognize Robert H. Bellina, principal of O'Fallon Township High School in O'Fallon, IL.

Mr. Bellina will retire from the O'Fallon Township High School at the end of this school year after 35 years of dedicated service to his students and fellow educators. During his committed career at O'Fallon, Mr. Bellina served 8 years as teacher and coach to his students. He then focused his remaining 27 years as principal, working to improve and expand the schools programs and influence. Mr. Bellina's talents and dedication gained the attention and admiration of this colleagues—in 1991, he was named Illinois Principal of the Year.

Education is one of the top priorities of America's future. It is the most important investment we can make in our Nation for individual opportunity and national competitiveness.

Mr. Speaker, Robert Bellina has served the State of Illinois well as an outstanding educator and administrator. I ask my colleagues to join me in wishing Mr. Bellina a future as bright and productive as his past.

RESOLUTION SUPPORTING THE PEACE PROCESS IN GUATEMALA

HON. CONSTANCE A. MORELLA

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Thursday, February 24, 1994

Mrs. MORELLA. Mr. Speaker, today I am pleased to be joined by a bipartisan group of Members in introducing a concurrent resolution in support of the Guatemalan peace process and greater protection of human rights in Guatemala.

The resolution focusses on several human rights cases and problems that have been documented by the State Department, the Organization of American States, and the United Nations. It expresses the sense of Congress that all but humanitarian and development assistance to Guatemala should be conditioned on substantive improvement in the protection of human rights and the strengthening of civil sectors, as well as the continuation of the peace process.

The resolution specifically calls on President Clinton to condition such assistance on verifiable resolution of the murder cases of American Michael Devine and renowned Guatemalan anthropologist Myrna Mack and the kidnapping, rape, and torture of American nun Dianna Ortiz and on the dissolution of the civil defense patrols.

The resolution also commends Guatemalan President De Leon Carpio and the leaders of the URNG guerrillas for the resumption of peace talks, under the mediation of the United Nations, intended to bring a negotiated end to more than 30 years of armed conflict by the end of this year. Furthermore, the resolution calls on President De Leon Carpio to develop and implement a course of action that will bring Guatemala's human rights record up to internationally recognized standards.

This resolution will be helpful in supporting the peace process in Guatemala. It sends a message to those who would oppose peaceful resolution of the conflict and the establishment of more democratic political processes: Congress is determined to support a negotiated solution to Central America's last remaining civil war and to support the development of a system of justice which will put an end to the intolerable human rights conditions which spawned it.

PREVENTING ILLNESS CRITICAL TO MINORITIES

HON. BARBARA-ROSE COLLINS

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Thursday, February 24, 1994

Miss COLLINS of Michigan. Mr. Speaker, today I am introducing a bill authorizing model projects to provide what are called preventive health services for minorities. Preventive services are those designed to prevent or delay the onset of a health problem, in contrast to therapeutic services which treat a disease or condition.

I am proposing this bill because the need for preventive services is greatest among mi-

norities because of the alarmingly high rates of preventable disease and premature death. For example, black men have the highest rate of stroke among all population groups, with a death rate twice that of white men. Black women have three times the cervical cancer death rate of white women. Low-income and teenage women, a disproportionate number of whom are minorities, are at particular risk of having a low-birth-weight baby.

This bill also recognizes that many preventive services do work. A recent Office of Technology Assessment study found the following, among others, to be effective: mammography in women over age 50; Pap smears for sexually active women; cholesterol and hypertension screening for certain individuals; and prenatal care for poor women.

I offer this bill because minorities face far greater stresses than others and a successful demonstration in the minority community would offer hard proof of the viability of prevention programs in other populations.

As the Congress debates health care access for all, I look forward to working with my colleagues toward enactment of this important measure, one that offers great hope to millions of minority Americans.

SUMMARY OF THE MINORITY HEALTH PROMOTION AND DISEASE PREVENTION ACT OF 1994—FEBRUARY 24, 1994

The Minority Health Promotion and Disease Prevention Act would authorize the U.S. Department of Health and Human Services to award grants for demonstration projects to provide preventive health and health promotion services to minorities.

Preventive health and health promotion services are defined to include "medical and medical-related services intended to promote health maintenance, prevent illness, eliminate health hazards, produce early detection of disease, and inhibit deterioration of health."

The bill would require the Secretary to award grants to entities serving at least 2 urban, distressed communities and one rural community; the Secretary to evaluate projects on the basis of their effectiveness in reducing the incidence of disease and death, for renewal of grants; grantees to develop a health assessment and health promotion/disease prevention plan for each person served, in consultation with the person; and grantees to contribute 30 percent of the total cost of the project, unless waived by the Secretary upon demonstration of extreme hardship.

The bill authorizes $15 million for fiscal years 1995, 1996 and 1997.

HONORING JAMES M. "MIKE" LAMBE ON A DISTINGUISHED CAREER WITH THE NATIONAL PARK SERVICE

HON. BRUCE F. VENTO

OF MINNESOTA

IN THE HOUSE OF REPRESENTATIVES

Thursday, February, 24, 1994

Mr. VENTO. Mr. Speaker, the common public perception of a National Park Service [NPS] employee is that of a ranger in a smokey bear hat and green and gray uniform working among some of America's great natural and historic resources. In reality the men and women of the NPS perform a wide variety of important jobs that further the mission of the NPS. One such NPS employee who I believe deserves public recognition and thanks is James M. "Mike" Lambe. On March 1, 1994, Mike will retire after a distinguished 34-year career with the NPS, including 30 years dealing with legislative affairs for the agency.

The various statutes governing the NPS and its associated programs make up a significant and important body of law. Nowhere in those laws will you find Mike Lambe's name but, nevertheless, he leaves a significant imprint on many NPS laws of the past 30 years. As chairman for the past 9 years of the subcommittee with responsibility for the NPS, I, as well as other Members and staff, have benefited from Mike's expertise and knowledge of NPS law. Whether providing legislative drafting service to individual Members or developing legislative positions for the NPS, Mike has carried forth his duties in a highly professional manner that has earned him the respect of many. Working in the legislative arena can be a very difficult and demanding task. To do so for 30 years under both Democratic and Republican administrations is an impressive achievement. Such is his knowledge of NPS law that it is said that Mike has forgotten more NPS law than most people ever learn.

Mike Lambe's work has been recognized within the Department of the Interior and the NPS as well. In every year since 1985 he has received Performance Awards. Three times he has received Special Achievement Awards, capped by the award of the Department of the Interior Citation for Meritorious Service in 1989. Mr. Speaker, in certain quarters it has become fashionable to denigrate Federal employees as nameless, faceless, uncaring bureaucrats. Mike Lambe's career proves how erroneous this view is. Dedicated and competent, Mike has set an example of what it means to be a public servant.

I understand that following his retirement, Mike plans to move to Delaware, where he has spent time annually pursuing his avocation with ornithology. Mike has also let it be known that he plans to enjoy using his retirement enhancing his photography skills. I hope his photographic pursuits will take him to our national parks, where, as a visitor, he can enjoy some of the fruits of his labor. Mike should be proud of his work on legislation dealing with our national parks. The staff of the Subcommittee on National Parks, Forests and Public Land and I wish Mike all the best in his retirement.

COMMITMENTS MADE BY PRESIDENT CLINTON DURING HIS RECENT TRIP

HON. LEE H. HAMILTON

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Thursday, February 24, 1994

Mr. HAMILTON. Mr. Speaker, I asked Ambassador Strobe Talbott on January 25, 1994, to provide me a list, in writing, of every promise and every commitment made by President Clinton during his recent trip to Europe, secret or not secret.

On February 18, 1994, I received an unclassified response from the State Department. The text of that document follows:

Question. What commitments were made to the Russian Government at the recent summit?

Answer:

AGREEMENTS AND JOINT STATEMENTS OF THE MOSCOW SUMMIT

Documents signed by the Presidents

Trilateral Statement by the United States, Russia, and Ukraine on transfer of nuclear weapons from Ukraine to Russia with Ukraine to receive compensation, security assurances, and assistance in safe and secure dismantlement of nuclear weapons.

Presidents Clinton and Yeltsin provided certain security assurances to President Kravchuk once START I enters into force and Ukraine joins the NPT. These include commitments: to respect Ukraine's independence and sovereignty and refrain from the threat or use of force against it; to refrain from economic coercion; to seek UN Security Council assistance if Ukraine should be the object of a threat involving nuclear weapons; and not to use nuclear weapons against it.

Presidents Clinton and Yeltsin also informed President Kravchuk that consultations have been held with the United Kingdom, the third depository state of the NPT, and that the United Kingdom is prepared to offer the same security assurances to Ukraine once it becomes a non-nuclear-weapon state party to the NPT.

President Clinton reaffirmed the U.S. commitment to assist the safe and secure dismantlement of nuclear forces. Under the terms of the highly enriched uranium (HEU) contract signed in Moscow, Russia will convert 500 tons of HEU to low-enriched uranium (LEU) and sell the LEU to the United States Enrichment Corporation (USEC), a U.S. Government corporation. USEC will use the LEU it purchases from Russia to fulfill contracts it has to supply fuel for nuclear power stations in the United States and throughout the world. Over the 20-year life of this contract, Russia will earn approximately $12 billion from sales of enriched uranium that will be sold to commercial nuclear power stations. There will be no net cost to the U.S. Government.

The Annex to the Trilateral Statement records the three Presidents' decision to take certain steps within ten months. These include: provision to Ukraine of fuel assemblies containing 100 tons of low-enriched uranium (to begin the process of compensation); transfer of at least 200 warheads from SS-19 and SS-24 missiles for dismantlement; and an advance payment of 60 million dollars to Russia against the HEU contract to help defer costs of transporting and disassembling warheads and to produce fuel assemblies.

Moscow Declaration between United States and Russia summarizing the achievements of the summit and current development in the U.S.-Russia partnership.

The two Presidents agreed upon the need to strengthen arms reduction and nonproliferation regimes and to create, together with other interested states, a new mechanism to enhance transparency and responsibility in the transfer of conventional arms and sensitive dual-use technologies.

Further, the Presidents announced that they would direct the detargeting of strategic nuclear missiles under their respective commands so that by not later than May 30, 1994, those missiles will not be targeted.

The two Presidents reaffirmed their readiness to move forward on the path of openness

and mutual trust in American-Russian relations and to create favorable conditions for the comprehensive development of political, commercial, humanitarian, and people-to-people contacts between the two countries. In this connection, the United States intends to open a Consulate General in Yekaterinburg in February 1994.

Documents issued in the name of the Presidents

Joint Statement on Human Rights calls for full respect for human rights and condemns aggressive nationalism, ethnic and religious intolerance, and anti-Semitism.

Joint Statement on Non-Proliferation which commits the U.S. and Russia to work closely to prevent proliferation of weapons of mass destruction and their delivery systems, biological weapons, proliferation of ballistic missile technology, and proliferation of other destabilizing military technologies.

President Clinton and President Yeltsin agreed to establish a joint working group to consider:

Including in their voluntary IAEA safeguards offers all source and special fissionable materials, excluding only those associated with activities having direct national security significance;

Steps to ensure the transparency and irreversibility of the process of reduction of nuclear weapons, including the possibility of putting a portion of fissile material under IAEA safeguards. Particular attention would be given to materials released in the process of nuclear disarmament and steps to ensure that these materials would not be used again for nuclear weapons.

The Presidents also tasked their experts to study options for the long-term disposition of fissile materials, particularly of plutonium, taking into account the issues of nonproliferation, environmental protection, safety, and technical and economic factors.

They reaffirmed the intention of interested organizations of the two countries to complete within a short time a joint study of the possibilities of terminating the production of weapon-grade plutonium.

To promote the implementation of a comprehensive ban on chemical weapons, the Presidents welcomed the conclusion of the implementing documents for the Wyoming Memorandum of Understanding and agreed to conclude work in as short a time as possible on the implementing documents for the Bilateral Agreement on the Destruction of Chemical Weapons.

The United States welcomed Russia's intention to join the Missile Technology Control Regime and undertook to cooperate with Russia in facilitating its membership at an early date.

Fund for Large Enterprises in Russia

President Clinton named Michael Blumenthal, former Secretary of Treasury under President Carter, as Chairman of the Fund for Large Enterprises in Russia. The Fund will promote private sector development in the Russian Federation.

The U.S. plans to capitalize the Fund with $100 million in foreign assistance appropriations this year.

Bilateral Trade Mission

The President committed to send a group of U.S. business executives, headed by Commerce Secretary Brown, to visit Russia in March to promote trade and investment.

Documents signed by Secretary of State Christopher and Foreign Minister Kozyrev

Memorandum of Intent Concerning Cooperation in the Area of Export Control commits the signatories to cooperate in discussions, consultations, and training to prevent proliferation of weapons of mass destruction and other destabilizing military technologies.

Air Transport Agreement that will provide American carriers new overflight routes in the Russian Far East and expand service by U.S. and Russian carriers to each other's cities.

Agreement on Cooperation in the Fields of Public Health and Biomedical Research that will facilitate development of direct contacts between scientists, universities, research centers and other institutions on disease control and prevention, public health protection, and biomedical research.

Agreement on Cooperation in Radiation Health Effects provides for broad U.S.-Russian cooperation on the effects of ionizing radiation on human health and environment. Such research can improve understanding of health and safety precautions to protect workers and the public against exposure to radiation from releases from nuclear facilities or nuclear accidents.

Documents issued in the name of the Foreign Ministers

Middle East Joint Statement that will commit both sides to continue their partnership in promoting the Middle East Peace Process.

Joint Statement on COCOM that will commit both countries to cooperate in replacement of the current COCOM structure with a new multilateral mechanism to prevent proliferation of weapons of mass destruction, their delivery systems, and other military technologies.

AGREEMENTS AND JOINT STATEMENTS OF PRESIDENT CLINTON'S OFFICIAL VISIT TO MINSK, BELARUS

President Clinton reiterated the United States' deep appreciation for the historic steps Belarus has taken in fulfillment of its commitment to a non-nuclear future. He informed Chairman Shushkevich of the availability of additional funds, including $25 million under the Nunn-Lugar legislation for the Safe and Secure Dismantlement (SSD) of Nuclear Weapons.

To assist Belarus in undertaking serious economic reform, President Clinton informed Chairman Shushkevich of a new package of $10 million in technical assistance for Belarus that will help fund small-scale privatization, exchanges and training, and projects in health, energy and the environment.

President Clinton and Chairman Shushkevich signed a Bilateral Investment Treaty which will encourage private investment and economic growth in Belarus. An agreement was announced allowing the U.S. Export-Import bank to expand its operations in financing bilateral trade.

The parties agreed to establish an American Business Center in Minsk and further agreed to create a bilateral Business Development Committee to help identify and resolve problems that impede business expansion and to seek ways to develop new business opportunities.

The U.S. and Belarus agreed to establishment of a Regional Enterprise Fund and also signed a memorandum of understanding expressing their intention to establish a Joint Commission for Agribusiness and Rural Development. Noting a recent protocol signed between the United States and Belarus in Washington providing credits to Belarus for the purchase of U.S. wheat exports, President Clinton informed Chairman Shushkevich of the availability of an additional $10 million in P.L. 480 credits to be used for the purpose of U.S. food commodities.

President Clinton announced a donation of humanitarian medical equipment and training worth $10 million for the Republic of Belarus. The equipment will be sufficient to equip an entire 1,500-bed hospital.

President Clinton pledged American technical electoral assistance as soon as a date for new elections is announced by the Supreme Soviet. These elections now appear unlikely to take place in 1994.

HUMAN RIGHTS AND THE FUTURE OF UNITED STATES-CHINA TRADE RELATIONS

HON. CHRISTOPHER H. SMITH

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Thursday, February 24, 1994

Mr. SMITH of New Jersey. Mr. Speaker, I would like to thank you for the opportunity to address this subcommittee on this very important issue, an assessment of the implementation of conditions for renewal of most-favored-nation trade relations between the United States and the People's Republic of China.

In January I led a delegation to China in order to engage in frank, constructive talks with Chinese officials regarding deep concerns that remain over China's human rights record. We also wanted to meet with those who suffer from the continued and well-documented repression—especially political dissidents and underground church believers. We succeeded on both goals.

Let me note at the outset that the Chinese people deserve the abiding respect of their government, and nowhere is this more crucial than in protecting universally recognized human rights. It was out of empathy for the oppressed, the tortured, the prisoner of conscience, the mother being forced to abort her baby, that I went to China to respectfully but firmly petition the Chinese Government for relief.

While mutual economic cooperation is important to both countries and while it would be easy to put profit over human rights, adherence to internationally recognized standards of human rights is the cornerstone for any cooperation and further progress. The Executive order calls for significant progress in the area of human rights. I continued to tell officials that without significant progress, MFN was at great risk. In meetings with high officials of various government ministries I stressed that scrutiny of China's human rights record will not be cursory or frivolous, but would entail a penetrating analysis as to whether substantial progress has been made.

The Executive order is quite clear in listing the human rights conditions which must be met in order for MFN to be renewed later this year. It also requires China to comply with the 1992 MOU concerning prison labor.

Let me mention only a few of the human rights issues which should be of great concern to us—religious liberty and the new executive orders from Li Peng which further limit freedom of religious expression, the accounting for and treatment of political and religious pris-

oners, the continued coercive measures used to enforce the population control program, the proposed eugenics law, the continued coercive measures used to enforce the population control program, the proposed eugenics law, which scholars from the U.S. Holocaust Museum have likened to Nazi-era programs, which would target the most vulnerable of Chinese society, the millions of prisoners who are forced into slave labor to support China's economic reform programs. This list could go on and to speak on any one of them could fill volumes—and literally does.

I recommend to my colleagues some of the books which document the human rights abuses in China today. The names of these books alone tell of the tragedy of human rights in China. In addition to the State Department's Report on Human Rights—which this year says that the "overall human rights record in 1993 fell far short of international standards"—these reports are: "Continued Persecution of Christians in China," "Laogai Handbook," "Slaughter of the Innocents," "A Mother's Ordeal." And since my return from China the reports on human rights abuses continue to come in: "China's Public Relations Strategy on Tibet," "Bitter Winds"—which documents the experience of Harry Wu during his detention in the Chinese gulag—"Detained in Tibet"—which lists over 1,000 political and religious prisoners in China today—and "Human Rights Watch World Report 1994"—which says that "religious repression in China intensified throughout 1993."

In addition to these reports, I have gotten personal reports from China which document the arrest and detention of a bishop who said Mass for our delegation and a renewed crackdown on the Protestant house church movement. All of us were shocked when we learned that the Chinese Government would not stop at persecuting, harassing, and arresting its own people. Less than 2 weeks ago, three American citizens were arrested and detained in China. Dennis Balcombe, the pastor of Hong Kong's Revival Christian Church, who will testify later today, was detained. The arrest was made during a midnight raid on the house in which Reverend Balcombe and several other guests were sleeping. He and the others were accused of disturbing the public peace and all of his possessions were confiscated. Had Reverend Balcombe been in China to negotiate a business deal he would have had welcoming hands extended to him. Instead, because he brought the good news of the Gospel he was met with clenched fists.

I am happy that Reverend Balcombe is here today to testify. He is a living witness to the renewed religious persecution which is taking place in China. As an American citizen he enjoyed the benefit of swift action on the part of many people and human rights groups, including Christian Solidarity International, who is hosting his visit here. However, there are thousands of Chinese citizens who do not have this benefit. Three of the people who were arrested along with him are still detained, and there are even reports which say they have been executed. If they are alive, and I hope they are, how long will they have to wait in prisons, how many beatings will they have to endure, who will speak out loudly and act swiftly for them? And what of those friends of Reverend Balcombe who are not in prison but must remain in China and live under the fear of persecution?

Bishop Su Zhi Ming, the 62-year-old auxiliary bishop of Baoding was arrested on January 20 while Treasury Secretary Bentsen was in China discussing the future of United States-Sino trade relations. Bishop Su has told us that he was questioned at great length about our meeting. But he also believes that his release was due to our meeting as well. Again, Mr. Chairman, who will speak out for the thousands of unknown others who languish in China's prison system—many of them elderly and in need of medical attention.

These people are not interested in political activity, they pray for the government and their leaders and ask for God's blessings on China. All the religious believers in China are asking for is the ability to worship freely and openly. Right now those who do not belong to the government-sponsored churches have no place to worship, many of them are denied housing and work permits, and countless numbers are harassed, detained, tortured—and some have been martyred for their faith. I also submit for the RECORD an eyewitness account of the situation of the Roman Catholic Church in China written by a member of my staff.

On January 31, Premier Li Peng issued two executive orders which further restrain religious liberty in China and will have devastating consequences for the underground Protestant and Catholic churches.

Order 144 is titled "Rules for management of foreigners' religious activities." It prohibits all proselytizing activities by foreigners among Chinese. While it allows for foreigners to conduct their own private worship services, they are prohibited from preaching in Chinese churches. It also prohibits the importing of religious goods and publications.

Order 145 regulates management of places of worship. The right to assemble, pray and worship God—even in your own home—carries severe punishments. Catch-all statements such as "No one may use places of worship for activities to destroy national unity, ethnic unity and social stability, to damage public health or undermine the national educational system," criminalizes just about anything that a believer says or does. These cruel policies are likely to lead to thousands of new arrests, tortures and mistreatment.

And what happens to many of these people who are held in China's prisons? Mr. Chairman, millions of these people are detained in forced-labor prisons where they work long hours each day to meet unrealistic production quotas. We have known about this for years and have tried to engage the Chinese Government in addressing this human rights abuse.

The 1992 Memorandum of Understanding [MOU] expressly prohibits the importing of prison labor products and outlines the method of investigating reports of forced labor in prisons.

Even when it was signed, many people criticized the MOU as a meaningless document unless it would be backed up by swift and open verification. Testimony only a few months ago by Assistant Secretary Winston Lord indicated that there has been great resistance by the Chinese to investigate reports of prison labor. The Chinese deny access to prisons by United States officials until they have had enough time to sanitize the prisons and factories. Visits by nongovernmental human rights groups are not allowed at all.

The Chinese Laogai is not like any prison system we are familiar with. These are forced-labor camps similar to the Nazi work camps of another era. It is the most extensive forced-labor camp system in the world, and this system has destroyed the lives of millions of people, and it continues to do so. In January I met with several people who bear the permanent scars of years in Chinese prison labor camps. I heard their stories of beating and torture and saw for myself the broken bodies which these camps created.

The MOU is mentioned specifically in the Executive order. It is clear that China has not yet lived up to this agreement, nor is there any indication that it will in the future. We are still denied access to prisons and there is a large body of evidence that products manufactured entirely or in part are still being exported to the United States. All the while, millions of people continue to suffer at the hands of the cruel government slave-master.

Religious believers and prisoners are not the only victims of China's continued violations of human rights. The government aggressively victimizes women who bear children outside of the government's repressive one child per couple policy. Reports abound which detail the lengths to which the government officials will go to see that quotas are met and policies enforced. The New York Times' report by Nicholas D. Kristof poignantly described the ordeal of a mother and child who were victims of the government-sanctioned brutality. It recounts the case of Li Qiuliang who had been given permission to have a child in 1992. When, on December 30, 1992 she had not given birth the local population control officer ordered the doctor to induce labor. The child died and Ms. Li has been left incapacitated.

Secretary of State Warren Christopher, when he learned of this report, said that he was appalled by China's coercive family planning practices and would seriously consider tying MFN to ending those practices. In the "Report to Congress Concerning Extension of Waiver Authority For The People's Republic of China," it explicitly states that "in considering extension of MFN, we will take into account Chinese actions with respect to the following: Taking effective steps to ensure that forced abortion and sterilization are not used to implement China's family planning policy."

During my meeting with Li Honggui, director for the General Office of the State Family Planning Commission of China, he brushed aside with an angry smile our concerns that Chinese women are routinely victimized and abused with coerced abortions and coercive sterilizations. When questioned about the New York Times' report, Mr. Li responded by saying that the article was "not real" and that it only showed the "unfriendly staff" of the New York Times.

In a sworn affidavit, Dr. John Aird, former Chief of the China Branch at the U.S. Census Bureau, said "coercion in the Chinese family planning program has in the past 2 years reached its second extreme peak approaching or perhaps exceeding the levels of 1983."

Forced abortion is a crime against both women and children. The House of Rep-

resentatives has twice called this a "crime against humanity." In China today, women are punished by the state for conceiving a child not approved by state goals. If a woman is lucky or clever enough to escape to deliver an illegal child, and is discovered, she is fined and otherwise dealt with.

In December the Chinese Government issued a draft of a eugenics law which would legalize discrimination against the handicapped—however the government may define handicapped—by forcing sterilization and denying them permission to have children. There are also provisions which would mandate the abortion of any babies which are determined to not meet government-approved standards of health and ability. While the rest of the world moves to protect the rights and the dignity of the handicapped, China is seeking ways to exterminate them.

It is becoming increasingly clear that in category after category the Chinese Government is not only not making progress, but is actually getting worse—bringing further shame and dishonor to the government and more and more pain to the Chinese people.

Today, and each day since I have returned form China, the facts point to significant regression, not progress, in human rights.

Today as we review the conditions which the Executive order placed on renewal of MFN, there is little indication that China has been willing to make any significant progress when it comes to human rights. There is a great deal of evidence that China has regressed significantly—just look at the books and reports. Given this body of evidence will one or two prisoner releases out of thousands be significant progress? Will the visit to five prisons out of hundreds be significant progress? Only a few months remain before the administration must make a decision. We must continue to let China know that we are watching and that we care, that we will not sacrifice human life for profit, and that the United States is serious when we say we want significant progress in human rights.

[From Faith & Freedom, Winter 1994]

TOMORROW, YOU COULD BE IN PRISON—THE HUMBLE ORIGINS OF AN UNDERGROUND CHINESE FAITH

(By Stan De Boe)

It is easy to find elegant church buildings in China's major cities, some of which were built before the communist revolution and survived the devastating Cultural Revolution of the 1970s. The religious leaders responsible for them wear fine suits, enjoy high social status, meet freely with foreign visitors, and publicly proclaim that indeed China has freedom of religion.

The government approves and monitors these churches. One branch, the Catholic Patriotic Association (CPA), has four million members, with 60,000 said to be joining each year. CPA President Joshua Zong Huaide called this a "golden period for church development."

The CPA is not united with the Vatican. The Chinese government appoints its bishops. These Catholics have a reputation for patriotism and goodwork. CPA leaders support the coercive population control program of the government. It is important, Zong said, for the Chinese people to love their country and support socialism.

Yet the CPA and its official Protestant counterpart make up only one segment of the Chinese Christian community. This became dramatically apparent on my recent trip there. Off in a "village" with three million people, I was told in private that Mass was being celebrated by the underground Catholic church, and that I should attend.

A long, wandering cab ride took me to the outskirts of the village, where the car stopped and I was told to get out and walk the last few blocks. Nothing ahead looked like a church, though the street was filled with bicycles. After turning one last corner I had to stop in disbelief. There, in a stockyard at the very end of this desolate area, were hundreds of people, young and old, men and women, kneeling on the frozen ground as a priest was saying a Eucharistic prayer. They had gathered in secret to pray, to worship.

It dawned on me that this church building was in fact a donkey stall, something like the humble habitation where Christ made his first earthy appearance. The altar was set up under a canopy. Speakers hung from trees to project the voices of the choir.

I was reminded of the many pictures I had seen of the underground Ukrainian Catholics during the Soviet era, gathered in remote places in the dark of night to celebrate their liturgy. Here, I could see the depth of faith of these Chinese believers. After communion everyone sang at the top of their lungs a song proclaiming their loyalty to Pope John Paul II. This act is the very thing that could get them arrested or result in discrimination against them. Yet they proudly and boldly sang. This was the fourth or fifth such Mass conducted in the stockyards that day.

PERSECUTION AND THE PARTY LINE

I traveled to China in early January as part of a congressional delegation to discuss human rights, religious freedom, and the future of U.S.-Chinese relations. We met with officials from the Foreign Ministry, the Ministry of Justice, and the Supreme People's Procurature, as well as the CPA. We consistently asked if there were Christians in prison because of their faith. They told us no, and that if Christians were in prison it was because they did not support socialism.

Unlike some churches in Eastern Europe under communism, the underground churches I encountered in China did not appear to be havens for political dissidents. These Christians, constantly at risk of being sent to prison or worse, pray for their state leaders and do not openly quarrel with socialism—though the Vatican does.

They pray for their freedom to worship. Rarely do they focus on the problems and sufferings of the past and present. Instead, they choose to see the past as preparation for the future. Not only is the Chinese church on the brink of a great awakening, I was told, but the church in China is being prepared for a mission beyond China. Missionaries are being trained to take the Christian message to all parts of the world, once they are allowed.

Meeting with me carried great risk, but these underground Christians wanted their story told. Many of these Chinese Christian leaders had already spent years in prison, one for nearly 40 years. Most had been beaten repeatedly, some were forced to stand for days in closet-sized rooms in water as high as their waists, while others were bound by their wrists and suspended from the ceiling. All spoke of inadequate medical attention and food while they were detained. Many had been sentenced to "re-education through labor" programs—prison camps for hard labor—regardless of their age or physical condition.

In 1991, one of the underground parishes decided to test the government by building a church. They worked day and night, making most of the materials they needed. In two months their structure was complete. The government sent in police to tear it down, but the people surrounded the building. Apparently not wanting to shed blood, the police backed down and did not tear down the church or arrest anyone. The government is not always so reticent. Yet this one act of defiance served to strengthen the resolve of the underground church.

That strength is quietly linked across traditions, as shown in the evident respect of underground Protestants and Catholics for each other. A Catholic bishop spoke with great respect and affection for the Protestant minister with whom he once shared a prison cell. One Protestant leader spoke of the dedication of Catholics he knows. But when he was asked about any contact or cooperation between the two communities, he said there was little or none. We later learned that this was not due to problems between them, but because of the potential dangers. If they were working together, the government, ever-fearful of Christian conspiracy against it, would have another reason to persecute the church.

Underground Catholics with whom I met said that the government continues to harass them. Many of those known to the Government, especially the priests, cannot obtain residency or work permits. Thus they are entirely dependent on the support of the community. They are subject to detention without charges for short periods of time—too short for international religious freedom advocates to publicize their plight.

IN DANGER, BUT NOT AFRAID

Just days after our return to the United States, a Catholic bishop who celebrated Mass for our delegation was detained without charge for nine days at an undisclosed location. After his release he was questioned at length about the meeting with us.

On January 31, two days after the release of the bishop, Premier Li Peng issued two executive orders severely restricting religious activity. Order 144 bans the work of foreign missionaries and Order 145 restricts the activity of Chinese Christians and could result in the arrest and detention of thousands who choose to practice their faith outside of government control.

In a midnight raid in Central China during mid-February, ten Christians, three from the United States, were arrested for "illegal religious activities"—involvement with the underground church. The foreigners were expelled, while the nationals and the expatriates could face up to three years in administrative detention.

The United States government, under Presidents Reagan, Bush, and Clinton, has said that it is looking for improvements in human rights in China. During some periods Christians are persecuted less, during others more. But the legal and ideological structure by which people are always at risk remains strong—and perhaps has become even more threatening.

There is no indication that the Chinese government has any intention of easing up on the underground Christians. Nor are church members being broken by the waves of persecution. After seeing a simple but magnificent church recently constructed by hand on the personal property of an underground Catholic bishop, I asked about the government's response to the way they had ignored regulations on building. The bishop bravely said, "Now is the time for the under-

ground church to come above ground. What can they do to us? Tear down our church? Put us in jail?"

TRIBUTE TO DINAH SHORE

HON. BOB CLEMENT

OF TENNESSEE

IN THE HOUSE OF REPRESENTATIVES

Thursday, February 24, 1994

Mr. CLEMENT. Mr. Speaker, I am saddened this afternoon to learn of the passing of Dinah Shore.

Dinah was known throughout the world for her kindness, generosity, incredible talent, and boundless energy. She was the star of radio, television, and film. She toured with the USO and, to her fans she was a source of inspiration.

A native of Winchester, TN, she graduated from Nashville's Hume Fogg High School and Vanderbilt University. They were especially proud of her success, which she took in stride and without ever allowing it to affect her outlook on life or her attitude toward people around her. Most recently, she hosted a weekly television talk show on the Nashville Network.

All Tennesseans, all Americans, will miss Dinah Shore. She graced us with her gentleness, her humor, and her love. We will miss her and, to her family, we extend our deepest sympathies.

DINAH SHORE DIES; RADIO, RECORD, MOVIE, TV CAREER SPANNED SEVEN DECADES

(By E. Scott Reckard)

BEVERLY HILLS, CALIF.—Dinah Shore, the honey-haired, down-to-earth singer and talk show hostess whose career spanned seven decades of radio, television, records and movies, died of cancer Thursday. She was 76.

At various times in her life, Miss Shore also was known as pitch woman for Chevrolet, author of cookbooks, wife of cowboy actor George Montgomery, companion of actor Burt Reynolds, pal of presidents Gerald Ford and Ronald Reagan and hostess of a popular professional golf tourney.

Preparing her final cable television show for the 1989–90 season, she said she had never felt intimidated during a career that sent her into millions of American living rooms.

"I don't know how to be afraid of that old red eye," she said of the camera's "on" light. "It's one person to me. I don't visualize large numbers of people out there. I'm comfortable with it."

Miss Shore, who won eight Emmy Awards, nine gold records and the USO Medallion Award as the first entertainer to visit GIs on the front lines of World War II, died at her home here. Her illness was brief, publicist Stephanie Masters said.

Born Frances Rose Shore on March 1, 1917, in Winchester, Tenn., the brown-eyed entertainer was a graduate of Nashville's Vanderbilt University.

The gentility and conservatism of her Southern background stayed with her as the world changed. In 1970, preparing to return to NBC-TV for a weekday morning program about women's interests, she listed her subject matter as "men and well men and, uh, men."

She said she appreciated the women's movement drive for equal pay, but added: "It's a man's world and you must give something to get something."

"We want men to cherish us, love us, protect us, be polite to us," she said. "When we go out to dinner, we expect them to pick up the check. If we're to be in rough competition with men, won't we have to give some of that up?"

The marriage to Montgomery in 1943 produced two children, Melissa Ann Hime in 1948 and John David Montgomery in 1954. She divorced Montgomery in 1962. A second marriage to Maurice F. Smith in 1963 lasted a year. She never remarried although her relationship with Reynolds provided fodder for the tabloids and gossip columnists in the 1970s.

"Dinah was the most wonderful friend I ever had and for me the world has lost the very best part of it," Reynolds said in a statement.

Aside from guest appearances on talk shows, Miss Shore had kept a relatively low profile in the last two years. She continued to indulge her passion for golf, playing frequently with friends such as former anchorwoman Kathleen Sullivan, a neighbor at Miss Shore's home near Palm Springs.

Sullivan, in a telephone interview from that Coachella Valley golf resort area south of Los Angeles, said Miss Shore's death would touch many lives.

"This is a loss to this valley, a loss to women in sports, a loss to the entertainment field," Sullivan said.

Television comic and producer Carl Reiner, who worked with Miss Shore on her television program in 1960, remembered her vivacity and graciousness.

"She was the most alive person I ever met, absolutely interested in everything in the world and everybody in the world. And she was always sincere," Reiner said.

"Dinah was five star in every way," former President Ford said, calling her "one of the finest, most generous and thoughtful persons" he and his wife, Betty, had ever known.

Miss Shore began her broadcast singing career in 1938 on New York's WNEW, teaming with another young singer Frank Sinatra. She joined the NBC radio network later that year and signed a contract with RCA Victor in 1940. A year later she joined Eddie Cantor's radio program; by 1943 she was starring in her own radio program, sponsored by General Foods.

Her last television show, "A Conversation With Dinah" on The Nashville Network, ran from August 1989 to March 1991 as a weekly show. Later that year, she did specials for TNN, interviewing Reynolds and Tennessee Ernie Ford. She appeared on a TNN tribute show to Eddy Arnold in May 1992.

Her daytime talk show, "Dinah and Friends," ran from 1979 through 1984. From 1974–79 she was in "Dinah!" From 1970–74 it was "Dinah's Place."

An older generation remembers her from "The Dinah Shore Chevy Show," a variety program that aired from 1956–63." Earlier still was "The Dinah Shore Show," which lasted from 1951–57.

She acted in such movies as "Thank Your Lucky Stars," "Up in Arms," "Belle of the Yukon," "Follow the Boys," "Make Mine Music," "Fun and Fancy Free" and "Aaron Slick from Punkin Crick."

Miss Shore, who had Hollywood Walk of Fame stars for recording, radio and television, once said that people identified her most with the slogan from her variety show: "See the USA in Your Chevrolet." She would sing the jingle with gusto on every show, her right arm punching the air.

She was hesitant about analyzing her place in TV history.

"I'm not sure I'll have one," she said in a 1989 interview. "Time and the people will judge that. I guess it will be pleasant and I hope it will be exciting. It won't be terribly controversial."

The assessment on her George Foster Peabody Award for distinguished broadcasting was not so modest.

"What TV needs, obviously, is about 100 Dinah Shores," it reads.

In addition to her son and daughter, survivors include three granddaughters: Jennefer, Adam and Alexander Hime. Funeral services, to take place in Los Angeles, were pending.

TRIBUTE TO DISTRICT JUSTICE LEONARD "WHITEY" BOEHM

HON. WILLIAM J. COYNE

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, February 24, 1994

Mr. COYNE. Mr. Speaker, I want to pay tribute today to Leonard "Whitey" Boehm, who on February 26, 1994, will be celebrating his retirement as a district justice.

Leonard "Whitey" Boehm has had an illustrious career serving the people of Pittsburgh area as a district justice and local public servant. He has served for 14 years as district justice for the Carrick, Overbrook, and East Brookline communities. He has continued to serve past the official retirement age as a senior status district justice. District Justice Boehm has also served as president of the Special Courts Justices Association for 6 years.

District Justice Boehm has played a central role in administering justice in the Pittsburgh area. He has brought to the position of district justice the necessary commitment to ensuring that every person appearing before the court is treated with respect and compassion. He has upheld the dignity of the court and has ensured that his fellow citizens can continue to hold the proceedings of the court in high esteem.

District Justice Boehm's public service spans over 40 years. He began his career as a public servant with the city of Pittsburgh Public Works Department where he worked for 27 years. He also served for 3 years as an inspector in the Allegheny County Controllers Office. In both his career as a district justice and in these previous positions, Leonard "Whitey" Boehm has been admired as a man of integrity and dedication to fairly and effectively serving the public.

District Justice Boehm has also been an active member of his local community. He has served for 31 years as a Democratic committee member in the 32d ward and has also served as ward chairman. He has also served with the Carrick-Overbrook Community Council. District Justice Boehm is also a proud member of the local German Club. District Justice Boehm and his family are parishioners at the Resurrection Church in Brookline. District Justice Boehm and his wife Irene have three children, Karen, Cathy, and Lenny, and also have several grandchildren.

Mr. Speaker, it is fitting that the House should honor individuals like District Justice Leonard "Whitey" Boehm. I am pleased that I have this opportunity to salute him for his outstanding record of public service.

YOUTH OF THE HUDSON VALLEY PETITIONS FOR CLEAN WATER

HON. HAMILTON FISH, JR.

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, February 24, 1994

Mr. FISH. Mr. Speaker, on February 1 a group of students from my district in New York, and from along the Hudson River, traveled to Washington, DC, to show their Government how important clean water is to them. This trip was the culmination of 1½ years of hard work for these students, for with them they brought a petition for clean water and 10 large panels filled with the signatures of 15,000 young people throughout New York's Hudson River Valley. These students worked with the Hudson River Sloop, *Clearwater*, an advocacy group for a cleaner Hudson River, to educate fellow students about the importance of clean water in preserving the food chain, areas for recreation, and the well-being of all living things. I feel it is important to share the feelings and statements of some of these young people as we prepare to deal with reauthorization of the Clean Water Act.

Below are the words of our next generation:

ALLISON BLEEKER, Poughkeepsie, N.Y. We are from Hagan Elementary School in Poughkeepsie, N.Y. We represent E.A.C.H., the Environmental Action Committee at Hagan School. We would like to now read the petition we drafted.

VANESSA VAN DERVEER, Poughkeepsie, N.Y. Petition for clean water to members of federal, state, and local governments.

GREG PARTRIDGE, Poughkeepsie, N.Y. All the kids who are signed here are concerned about the condition of water.

STEPHANIE ARONZON, Poughkeepsie, N.Y. We need clean water, and we must undo the damage we have done to the Earth.

ADAM BANNER, Poughkeepsie, N.Y. When water is polluted all parts of the food chain are affected.

GREG. Habitats are destroyed by filling in of wetlands, dredging of bottom sediments, and destruction of dunes and beaches.

STEPHANIE. People deserve clean water for drinking and swimming, clean shores to visit, and clean fish to eat.

ADAM. We must have stronger laws, better public education and awareness, and stronger regulations on the practices and products of business, industry and public utilities.

ALLISON. We must protect our oceans, rivers, streams, harbors, bays, estuaries, lakes, ground water, shores, wetlands, and bottom sediments.

GREG. Many people think this is just an environmental cause. They think it is for the fish so they have a clean home. It is also for us and our kids. If this bill is not passed and improved they will not have clean water.

VANESSA. If all the Earth's water was put in a gallon jug, only a tablespoon would be fresh clean water. All other water would be salt water or water captured in ice or glacers. We must preserve the little water we have.

STEPHANIE. There is a creek that is in my community. I used to play in it with my friends. It is in fact a part of Casper Creek. Last year E.A.C.H. cleaned the creeks' polluted sites as a project. A section that runs near my house is littered. I never paid much attention to it, but now I realize it is a problem. Wetlands are getting littered like this in every state, in every country, all over the world. This all adds up to lots of pollution in our water system. When E.A.C.H. cleaned up Casper Creek we asked the town supervisor to have the owners clean up a certain site. Today we're asking Congress to help us clean up.

ADAM. We live along the Hudson River and our community relies on it for clean drinking water. For years, power companies dumped chemicals into the water. Some of these pollutants settled into the sediments and will be harming the water and life that depend on it. We ask Congress to renew, strengthen and improve the Clean Water Act to insure clean water for our future.

ALLISON. I just wanted to say how much this petition means to us. We worked hard and what we wrote is from our hearts. We want and must have clean water.

AMANDA TREYZ, Manhattan, N.Y. My presence here today means a lot to me. When I first started working with *Clearwater* my goal was to get the Hudson clean enough for me to go swimming right off the pier near my house in lower Manhattan, I have not forgotten this goal, but it seems a lot further off than it did at first. What this petition means to me, is that other people share this dream. What the Clean Water Act means to me is that our legislators also share this dream. But this act is more than a dream, and there are more reasons for this act than a dream.

An argument doesn't really need to be made for clean water. Just remember—whatever you dump in rivers will come back. But the Clean Water Act as it is now is not enough. We need stronger laws and stricter laws. Pollution, sanctioned by law, is still pollution and it should be outlawed. The cost of change is not an excuse to pollute. President Clinton said, "we must have the courage to change"—this act is something that needs to be changed. If we keep on putting industrial chemicals into our waterways, eventually they will end up on our dinner table. Many people in industry say that their emissions haven't been proven to cause harm, but I don't see them fishing in the Hudson for their dinner. My dream of a clean Hudson has been put on hold indefinitely, but it is within your power to make this dream a reality.

DAVID VELEZ, Goshen, N.Y. Ladies and Gentlemen, in 1972, the Clean Water Act was passed into law. The ultimate goal of the act was to eliminate the discharge of pollutants into navigable waters by the year 1985. It is now 1994, and obviously, that goal was never attained. This year, the act will be renewed. The question is "What is going to happen to it?" Most likely, changes will be made. Who will these changes benefit?

It could benefit industries and developers. It would be all too easy to make modifications to the act that would allow these companies and corporations to gain the upper hand. They could be allowed to do whatever they want to our most precious and powerful resource—water. They could be allowed to dump whatever waste and by-product they see fit. Or it would still be illegal, but fines and penalties would be lowered, while grace periods and time limits would be raised. Of course, this would be good. Productivity would go up. Prices would go down. There would be more jobs. This would help the American economy. Its a good business solution, and the price would be negligible.

If you would like to see just what negligible means, you can look at the number of waterways in North America. I can tell you a little about the Hudson River.

Last year, I was selected to volunteer aboard the *Clearwater*. *When I told my friends, I heard things like, "hope you don't fall in the water", "don't swim in it", "watch out for the floating garbage". As I found out, those stereotypes are a little outdated. I was however, glad it didn't rain the day before, or I might have had to dodge the raw sewage that overflows from the outdated treatment plants along the river. And I couldn't go fishing, since all the aquatic life in the river is contaminated by the 1 million pounds of PCB's lying on the river's floor. When we took passengers on board, of any age, there was a general feeling of concern. Is it safe, can I swim in it, is there any hope?*

Yes, there is, Many people fight everyday to protect our national treasures. This group of young people you see before you is just one group of these people. We want revisions to the Clean Water Act to benefit us, and anyone else who feels clean water, safe food, public recreation, and natural beauty is important. We can't offer the posh extravagances given out by lobbyists representing special interest groups. All we can offer is a cloth scroll, but behind it is the work, effort, love, and concern of thousands of young people. They are asking their government to help them. This document was created of love for our waterways, by young people, for all people. I implore you, ladies and gentlemen of the government, to see to it that this dream gets carried out.

ELIZABETH AZCON, Manhattan, N.Y. The clean water issue is a very important one because without clean water every living creature will become extinct, including you and I. Many harmful chemicals have been entering our waters. Rivers have been dying as well as our marine life. Raw sewage and industrial sewage have been contaminating water and have caused illness to living creatures who innocently take in these chemicals by drinking, swimming or fishing from this contaminated water.

PCB's are constantly being stirred up, entering the food chain and flowing down stream penetrating the flesh of fish who in turn are eaten by humans or by any other dominating animal in the food chain. Water pollution is a severe problem that has been set aside for too long. We must take action now and begin to purify our drinking water because soon, before we know it, we will be taking in 10 percent water and 90 percent chemicals. Humans, marine life and wildlife will be dying from PCB and chemical related illnesses. Planet Earth will eventually deteriorate by this so called water problem that most people seem too busy to deal with. We must dedicate more time to the Earth's physical problems than spend time on building the perfect weapon for war or building the most hi-tech building in existence. As I said before we must take action now before we have no clean place to live in and no children to care for. All we can leave for our children and our children's children is a clean, purified planet for them to develop, work and enjoy their life on.

TORAH JOHNSON, Hudson Valley Sloop, *Clearwater*. In September of 1992, I met with a group of students from the environmental club at Hagen School, and in an afternoon I helped the children decide on the wording of the text to the petition you see here.

Now, a central tenet of *Clearwater's* education program is to empower children and to provide them with the skills they need to take part in decisions affecting their own future, such as the issues currently under debate in the Clear Water Act. And so, with each of the many of thousands of children who read and signed the petition, the experi-

ence was part of a discussion about the importance of participating in their government. We encouraged them to express themselves in pictures or messages; to speak directly to their legislators. These discussions were very constructive, not only for what the children learned, but for what I learned about the children. Through these discussions and through reading these panels, I have come to understand must better how they view the Earth and their government.

Among the children I spoke to, I found a universal concern for the environment, and an understanding of the ecological problems facing us. But, I found some other things; some things that disturbed me very much. Many children, even among those that are active in environmental clubs, expressed feelings of powerlessness, resignation, and even guilt in the face of environmental problems; even in the discussion among the children who wrote the petition. When it was suggested that the petition say "We deserve clean water . . ." one of them raised their hand and asked, "Why do we deserve clean water if we were the ones who polluted it?" Interesting that she should have a sense of stewardship of the environment that so many adults lack, and so distressing that at 10 years old she should have a sense of guilt about the state of the natural world.

I also found many of the children to be cynical about their government. A group of the fifth graders in Piermont, NY actually shouted angrily something I heard over and over again from kids: "The government won't listen to us. We're just kids. They don't care what we think."

Probably the discussion that impacted me the most was with a group of kindergartners in the Bronx. I asked them to tell me what a law was, and one boy raised his hand. He said, "Laws are so that when you break them, they put you in jail." "Are laws good?" I asked them. They all shook their heads "no." They all needed to puzzle very carefully when I asked them if a law against polluting the river was a good idea, but finally they concluded that it was a good idea.

The long term health of our waterways, indeed of the Earth, will depend upon the vision and concern of today's youth. And today's youth see the need to make difficult sacrifices to save our planet. But many children feel their voices are ignored and stifled. They are scared. On the local level, our own Hudson River is an ecological war zone. The fish are poisoned with General Electric's PCB's, but many children eat the poisoned fish due to the ignorance of their parents or just the need for food. The river is still, even with twenty years of the Clean Water Act, it is still not swimmable for much of its length due to sewage contamination. If you swim in the river you can get sick. The dire significance of global environmental problems is not lost, even on a child. As a biologist, I know these children have reason to be frightened, and as a teacher, though I believe they have reason to hope, I can't tell them they don't have reason to be frightened.

We must hear their voices, we must strengthen the Clean Water Act, and enact other legislation to ensure them a healthy future. The messages and pictures on these panels are like writing on the wall, they reflect the voices of thousands of children who are speaking to you. I ask that before you leave this room today take the time to read some of the messages. Each one of us has a voice of its own. I'll finish with what one young person wrote: "It's good to pollute—Not!"