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PROCEEDINGS AND DEBATES OF THE 103d CONGRESS, SECOND SESSION

SENATE—*Tuesday, March 22, 1994*

(Legislative day of Tuesday, February 22, 1994)

The Senate met at 9 a.m., on the expiration of the recess, and was called to order by the Honorable BEN NIGHTHORSE CAMPBELL, a Senator from the State of Colorado.

PRAYER

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

Let us pray:

And whosoever will be chief among you, let him be your servant—Matthew 20:27.

Gracious God our Father, we pray this morning with profound gratitude for all the men and women who, though invisible to the public, provide the Senate with services without which it could not function. We thank Thee for their dedication, for the long hours many of them work, often reporting long before the Senate opens and remaining long after it recesses. We thank You for their faithful labors when the Senators return to their States to respond to constituent needs. We thank You that often they serve as shock absorbers against exploitation of the Senators. We ask Thy blessing upon these faithful men and women, hard at work behind the scenes. Help us to be sensitive to their needs and the needs of their families, and to remember how indispensable they are to the business of the United States.

We pray this in the name of Him who was 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, March 22, 1994.

To the Senate:

Under the provisions of rule I, section 3, of the Standing Rules of the Senate, I hereby appoint the Honorable BEN NIGHTHORSE CAMPBELL, a Senator from the State of Colorado, to perform the duties of the Chair.

ROBERT C. BYRD,
President pro tempore.

Mr. CAMPBELL thereupon assumed the chair as Acting President pro tempore.

RESERVATION OF LEADER TIME

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

MORNING BUSINESS

The ACTING PRESIDENT pro tempore. Under the previous order, there will now be a period for the transaction of morning business not to extend beyond the hour of 10 a.m. with Senators permitted to speak therein for not to exceed 5 minutes each.

The Senator from Pennsylvania [Mr. WOFFORD] is recognized to speak for up to 20 minutes. The Senator from Pennsylvania is recognized.

WELFARE REFORM

Mr. WOFFORD. Mr. President, this Congress is ready to move forward on proposals to change our Nation's welfare system as we know it. It has been a long time coming. For years, I have been pressing the idea that the current welfare system is not working. We have had too many well-meaning but costly and ultimately ineffective social programs—programs that too often promote dependency, not responsibility; complacency, not initiative; make work instead of real work.

In my first speeches as a Senator I said it is a scandal that a society with so much work to do is paying able men and women to sit idle—that people on welfare deserve the dignity of a job. For at the core of what we are as people is the dignity of work—the independence and self-respect that come from having a job, doing it well, supporting a family.

I am glad to say that we have finally reached a point when almost all of us—Democrat and Republican, people of all races, colors, and economic circumstances—agree: The welfare system is broken. It is not working for those who are trapped in it. And it is not working for those who have to pay for it.

The incentives in the current system are wrongheaded. Instead of encouraging families to stay together, it rewards them for splitting apart. Instead of encouraging work, it rewards idleness.

A lot of people in Washington—on both sides of the aisle, in the White House, and the Congress—now are talking about how to achieve welfare reform. That is an important development. As someone who has already put into action the principle of moving people from the welfare rolls to the job rolls, I intend to bring the Pennsylvania experience into the thick of this debate.

For over 4 years before I came to the Senate I was Pennsylvania's Secretary of Labor and Industry in Governor Casey's cabinet. One of my key efforts was to turn upside down the very idea of the State's unemployment offices. We turned them into a network of one-stop-shop job centers.

The point was not just a change in name, but a fundamental change in direction. We did not want a bureaucracy that was satisfied with maintaining people on unemployment. We wanted to create one-stop shops that brought together in one team under one roof the many Federal and State job training, job search, and placement programs. A team that would not be satisfied until they helped a person achieve one goal: a new job. And as a result, we helped a lot of people keep off welfare.

We applied the same idea in moving people already on welfare into the world of work. Three different State agencies came together to form a Single Point of Contact Program. You would think it was common sense to bring all the needed services together in a single office. But I cannot even count the number of people who told

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

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me about having to go from one government office to another, waiting on line, filling out forms and using up valuable time that they could have used looking for a job.

The program is an important model for producing real success in helping people move from welfare to work.

So when I got to Washington, one of the first things I did was go to my colleague from the Kennedy and Johnson administrations, Senator MOYNIHAN, who is our creative and experienced leader on welfare issues in the Senate. I told him that I wanted to be an active partner in taking the next critical steps on the road Congress began when it enacted the 1988 Family Security Act.

Since then, Senator BOREN and I have also worked together—with bipartisan support—to create a pilot program that provides work for welfare recipients and keeps others from ever going on welfare. We built on one of the most successful work programs this country has every known: Franklin Roosevelt's Civilian Conservation Corps. At the height of the Great Depression, the CCC took millions of unemployed young men off the streets and put them to work in our parks and forests, building facilities we still use and enjoy to this day.

Senator BOREN and I want to enable young people today get the kind of rigorous work experience that provides skills, training, personal responsibility, and self-respect, while at the same time meeting our most pressing community needs. That is the National Civilian Community Corps just now being launched as part of the new national service program we enacted last summer.

That is another key pilot program that helps keep people off of welfare. But the purposes of a pilot light is to ignite the whole furnace. Now, as we prepare to reform the welfare system as a whole, it is essential that we use these working models to guide us; to lead us back to what should have been the first principle of welfare all along: work.

Over the past several months, I have been consulting my former colleagues on the front lines. And learning from the experiences of the welfare recipients themselves. Both from those who have succeeded in lifting themselves off of the dole, and from those who have not.

Experience teaches me that effective reform rests on five basic propositions:

First, welfare must be changed from long-term income support into job preparation and placement. Second, whenever possible, the work should be in the private sector. And any public service work must be disciplined and well structured. Third, we have to turn upside down the current incentives that discourage work and that especially means health care reform. Fourth, we have to upgrade the education and job training programs. And fifth, we have to insist that parents take greater responsibility for themselves and their children.

Let me start by going back for a moment in history:

When President Roosevelt created aid to families with dependent children as part of the Social Security Act in the 1930's, it was to help widows and orphans. The program was intended to provide temporary relief—not to create a permanent way of life.

But today the majority of long-term welfare beneficiaries enter the program not as widows and orphans, but as teenagers. And, for far too many of them, it is not a short-term transitional program, but a long-term income support program. That has to change.

So the first change is make jobs, not benefits, the focus of welfare. Intensive job training and job search should be the expectation, not the exception. And after a reasonable period—the two years President has proposed—people who are able to work should be required to work.

Better yet, from the day anyone applies for welfare, we must emphasize that the period on welfare should be as short as possible, preferably much less than 2 years. That is the kind of new direction we took in our Single Point of Contact Program in Pennsylvania.

Before we created the Single Point of Contact Program, the main concern of our State's welfare system was giving out benefits. It was a bureaucracy geared to determining who qualifies for the program and writing out checks. It was, in a sense, a benefits factory whose byproduct was dependency.

The purpose and culture of our single point of contact effort is totally different. From the moment participants enter, they know they are there to prepare for and find work—not just to receive a benefit check.

And we have had measurable success at training and placing in jobs those who are often the most difficult to employ. It is still on too small a scale, but we have proven that we can achieve the second key goal: moving people into private sector jobs.

Yet the hard fact is that even with vastly expanded job training, not every welfare recipient will be able to get a private sector job in 2 years. Our economy still is not creating enough of those jobs. But those who cannot find one should be called on to do well-organized public service work. There is certainly plenty and badly needed work to do.

One caution: I also know from experience that public service work can degenerate into make work. As Pennsylvania's Secretary of Labor and Industry, I saw how well-intentioned efforts like summer jobs for youth can pay young people to kill time in local government offices doing little more than moving around meaningless files.

At the same time, I have also seen rigorous, team-based public work in the nonprofit, independent sector that is both worthwhile in meeting community needs and useful in developing not only job skills, but also the discipline, responsibility, and initiative that is essential for success in work and in life.

An effective public works program has to achieve a careful balance. It has to require more than simply putting in a certain number of hours to get a welfare check. It should be a job for which the former welfare recipients are paid by the community agency or service corps where they work.

The work should be structured. Whether it is out in the community or inside an office, the tasks should be challenging, the rewards well-earned. A pay check, not a welfare check, is essential if people are to see themselves—and be seen as—moving from welfare to work.

Third, we have to get rid of the disincentives to work that exist in the system today. To put it simply, we have to make work pay. We have already taken an important first step by increasing the earned income tax credit. This enables families with low earnings to gain tax credits for each dollar that they earn themselves. Only those who work get the credit. And, up to a limit, the more they work, the more they get.

The earned income tax credit is exactly the opposite of welfare. Welfare penalizes people who go to work by cutting their benefits. So it encourages them to stay at home. But the tax credit rewards work. As a result, it is estimated that over half a million low-income Pennsylvania families will qualify for some $808 million in additional earnings.

That is only a start. What I hear over and over again all across our State—from employers and workers, from welfare recipients and social workers—is that the single most powerful incentive to stay on welfare is the health care benefits available while on welfare.

As Secretary of Labor and Industry, I found that the biggest obstacle to our effort to move people from welfare to work was how many poor single mothers were afraid to take job training opportunities because the entry-level jobs they could get did not include the health benefits that staying on Medicaid gave them and their children.

As long as people are afraid to leave welfare because they are afraid of losing their health care, people will stay on welfare when they could take jobs. And what is even worse, some people will actually quit jobs that lack health benefits and go on welfare in order to qualify for Medicaid.

Last fall at a Small Business Committee hearing I held in northeastern Pennsylvania, Philadelphia businessman Samuel Kuttab told how it broke his heart, and hurt his bottom line, to

have dedicated, productive workers quit their jobs and go on welfare when what they really needed was health insurance.

At a Labor Committee hearing I held earlier this year in Chester, PA, I heard from Kathleen Lawson of Lester, PA—a mother who has worked all her life. Her job does not provide health insurance. Recently doctors found a lump in her breast. She is concerned that she may be forced to quit and go on welfare—so that Medicaid will pay for the treatment she needs to fight breast cancer.

Marguerite Jones of Sharon Hill, PA, had a similar story. A mother of three, Ms. Jones used to work in a mental health group home. Her job provided health insurance for herself—but not for her children. One of her sons has severe asthma. She couldn't afford his medication—so she was forced to give him only half of the dosage he needed. She went to the local welfare office to see if she could get medical assistance for her son—but was told that she was over the income limit by $5 dollars. Five dollars.

After struggling for years, Marguerite Jones left her job and went on welfare. Now her son is able to take the full dosage of his medication. And she is unemployed. Why do we force people to make that kind of a choice between their independence and their children's health?

The head of a county welfare office told me that more than half the people who come to the welfare office seeking assistance are actually looking for medical assistance—not cash benefits. These are working people without health care. And far too often, they, like Marguerite Jones, become unemployed people on Medicaid.

This is unacceptable. Clearly, health care reform that guarantees every American private health insurance is an essential prerequisite to reforming welfare. If anyone thinks that we can do one without the other then they don't understand the problem.

Some believe that we cannot accomplish both health care reform and welfare reform this year, in this Congress. I disagree. The fact is, we cannot end welfare as we know it unless we reform health care. And to those who say that Congress cannot move forward on both tracks at the same time, these stories tell us that we cannot afford not to.

That leads me to the fourth key part of the puzzle: preventing people from going on welfare in the first place. That means improved job training, education, and job search programs for those who are laid off through no fault of their own. As we did with our Job Center Program in Pennsylvania, we have to turn our Federal unemployment system into a reemployment system.

When I was secretary of labor and industry, at one point we counted 22 separate and uncoordinated Federal job training and placement programs. I am proud that the one-step shop idea we pioneered in Pennsylvania is providing a model for Secretary Reich and the Clinton administration for how to combine, simplify and streamline job training, and placement services.

For those who have not yet joined the work force, we need to expand the kind of school-to-work transition and youth apprenticeship programs that are also working in Pennsylvania. We know that in learning-by-doing, young people gain not only the job skills, but also the discipline, initiative and personal responsibility required to succeed as workers in a competitive world economy.

In recent years, only half of our high school graduates enter postsecondary education or training programs. Of these, only half have completed their degrees. Too many of these young people move from one low-skill job to the next, with periods of unemployment and sometimes welfare in between. It is estimated that 50 percent of adults in their late twenties have not found a steady job. We simply cannot afford to waste their productivity, talents and skills.

The Career Pathways Act Senator SIMON and I introduced last year—now incorporated in the School-to-Work Transition Act, will help the half of high school students who do not go on to college prepare for good jobs, for real jobs in the private sector.

The average stay on welfare is under 2 years—but a third of those who enter welfare as teenagers stay on welfare for over 10 years. So it makes sense to focus intensive services and requirements first of all on those who are most likely to stay on welfare for a long time—the young, and those with the most barriers to employment.

That is what we did in Pennsylvania with the Single Point of Contact Program. We targeted those who have never worked before, those without a high school diploma or GED, and those who are illiterate: 80 percent are under 30 years old.

And despite the tough odds, we achieved results. One success story is Donna Russini of Swissvale, PA. Donna went onto welfare after her divorce. She had some work experience, but few marketable skills. She had trouble finding a job that would support her and her son. She entered the Single Point of Contact Program in 1987. She said "my goal was to have my son, Tony, look at me with pride."

The program gave Donna the direction and the job skills she needed. She graduated from a secretarial program and attended Allegheny Community College part-time. Ms. Russini now has a good job at Integra Bank—but she does not forget how far she has come. She says, "I keep one food stamp in my wallet to remind me where I come from."

Like so many people in our State and across the country who have been forced by circumstances onto welfare, Donna Russini knows the value of independence and importance of taking responsibility for herself and her family. She wants to set a good example for her son. And the system does not make it easy for her.

And that leads to the fifth point, the system seems to make it easy for parents who don't take their responsibilities seriously. It is a scandal that only a small fraction of single mothers get any child support at all from absent fathers today. Of the $55 billion in child support that is owed, only $11 billion is collected.

Bringing children into this world is a serious responsibility. For fathers as well as mothers. No one can doubt that our American society seems somehow to have devalued that responsibility.

Hard economic circumstances are something we all understand. Most Americans have felt hard-pressed in the pocketbook over the past few years. But that is no excuse for deadbeat dads skipping out on the obligations they owe to their own children.

That is why I am a cosponsor of Senator BRADLEY's legislation to improve and strengthen the collection of child support—especially between different States. We need to do a better job of establishing paternity and determining and collecting child support payments in this country—because an ever-increasing number of America's poor are children. And the more children who grow up poor, the more young adults there are who are likely to fall into the same welfare trap.

Our job, in Congress and in our country, must be to break that cycle of dependency that all too often continues from one generation to the next. I believe we are ready to do it.

Republicans in Congress have offered a serious proposal for reform. I do not agree with every detail of their plan. But their approach shares a number of elements I have been proposing and the President is proposing.

We have the opportunity now to build on that common ground and find a consensus for action.

The vast majority of Americans want a system built on reciprocal responsibility. And few dislike our current dependency system more than those who are in it and struggling to escape it. We owe it to them and to our country not to lose this opportunity to end welfare as we know it.

Just a few months before I came to the Senate, I spoke at Rosemont College's Centennial Symposium on the Papal Encyclical Rerum Novarum. To prepare for it, I went back to Pope Leo's 1891 document. Of course, there were elements in it that no longer apply to our modern society; as well as ideas for workers' rights that have been adopted in our laws and are part of our new reality.

But my primary reaction was how much truth he spoke. And how he still speaks to us today with unfinished agenda for action.

For many years in public affairs, I have seen how governments are big, slow, lumbering bureaucratic steeds that need to be stung into action by gadflies. Pope Leo was far more than a gadfly when he wrote of the scandal of the wretched condition of the century working classes. Looking at today's problems, I called my talk, "The Scandal of the Nonworking Classes." I said:

> We need a new encyclical which looks at the one-fourth of our people, more or less, who are without work—who are born into a class that is programmed not to work or who have fallen into that class. They have fallen into the safety net of our so-called welfare system and been entrapped by it.

The principle to guide our action was stated by Leo himself. "Work for all who are able to work is 'necessary; for without the result of labor a man cannot live.'" He went back to the Biblical authority: "In the sweat of thy brow thou shall eat thy bread."

In short, work is the essential way to make life more human. That's why our challenge today, as we take action to end the scandal of a welfare system which is failing the very people it was meant to serve, is the same challenge Leo put to all governments over a century ago:

> Everyone should put his hand to the work which falls to his share, and that at once and straightaway, lest the evil which already is so great become through delay absolutely beyond remedy.

Mr. President, the evils of our current welfare system are already great, but they are not beyond remedy—not if we in this Congress put our hands to the work which is our share; and if we do so without delay.

Mr. LOTT addressed the Chair.

The ACTING PRESIDENT pro tempore. The Senator from Mississippi [Mr. LOTT], is recognized.

Mr. LOTT. I thank the Chair.

(The remarks of Mr. LOTT pertaining to the introduction of S. 1955 are located in today's RECORD under "Statements on Introduced Bills and Joint Resolutions.")

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

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

The assistant legislative clerk proceeded to call the roll.

Mr. BRADLEY. 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.

The Senator is recognized for 10 minutes.

UNITED STATES-JAPAN RELATIONS: A STRATEGIC FRAMEWORK

Mr. BRADLEY. Mr. President, America's most important relationship internationally is with a country that is in the throes of a historic transformation. It is a country trying to break free from the bureaucratic shackles which have victimized its people and reduced its quality of life, shackles which have denied the public a voice in the governance of their country and a fair share of if considerable prosperity.

The stakes in the success of this transformation are high. If it succeeds, this country will emerge as a primary American partner in working for the kind of international environment conducive to a stable, peaceful, prosperous, and democratic future. If it fails, the world will be more nasty and brutish, and we will have to devote more of our scarce resources in support of vital national interests abroad.

The country in question is not Russia or China, it is Japan. And our approach to Japan has broad implications for American interests across the board: in bilateral trade, Japan's political reform, and American strategic interests.

The most visible symbol of the United States-Japan relationship is our merchandise trade deficit, now over $59 billion. Our current account deficit, which takes into account our surplus in service trade, is only around $12 billion smaller.

To understand what can work to reduce the bilateral trade balance, we must first understand what will not work. Quantitative measures will not eliminate the bilateral trade imbalance. The studies I have seen indicate that removing every single Japanese barrier would reduce the merchandise trade deficit by less than 20 percent. For example, a comprehensive study by the Institute for International Economics concludes that Japanese market access barriers are limiting American merchandise exports by only about $9 to $18 billion, or less than the increase in that deficit since 1990. This is significant, of course, and argues for effective policies to open Japanese markets. But it pales in comparison with the magnitude of the overall problem.

The economic fact is that the overall U.S. trade deficit will continue as long as the gap remains between American savings and investment. As long as we consume more than we save, we will need to draw in goods from abroad. The Japanese component of that overall deficit will remain too large as long as the macroeconomic mix is wrong.

Japan is currently in recession, the deepest since its recovery from World War II. Industrial production is down 3.1 percent from a year ago. Unemployment is up and, for the first time in two generations, Japanese workers fear for their jobs. As a result, Japanese consumers are buying less and importing less. In fact, Japanese households spent 0.6 percent less in 1993 than in 1992, the first year-on-year drop in 12 years.

At the same time, the American economy is enjoying a recovery. This recovery, I should point out, owes something to the administration's successful effort to cut the budget deficit by almost $500 billion. Americans are buying more—industrial production is up 4.8 percent; retail sales have increased 5.8 percent. As a result, America is sucking in more imports. This combination of Japan in recession and America in recovery has led to a worsening of the bilateral trade deficit.

So our first task is to get the macroeconomic fundamentals in synch. That means the Japanese must take effective measures to get their economy growing again. A growing Japanese economy will do more than quantitative targets to bring the deficit down.

However, a growing economy is not enough. For even in a growing Japanese economy that imports more American goods, there will remain barriers to American companies in specific markets. Make no mistake about that. There are barriers. In pulp and paper, wood products, flat glass, auto parts—the list goes on and on—Japanese cartels and other market barriers are making it very difficult for United States firms to gain market share. These barriers must be removed. The question, then, is not whether to try to eliminate the barriers to the penetration of American goods into the Japanese market, but how to get those barriers removed.

There are two approaches to opening the Japanese economy to our products. One is to set and enforce quantitative sales targets on a market-by-market basis. Mr. President, I do not think this is going to work.

The problem with quantitative measures is that, like all measures for managing trade, they deny American firms the ability to compete and win market share. This is because, while it is always possible for bureaucrats to come up with a number—indeed, that is what Soviet bureaucrats did for over 60 years—there is no guarantee the number chosen will be the right number.

The Americans inevitably will see this number as a floor. The Japanese will see it as a ceiling. So trade will settle at that figure, or lower, even though there is no way of knowing whether that figure is the right one. If it is too high, trade will not reach it, no matter how much pressure is applied. If it is too low, we have missed out on sales and jobs.

However, there is another way. Instead of trying to manage results, we can focus our efforts on improving the working of the market. This means negotiating rules, then providing for adjudication. Under a transparent, open market, with agreed rules, backed by a transparent, open dispute resolution mechanism, American companies will have the opportunity to increase mar-

ket share well beyond any number Japanese bureaucrats would agree to. When the market, not bureaucrats, decide, American companies benefit.

Take the semiconductor agreement, for example. The target was set at 20 percent. Foreign market share is hovering around 20 percent and will continue to do so. That is what the target was; that is roughly where we are. I believe that in an open, transparent market with adequate dispute resolution, the American share alone would be far higher than 20 percent. Or, if the share did not exceed 20 percent, it would be for market reasons. Perhaps, for example, the product in question has lost its technological edge and American industry was focusing its efforts elsewhere. What good is a 20-percent market share in buggy whips? The point is, the market would decide, not a Japanese or American bureaucrat.

You do not have to take my word for this. Even the semiconductor industry, the beneficiary of the semiconductor agreement, concurs. In a March 2 form letter to me, the president of the Semiconductor Industry Association admits,

> There is no doubt that the United States share alone of the Japanese semiconductor market would be far higher than 20 percent if the market was open to free and fair competition.

In other words, with no quantitative target but an open market we would be doing a lot better.

I agree with those who assert that previous rules-based negotiations, such as the MOSS and SII talks, have been largely ineffective. But I believe they were ineffective not because of their focus on rules, but because of the lack of an ajudication process to hold the sides to their agreements. What we need to do is keep the focus on the process, while adding effective enforcement.

The focus on quantitative indicators also undercuts our interest in a successful Japanese political transformation. Prime Minister Hosokawa, the first post-war prime minister who is not from the Liberal Democratic Party, came to power on a wave of reform promises and has already taken courageous steps to update Japan's political economy. He has cracked open Japan's rice market, to the eventual benefit of Japan's consumers. He has also established single-member electoral districts which will give urban consumers a greater voice in the political process and has removed some of the money corruption that has so plagued Japanese politics.

Hosokawa's ultimate objective is to reduce the power of the bureaucracy and the entrenched big business interests, and thereby empower the people, the consumers, through their elected representatives. When consumers have more power, they will demand—and get—cheaper goods, higher quality goods, and a better standard of living. Cheaper goods, higher quality goods—that means American goods.

As I have explained, the Japanese Government must get its economy going again. To do that, Hosokawa is going to have to override the objections of his bureaucrats. The recent announcement of a $50 billion income tax cut shows how far he has come—and how far he still has to go.

The bureaucrats in the Finance Ministry are pushing hard for a consumption tax increase to counteract Hosokawa's income tax cut, even though that would reduce or even eliminate the stimulus to Japan's economy. In other words, the bureaucracy is putting budget stringency ahead of the economic welfare of the Japanese people. Hosokawa has secured the $50 billion cut for 1 year, but the questions of whether it will be permanent and whether it will be paid for by other tax increases, have yet to be settled. If Hosokawa is to do the right thing, he will need the power to override the bureaucrats.

But a policy focused on quantitative indicators works against Hosokawa's efforts by strengthening the bureaucrats and the cartels, and cutting the consumer out of the process. Quantitative targets need someone to do the quantifying and someone to monitor results against the targets. Politicians will not do this. Voters will not do this. Bureaucrats will. And who will they work with? The cartels, of course. Quantitative targets, then, strengthen the bureaucracy and the cartels at the expense of the consumer, at the expense of political reform, and at the expense of American exports.

There is a better way. A rules-based approach with an effective dispute settlement mechanism would, by opening up the process, educate Japanese consumers to the market impediments which are reducing their quality of life. Once an American company demonstrates, through a transparent dispute-settlement process, how it could deliver a better product at a lower price, Japanese consumers will be empowered to demand the product and demand the elimination of the market impediment. The argument will shift from, "Why are the Americans managing trade?" to "Why does our Japanese system work against our interests as Japanese people?"

Finally, a trade policy focusing on quantitative measures would be devastating to America's strategic interests.

I realize that there is a constituency here in the United States that favors standing up to Japan. I know that failure of the framework talks was politically safer than agreement.

But I also know that leadership means identifying and pursuing American interests, even at short-term political cost. And, in this case, our interests are clear—you do not pick needless fights with your closest allies.

Every President intones that "the most important bilateral relationship we have is with Japan." It has become a mantra, not a policy. Yet we see at the same time a policy that I would call trust but quantify. What does that sound like? Trust, but verify, the Reaganera cold war refrain. What does that tell you? That we do not trust our most important global strategic partner any more than we trusted our most dangerous strategic rival. That signals an ominous mindset that could hinder the achievement of our worldwide strategic objectives.

Look at our most important foreign policy challenges in this time of transformations following the end of the cold war, such as strengthening the global economy; containing nuclear proliferation in North Korea; supporting reform in Russia and the rest of the former Soviet Union; encouraging the development of a globally responsible China; reforming the international financial institutions. The list goes on, but all the items have one thing in common. Without United States-Japan cooperation, we will not be successful.

However, no cooperative relationship can succeed without trust, the trust underpinning tough decisions and sacrifices. Trust but quantify, by undermining United States-Japanese trust, undermines our ability to manage these issues.

In addition, it puts the United States at a disadvantage vis-a-vis Japan in our legitimate economic competition. Take, for example, our economic relations with the Southeast Asian "Tigers." These countries are all going to the Japanese saying, "Don't give in. Don't accept managed trade." All of these countries see free and open trade as vital to their economic development and prosperity, so they support Japan, which in this case ironically has the opportunity to portray itself as a free-trader standing firm against American efforts at managed trade.

As a result, a policy based on quantitative indicators undercuts the United States position as the balance to Japan in these countries, thereby reducing American influence and market share. It clears the way for the Japanese to become the champions of free trade and to portray us as the country pushing policies that are contrary to southeast Asian interests.

And it is not only the ASEAN's who are concerned. The Europeans are not only critical of a quantity-based approach, they are trying to take advantage by cozying up to the Japanese as one free trader to another.

So where do we go from here? I would recommend a two-part strategy: launch a new round of negotiations to agree on trading rules backed by dispute-settlement procedures, and identify areas for strategic cooperation.

First, we start a new round of talks. The goal of these negotiations would be to identify market impediments in specific sectors, negotiate rules to remove those barriers, and agree on an effective dispute settlement mechanism to ensure that both sides stick to their agreements.

What kind of dispute mechanism would provide United States companies adequate relief when Japanese markets don't function properly? I would recommend a three-part structure consisting of GATT/WTO procedures, United States-Japan binational panels, and a subcabinet early warning committee.

1. GATT/WTO PROCEDURES

The Uruguay round provides negotiated rules and an agreed panel structure for those areas covered by the agreement. Panels are made up of three experts chosen from a permanent roster. Decisions can be appealed, but cannot be blocked by the losing party. The winner can use cross retaliation against a recalcitrant loser. The problem here, of course, is that Japan largely conforms to GATT rules. The problems are in areas, such as competition policy, which are not covered under GATT.

2. BINATIONAL PANELS

For those issues that fall outside of GATT, such as competition policy, financial services, specific sector agreements, asset prices, et cetera, the United States and Japan would negotiate bilateral rules backed by a binational dispute panel mechanism. The United States-Israel FTA panel structure is a good model, with its three-member panels. Each side chooses one member and jointly chooses the president.

Panel procedures would be open and transparent, with ample scope for nonofficial input and maximum publicity. After all, the whole point is for consumers to know what is going on. There would be strict time limits on the process to prevent stalling.

Like the United States-Canada chapter 18 panels, United States-Japan panels would hold hearings and issue reports. Reports would be politically binding and form the basis for a resolution. Whenever possible, the result would be nonimplementation or removal of the offending measure. If that didn't happen, the Government of the winning party would be free to take sanctions. These sanctions would not, as now, appear as the result of Government fiat, but be seen by consumer as the result of an open, logical process.

3. SUBCABINET EARLY WARNING

Prevention is the best policy. To nip budding disputes, where possible, the United States and Japan should establish an informal group at subcabinet level. The group would be composed, perhaps, of a deputy USTR, Under Secretaries of State and Commerce, and an NEC deputy, with Japanese counterparts. The idea would be to develop an informal forum for straight talk that would eliminate misunderstandings that lead to disputes. This would not be adding a layer of bureaucracy to manage trade, but simply an informal discussion group to keep lines of communication open.

As the final piece of the trade puzzle, the two governments could set up a deregulation working group. Deregulation is essential to opening Japan's market, but it also constitutes the greatest threat to Japan's bureaucracy, since it would weaken the bureaucracy's power over its domestic constituencies. The fate of the Hiraiwa Commission report demonstrates the size of the obstacle.

What we must find is a way to empower Hosokawa to deregulate by giving him two arguments: The Americans want it, and it is good for Japan. We could do this by setting up a deregulation working group made up of executive, legislative, business, labor, and academic representatives. This satisfies the the Americans want it criterion. The group could build on the Hiraiwa Commission, and be charged to study regulation in both countries and come up with ideas that would benefit Japan. This satisfies the it's good for Japan criterion.

There would be no formal mechanism for implementing the Commission's recommendations. If these were binding, I doubt either bureaucracy, United States or Japanese, would agree to participate. However, assuming Hosokawa really is committed to deregulation, the Commission could give him a leg up on the bureaucrats.

Second, beyond trade, we need to look for high profile cooperative efforts in areas of strategic importance to us and the Japanese. The areas specified in the Framework Agreement—environment, technology, development of human resources, population, and AIDS—are a start but, frankly, do not go far enough. We must work together on such topics as human rights in China, North Korea proliferation, Russian reform, Middle East oil, and reform of the international economic system. In this way, we can build momentum in our relationship and establish the trust so vital to our strategic interests.

The United States has a major stake in the historic transformation underway in Japan. For half a century, the United States has borne the responsibility for making the international system work, for creating a benign international environment in which America and Americans can prosper. We should not shoulder that responsibility alone, but neither can we cast it off.

That responsibility now requires intelligent support for Japan's transformation. Trade policy must be at the center of our efforts, but a trade policy that works in synch with the ongoing transformation of Japan's economy and politics to achieve results that conform to both our interests.

Mr. HATCH addressed the Chair.

The ACTING PRESIDENT pro tempore. The Senator from Utah is recognized.

Under the previous order, morning business closes at 10 o'clock. If the Senator wishes the full 15 minutes, he would have to ask unanimous consent.

Mr. HATCH. Mr. President, I ask unanimous consent that I be afforded the full 15 minutes and that the time not be counted against the budget resolution.

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

NOMINATION OF CHIEF JUSTICE ROSEMARY BARKETT

Mr. HATCH. Mr. President, upon review of her judicial record and of her testimony before the Judiciary Committee, I have decided that I must oppose the nomination of Florida Chief Justice Rosemary Barkett to be a judge of the U.S. Court of Appeals for the Eleventh Circuit. I do so with regret because I like Chief Justice Barkett, and I consider her to be a fine person. But, I do so with the firm view that her record establishes that she will substitute her own policy views for the written law and take too soft an approach to criminal law enforcement.

In reaching this conclusion, I stress that no judicial nominee needs to agree with my reading of the law, or any other Senator's reading, in all or nearly all cases. But, there are just too many cases, across too wide a range of subjects, where I believe this nominee stepped well past the line of responsible judging. I and other Senators inquired about many of these cases at her hearing before the Judiciary Committee. Incidentally, I notified Chief Justice Barkett in advance of the cases that would be the subject of inquiry. I was not reassured by her testimony. Indeed, Chief Justice Barkett herself ultimately admitted that she overreached or was careless in a number of important opinions.

For example, in her dissent in University of Miami versus Echarte, Chief Justice Barkett voted to strike down statutory caps on noneconomic damages in medical malpractice cases. In addition to a variety of State law grounds, her dissent also relied upon the Federal equal protection clause. Without citing any Federal precedent, she asserted:

> I fail to see how singling out the most seriously injured medical malpractice victims for less than full recovery bears any rational relationship to the Legislature's stated goal of alleviating the financial crisis in the medical liability insurance industry.

In fact, the rational relationship between the means and the goal is self-

evident and was clearly spelled out by the legislature. One might well disagree with caps on noneconomic damages as a policy matter. But, Chief Justice Barkett's purported application of rational-basis review is a stark overreach and a flagrant misuse of the Federal equal protection clause. At her hearing, she acknowledged that she should not have relied on that clause.

In another case, Shriner's Hospital versus Zrillic, the nominee again relied on the rational basis standard under the Federal equal protection clause—as well as on a variety of State law grounds—in striking down a statute. In her opinion, she took the remarkable position that "underinclusive or overinclusive classifications fail to meet even the minimal standards of the rational basis test." This distortion of rational basis review into something akin to strict scrutiny clearly flies in the face of equal protection principles set forth in nearly 50 years of U.S. Supreme Court precedent.

Justice Barkett's misreliance on the Federal equal protection clause in these two cases is all the more striking to me in light of her partial dissent in Foster versus State. There, in seeking to rely on a theory of statistical racial discrimination in a challenge to the death penalty, she expressly acknowledged that the Federal equal protection clause was unavailable to her in light of a Supreme Court decision, McCleskey versus Kemp, squarely rejecting her view under the U.S. Constitution. Accordingly, in her Foster opinion she only relied on the Florida equal protection clause. Yet, she did not recognize the error of relying on the Federal Constitution when she wrote her opinions in Echarte and Zrillic. Her failure to appreciate in these two opinions that Supreme Court precedent foreclosed her reliance on the U.S. Constitution deeply troubles me. Supreme Court precedent governs lower courts not only when the claim presented is identical to that previously rejected by the Supreme Court but also when the basic doctrinal principles enunciated by the Supreme Court are applicable to a case. The failure to appreciate this opens the door to judicial activism—a door, I regret to say, I believe this nominee has repeatedly walked through.

I also find Chief Justice Barkett's reliance on Federal substantive due process very troubling. In State versus Saiez, she wrote an opinion holding that a State law criminalizing the possession of embossing machines capable of counterfeiting credit cards "violated substantive due process under the Fourteenth Amendment to the United States Constitution." Briefly, let me just say here, this expansive, substantive use of the due process clause is insupportable under Supreme Court precedent. The nominee testified that she was really relying on State due process grounds and her inclusion of the Federal due process clause was "careless".

Now, I can accept that, on occasion, a sitting judge may wish to phrase an opinion differently, in hindsight, or even believe that he or she got an opinion wrong. But tossing into her opinion the Federal equal protection clause and the Federal due process clause, on occasions where they very clearly do not belong, raises concerns that I do not find assuaged by testimony acknowledging this was erroneous. These two clauses are among the most powerful tools a judge can use, if so inclined, to legislate from the bench. In the case of the equal protection clause, virtually every law classifies people into at least two classes on some basis. Congress might enact limits on medical or product liability, which are subject to equal protection analysis as a component of the due process clause of the fifth amendment. States or Congress may seek to remove recipients from welfare rolls after a time limit of 2 years. A misreliance on Federal equal protection in reviewing these laws would lead to their erroneous invalidation. In the case of the due process clause, there is a tendency by some judges and commentators to read almost anything into it. This is all the more troubling because the misuse of these two clauses is not subject to limiting principles of judging, but only to the whim of the judge.

There will be many cases of first impression before the eleventh circuit. There will also be many times when precedents must be construed, and they may be construed broadly or narrowly. Most appellate decisions are not reviewed by the Supreme Court. These errors, then, are not merely technical or academic.

My concern about the nominee's approach to judging is heightened by other cases. For example, in a redistricting case (In re Constitutionality of Senate Joint Resolution 2G), the Florida Supreme Court selected from among six different modifications to a state legislative redistricting plan. Writing "dubitante," Justice Barkett stated that she was—

> loath to agree to any of the convoluted plans submitted under these hurried circumstances * * * If I had to choose only among those presented, however, I would choose the plan submitted by the NAACP simply because this is the organization that has traditionally represented and promoted the position that advances all minority interests.

At her hearing, Justice Barkett recognized that this opinion gave a clear appearance of partiality, as it expressed a preference for a party based on who the party was rather than the merits of that party's argument. She stated that she wished she had written her opinion differently.

On an occasional lapse, I am willing to give the benefit of the doubt to a nominee. But there are just too many instances in Justice Barkett's judicial record—the principal basis for evaluating her nomination—of overreaching, and on very significant issues, to leave me comfortable with elevating her to the eleventh circuit.

There are many other cases that concern me. For example, in Stall versus State, Chief Justice Barkett joined a dissent striking down a State obscenity statute on State law grounds. She also wrote separately in an opinion that, again, is sweeping and overbroad.

There are several problems with this dissent.

First, her statement that, "A basic legal problem with the criminalization of obscenity is that it cannot be defined" is flatly contradicted by the U.S. Supreme Court's landmark opinion in Miller versus California (413 U.S. 15 (1973)), which Chief Justice Barkett does not even acknowledge, much less discuss.

Second, she sweepingly claims that an obscenity law such as the one in Florida violates "every principle of notice and due process in our society"—not, I might add, a statement limited to state law principles, and, again, contradicted by the Miller decision.

Third, Chief Justice Barkett's opinion mischaracterizes the Florida law in the case: That law does not turn on the "subjective" view of a handful of law enforcement people and jurors or judges, as she incorrectly suggests. The Florida law incorporates the standard set forth by the U.S. Supreme Court in Miller. The law bans materials that, judged by contemporary community standards, appeal to the prurient interest, that depict or describe, in a patently offensive way, specifically defined sexual conduct, and that lack serious literary, artistic, political, or scientific value. Thus, the role of jurors or judges under this law would not be to make their own "subjective definition" of what is obscene, but rather to discern and apply existing community standards.

Incidentally, while I am pleased that she voted to uphold a Florida child pornography statute in a different case, I make two observations. First, this does not mitigate her sweeping views about the more general subject of obscenity. Second, contrary to her testimony, the child pornography statute is a different statute from the one she voted to strike down in Stall.

I have all of these concerns, and have yet to reach the issue of criminal law enforcement generally and the issue of the death penalty. There is much to say on these subjects.

With respect to criminal law issues aside from the death penalty, I believe that the nominee has too often erroneously come down on the side of lawbreakers and against police officers and law enforcement. She has exhibited an unduly restrictive view of the Fourth Amendment that would ham-

string the police, especially with regard to controlling drugs.

[See, e.g., *Bostick* v. *State*, 554 So.2d 1153 (Fla. 1989), rev'd, 111 S.Ct. 2382 (1991), on remand, 593 So.2d 494 (Fa. 1992); *State* v. *Riley*, 511 So.2d 282 (Fla. 1987), rev'd, 488 U.S. 445 (1989), on remand, 549 So.2d 673 (Fla. 1989); *Cross* v. *State*, 560 So.2d 228 (Fla. 1990); *Sarantopoulos* v. *State* (Fla. Dec 9, 1993)].

For example, in Bostick, a case involving cocaine trafficking, Justice Barkett adopted an across-the-board, per se ban on passenger searches on intercity buses even though Supreme Court precedent clearly called for an analysis of a search's legality based on all of the particular circumstances of the search. The U.S. Supreme Court reversed her.

The U.S. Supreme Court also reversed her in the Riley case, where her misapplication of precedent would have led to dismissal of charges against criminals growing marijuana. In yet another drug case, the Court criticized her overbroad reading of precedent.

In her dissent in a case called Cross, Justice Barkett refused to credit the testimony of police officers that they had seen cocaine packaged in the same peculiar way on hundreds of occasions in their combined 20 years of law enforcement. In so doing, she ignored Florida precedent cited by the majority that provided that the observation of an experienced policeman of circumstances associated with drugs could provide probable cause for an arrest.

In another dissent, she ignored settled principles enunciated in U.S. Supreme Court precedent in finding that someone who was growing marijuana in his backyard had his fourth amendment rights violated when police, acting on a tip, looked over a 6-foot fence, spotted the marijuana plants and then obtained a search warrant. Rather than inquiring whether the defendant had an expectation of privacy that was objectively reasonable, Chief Justice Barkett simply displayed her personal opposition toward what she regarded as overly intrusive law enforcement.

Justice Barkett has also written opinions striking down narrowly drawn laws that ban loitering for the purpose of prostitution and drug dealing. These opinions are badly flawed and misapply precedent. Moreover, they seriously disable communities from preventing harmful crime.

In my view, there are too many other instances where she unjustifiably construed criminal statutes in favor of criminals.

[See, e.g., *State* v. *Bivona*, 460 So.2d 469 (Fla. DCA 1984), rev'd, 496 So.2d 130 (Fla. 1986); *Gayman* v. *State*, 616 So.2d 17 (Fla. 1993).]

With regard to the death penalty, I appreciate that the nominee has voted to uphold the death penalty a number of times. I would expect as much in a State with a lawful death penalty and, unfortunately, a great deal of violent crime. But as I stated at Justice Barkett's hearing, a proper inquiry into a nominee's judicial outlook on the death penalty is not ended merely by noting that the nominee has upheld the death penalty in a number of cases, where even the most activist of judges cannot avoid its imposition. If a nominee exhibits a clear tendency to strain for unconvincing escapes from the imposition of the death penalty in cases where that penalty is appropriate, then that raises concerns in my mind about the nominee's fidelity to the law, no matter how many times the nominee may have upheld the death penalty in other cases. From my review of her record, I have concluded that Justice Barkett clearly exhibits such a tendency.

Let me further note at this point that one of Justice Barkett's dissenting opinions would render the death penalty virtually unenforceable, unless imposed on the basis of racial quotas. Her partial dissent in Foster versus State, had it been the law of Florida when she joined the Florida Supreme Court, would likely have led to a different outcome in many, if not virtually all, of the cases where she did vote to uphold the death penalty. Indeed, the theory she embraced in Foster, until its rejection by the U.S. Supreme Court in 1987, had become a principal weapon in the antideath penalty movement's arsenal.

Overall, I believe that Justice Barkett, in reviewing death sentences, views aggravating circumstances too narrowly; construes mitigating circumstances too broadly; creates unjustified categorical exclusions from death penalty eligibility; subjects the death penalty to racial statistical analysis that would paralyze its implementation, as I have just discussed; and creates procedural anomalies.

Let me mention just two of the many cases that concern me. Dougan versus State is a 1992 Florida Supreme Court case.

Dougan was the leader of a group that called itself the Black Liberation Army and that, according to the trial judge, had as its "apparent sole purpose * * * to indiscriminately kill white people and thus start a revolution and a race war." One evening in 1974, he and four other members of his group, armed with a pistol and a knife, went in search of victims. They picked up a white hitchhiker, Steven Orlando, drove him to an isolated trash dump, stabbed him repeatedly, and threw him to the ground. As Orlando writhed in pain and begged for his life, Dougan put his foot on Orlando's head and shot him twice—once in the chest and once in the ear—killing him instantly. Subsequent to the murder, Dougan made several tape recordings bragging about the murder, and mailed them to the victim's mother as well as to the media. The following excerpt from one of the tapes aptly illustrates the content:

He was stabbed in the back, in the chest and the stomach, ah, it was beautiful. You should have seen it. Ah, I enjoyed every minute of it. I loved watching the blood gush from his eyes.

The Florida Supreme Court upheld the death penalty for Dougan. Justice Barkett and another Justice joined a remarkable and very disturbing dissent by Justice McDonald in which she voted to reduce the death penalty to life imprisonment, with eligibility for parole in 25 years.

I rarely fault a nominee about an opinion the nominee has joined rather than written. And I do not hold a nominee to every word or phrase in an opinion he or she joins. There is an outlook which pervades this dissenting opinion, however, which is so striking and disturbing that I believe it is appropriate to consider it in evaluating this nomination. This is especially so in light of the fact that in many other cases Justice Barkett has written separately, or merely stated that she concurred in, or dissented from, the result, when another opinion had not suited her.

Normally, I would summarize this dissent, but I do not want anyone listening to think that I am distorting it. Accordingly, I am going to read verbatim excerpts from it:

This case is not simply a homicide case, it is also a social awareness case. Wrongly, but rightly in the eyes of Dougan, this killing was effectuated to focus attention on a chronic and pervasive illness of racial discrimination and of hurt, sorrow, and rejection. Throughout Dougan's life his resentment to bias and prejudice festered. His impatience for change, for understanding, for reconciliation matured to taking the illogical and drastic action of murder. His frustrations, his anger, and his obsession of injustice overcame reason. The victim was a symbolic representation of the class causing the perceived injustices.

To some extent, [Dougan's] emotions were parallel to that of a spouse disenchanted with marriage, full of discord and disharmony which, because of frustration or rejection, culminate in homicide. We seldom uphold a death penalty involving husbands and wives or lovers, yet the emotion of that hate-love circumstance are somewhat akin to those which existed in this case.

Such a sentence reduction should aid in an understanding and at least a partial reconciliation of the wounds arising from discordant racial relations that have permeated our society. To a large extent, it was this disease of racial bias and discrimination that infect an otherwise honorable person and contributed to the perpetration of the most horrible of crimes. An approval of the death penalty would exacerbate rather than heal those wounds still affecting a large segment of our society.

This opinion reeks of a moral relativism and excuse-making that I find shocking and unacceptable. As much as I personally like Chief Justice Barkett, I find it disturbing that President Clinton would nominate someone to a judgeship who applied these views to judicial decisions.

In the October 11, 1992, Sunshine magazine, the following reactions to this Dougan dissent are quoted:

"How can they compare a cold-blooded, premeditated, torturous crime that's motivated by racial hate and equate that to the emotional circumstances in domestic murders?" asks prosecutor Chuck Morton, himself a black man, after rereading the Dougan case.

Adds Tallahassee prosecutor Ray Markey: "To say that this white victim was a sacrificial lamb and call it a social awareness case—that's scary."

The Dougan majority had this to say in response to the dissent that Justice Barkett joined:

We disagree with the dissent that this pitiless murder should be equated with the emotional circumstances often existent in homicides among spouses. While Dougan may have deluded himself into thinking murder justified, there are certain rules by which every civilized society must live. One of these rules must be that no one may take the life of another indiscriminately, regardless of what that person may perceive as a justification.

Our review must be neutral and objective. This Court recently upheld the death penalty in the indiscriminate killing of two blacks by a white defendant. The circumstances of this case merit equal punishment. To hold that death is disproportionate here would lead to the conclusion that the person who put the bomb in the airplane that exploded over Lockerbie, Scotland, or any other terrorist killer should not be sentenced to death if the crimes were motivated by deepseated philosophical or religious justifications.

Let me explain why the general attitude and outlook adopted by Justice Barkett in that dissent concern me so much. The approach taken in that dissent is certainly applicable to others besides Dougan, including criminals of all races. Let me note that we have many cases in our country of racially motivated, disgusting, violent crimes against racial minorities. I do not view the perpetrators of such violence as worthy of a lesser penalty on account of their backgrounds or personal histories either.

If a person of any race, ethnic background, or social class considering violent or other crimes comes to believe that the judicial system views past mistreatment or discrimination against them as mitigating the seriousness of the crimes they commit or the penalties they face, I believe you undermine the principle of neutral justice and seriously reduce the deterrent value of the law. You create, frankly, an environment or atmosphere of permissiveness if these kinds of reasons can be used to justify lesser sentences. And I am not only talking about murder cases, such as the recent Colin Ferguson case on a Long Island commuter train. I mean other crimes as well, assault, robbery, carjackings.

Before Senators cast their votes on this nominee, they should read the opinions in this Dougan case, along with any other opinions they deem relevant. Mr. President, I ask unanimous consent that a copy of the Dougan case be included in the RECORD following my remarks.

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

(See exhibit 1.)

Mr. HATCH. In another case, *LeCroy v. State* [533 So.2d 750 (Fla. 1988)], the Florida Supreme Court, by a vote of six to one, affirmed a death sentence for two brutal first-degree murders by LeCroy, who was 17 years and 10 months old when he committed the murders. The court noted, among other things that the sentencing judge gave great weight to LeCroy's youth but found him mentally and emotionally mature. It also noted that Florida statutes clearly provided for some decades that 17-year-olds charged with capital crimes should be punished as adults. Construing U.S. Supreme Court precedent, it ruled that there was no constitutional bar to the imposition of the death penalty on those who were 17 at the time of the capital offense.

In her lone dissent, Justice Barkett concluded that the eighth amendment of the Federal Constitution prohibited Florida from executing those who were under 18 at the time of the crime. Reaching out to overturn this death sentence seems to be another clear instance of the nominee injecting her own policy preferences for the law. It is an unfortunate fact that 16- and 17-year-olds are committing the most vicious of adult crimes, including much-noted murders of tourists. If a State wishes to treat them as adults when they commit such crimes, then the substitution of a judge's personal views for the legislature's enactment is wrong. Not surprisingly, the U.S. Supreme Court later confirmed that it was the majority in LeCroy, rather than Justice Barkett, who had correctly read the Federal Constitution. (See Stanford versus Kentucky.)

I have many other concerns about this nominee—including, for example, her openness to pervasive quotas—and many other opinions of hers that trouble me. These concerns are outlined in some detail in three memoranda on Justice Barkett's cases that I would like to attach to my remarks. Mr. President, I request unanimous consent that these three memoranda be included in the RECORD following my remarks.

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

(See exhibit 2.)

Mr. HATCH. Some may claim that those of us who have concerns over this nomination have focused on a relatively small number of cases and that this is not an appropriate way to evaluate the nominee. I have a three-part response to this concern.

First, a large number of cases of any appellate court are, frankly, routine, and I would expect that virtually all judges would rule unobjectionably in most cases before them.

Second, and more importantly, if a small number of cases gives rise to large concerns, it is appropriate to base a vote on those cases. For example, the flagrant misuse of the Federal equal protection clause and the Federal due process clause may have occurred in just a handful of cases. But these two constitutional provisions are far too powerful, far too open to picking and choosing among democratically enacted statutes based on the policy preferences of a judge, for me to be much comforted by unobjectionable decisions in numerous other, routine cases. A single dissent that would sweepingly invalidate obscenity laws, notwithstanding clear U.S. Supreme Court precedent to the contrary, is tremendously significant for what it says about a nominee's legal outlook in a very important area of law. And it gives rise to doubts about whether the nominee will properly apply that Supreme Court precedent, especially in light of other opinions that give cause for the same concern in other contexts. A series of search and seizure opinions, improperly hamstringing the police in significant ways—especially in the war on drugs—has an importance beyond the mere number of these cases. An opinion, like her partial dissent in Foster, that would paralyze enforcement of the death penalty counts more than scores of routine death penalty cases. Joinder in an opinion like the Dougan dissent speaks volumes about a nominee's outlook on crime and personal responsibility.

I could go on and on, but this leads me to my third point:

The concerns about this nominee arise from more than a handful of cases, and they arise across numerous areas of the law, not just the death penalty.

I therefore have concluded with regret that I cannot in good conscience support this nomination.

I will close by noting that all of the tough-on-crime rhetoric the President serves up means less than his actions, including selection of judges. Placing more police officers on the street will avail us little if judges hamstring them; construe our criminal laws in an unduly narrow fashion; or sentence the criminals they do convict with unwarranted sympathy for the criminal.

I urge my colleagues to review the cases and the hearing testimony for themselves. I believe they will reach the same conclusion.

EXHIBIT 1

[Supreme Court of Florida, Jan. 2, 1992, Rehearing Denied April 1, 1992]

JACOB JOHN DOUGAN, APPELLANT, VERSUS STATE OF FLORIDA, APPELLEE, NO. 71755

Defendant was convicted in the Circuit Court, Duval County, R. Hudson Olliff, J., of homicide. Defendant appealed. The Supreme Court, 343 So.2d 1266, affirmed, and later, 362 So.2d 657 vacated sentence and remanded for resentencing. On remand, defendant was

again sentenced to death, and the Supreme Court again affirmed, 398 So.2d 439. Subsequently, the Supreme Court, 470 So.2d 697, granted defendant new appeal, affirmed his conviction, vacated death sentence, and remanded for resentencing hearing. On remand, defendant was again sentenced to death. The Supreme Court held that: (1) direction to jury to follow mandate of death penalty statute was not error; (2) finding that aggravating circumstances existed sufficient to warrant imposition of death penalty was not error; (3) finding that mitigating evidence was insufficient to warrant sentence of life imprisonment, rather than death, was not error; and (4) death sentence was not disproportionate.

Affirmed.

Kogan, J., concurred in the results only.

McDonald, J., dissented and filed an opinion in which Shaw, C.J., and Barkett, J., joined.

1. Jury ⚷33(5.1)

Trial court has broad discretion in determining if peremptory challenges exercised by prosecutor are racially motivated. (Per Curiam opinion of three Justices with one Justice concurring in the result)

2. Criminal Law ⚷731

Jury may, in its discretion, decide to grant "jury pardon" in deciding defendant's guilt. (Per Curiam opinion of three Justices with one Justice concurring in the result.)

3. Criminal Law ⚷1206.1(2)

Death penalty statutes must restrain and guide sentencing discretion in order to insure that death penalty is not meted out arbitrarily and capriciously. (Per Curiam opinion of three Justices with one Justice concurring in the result.)

4. Criminal Law ⚷796, 1206.1(2)

Death penalty statute, and instructions and recommendation forms based upon it, sets out clear and objective standard for channeling jury's discretion. (Per Curiam opinion of three Justices with one Justice concurring in the result.) West's F.S.A. §921.141(2).

5. Criminal Law ⚷796

Direction to jury to follow mandate of death penalty statute in determining whether to render advisory sentence of death or live imprisonment was not error; statute, which provides that jury must take into consideration both aggravating and mitigating circumstances and recommend sentence of death if sufficient aggravating circumstances exist and are not outweighed by sufficient mitigating circumstances, sets out clear and objective standard, and allowing jury to disregard statutory directions and guidance would engender arbitrariness and capriciousness in jury recommendations. (Per Curiam opinion of three Justices with one Justice concurring in the result.) West's F.S.A. §921.141(2).

6. Criminal Law ⚷796

Standard jury instruction on nonstatutory mitigating evidence is not ambiguous and allows jurors to consider and weigh relevant mitigation evidence. (Per Curiam opinion of three Justices with one Justice concurring in the result.)

7. Criminal Law ⚷986.2(1)

Deciding whether particular mitigating circumstances have been established and, if established, weight to be afforded those circumstances lies with trial court, and trial court's decision will not be reversed because appellant reaches opposite conclusion. (Per Curiam opinion of three Justices with one Justice concurring in the result.)

8. Homicide ⚷357(3, 7, 11)

Aggravating factors sufficient to warrant imposition of death penalty had been established where defendant and his companions set out with intent to kill any white person they came upon, defendant and his companions kidnapped and murdered hitchhiker in heinous, atrocious and cruel manner, defendant's killing of victim was committed in cold, calculated, and premeditated manner, and defendant, subsequent to murder, made several tape recordings bragging about murder, which were mailed to victim's mother and to the media. (Per Curiam opinion of three Justices with one Justice concurring in the result.) West's F.S.A. §921.141(2).

9. Homicide ⚷357(3, 4, 7, 11)

In homicide prosecution, mitigating evidence, and sentence to death, rather than life imprisonment, was required where, although defendant participated in civil rights activities and was active in community, social, health, and welfare work, and codefendants who also participated in murder had received lesser sentences, evidence indicated that murder was committed during kidnapping, that murder was heinous, atrocious and cruel, and that defendant had murdered victim in cold, calculated, and premeditated manner. (Per Curiam opinion of three Justices with one Justice concurring in the result.) West's F.S.A. §921.141(2).

10. Homicide ⚷357(3, 7, 11)

In homicide prosecution, death was not disproportionate sentence where defendant and his companions set out to murder any white person they encountered, defendant and his companions kidnapped hitchhiker and murdered him in heinous, atrocious and cruel manner, defendant, as leader of group, directed execution of kidnapping and murder in cold, calculated, and premeditated manner, and defendant was not mentally deficient, even though defendant had suffered life of racial prejudice. (Per Curiam opinion of three Justices with one Justice concurring in the result.) West's F.S.A. §921.141(2).

James E. Ferguson, II of Ferguson, Stein, Watt, Wallas & Adkins, P.A., Charlotte, N.C., for appellant.

Robert A. Butterworth, Atty. Gen. and Gary L. Printy, Asst. Atty. Gen., Tallahassee, for appellee.

PER CURIAM

We again review a sentence of death imposed on Jacob John Dougan, Jr., for a homicide committed on June 17, 1974.[1] This Court affirmed two prior death sentences, but later vacated them and remanded for resentencing; the findings of guilt have been affirmed.[2]

The trial judge accurately set forth the facts of this murder in his sentencing order:

"The four defendants, Jacob John Dougan, Elwood Clark Barclay, Dwyne Crittendon, and Brad W. Evans, were part of a group that termed itself the "Black Liberation Army" (BLA), and whose apparent sole purpose was to indiscriminately kill white people and thus start a revolution and racial war.

"Dougan was the group's unquestioned leader and it was he who conceived the murderous plan. Apparently he did not have to break down a wall of morality to induce Barclay, Crittendon, and Evans to participate—but it was Dougan's plan—and he pushed it through to murderous finality. The act of Dougan in firing the fatal shots and his leadership were undoubtedly reasons the jury recommended death only for him.

"The trial testimony showed that on the evening of June 17, 1974, the four defendants and William Hearn (who testified for the State) all set out in a car armed with a pistol and a knife with the intent to kill a "devil"—the "devil" being any white person they came upon under such advantageous circumstances that they could murder him, her, or them.

"As they drove around Jacksonville, they made several stops and observed a number of white persons as possible victims, but decided the circumstances were not advantageous and that they might be seen and/or thwarted by witnesses. At one stop, Dougan wrote out a note—which was to be placed on the body of the victim ultimately chosen for death.

"Eventually, the five men drove towards Jacksonville Beach, where they picked up a white hitchhiker, 18-year-old Stephen Anthony Orlando. Against Orlando's will and over his protest, they drove him to an isolated trash dump, ordered him out of the car, stabbed him repeatedly, and threw him to the ground. As the 18-year-old youth writhed in pain and begged for his life, Dougan put his foot on Orlando's head and shot him twice—once in the chest and once in the ear—killing him instantly."

Subsequent to the murder, Dougan made several tape recordings bragging about the murder, which were mailed to the victim's mother as well as to the media. The following excerpt from one of the tapes aptly illustrates the content:

The reason Stephen was only shot twice in the head was because we had a jive pistol. It only shot twice and then it jammed; you can tell it must have been made in America because it wasn't worth a shit. He was stabbed in the back, in the chest and the stomach, ah, it was beautiful. You should have seen it. Ah, I enjoyed every minute of it. I loved watching the blood gush from his eyes.

The jury recommended the death sentence by a vote of nine to three. The trial court found three aggravating circumstances and no mitigating circumstances and sentenced Dougan to death. Dougan raises numerous points on appeal, only some of which merit discussion.[3]

[1] The prosecutor exercised several peremptory challenges against black prospective jurors, and Dougan now argues that he failed to give racially neutral explanations for those excusals. The trial court, however, has broad discretion in determining if peremptory challenges are racially motivated. *Reed* v. *State*, 560 So.2d 203 (Fla.), *cert. denied*,——U.S. ——, 111 S.Ct. 230, 112 L.Ed.2d 184 (1990). Our review of the record shows no abuse of discretion in the trial court's acceptance of the prosecutor's explanations of the peremptory challenges. Thus, we find no merit to Dougan's first point on appeal.

Subsection 921.141(2), Florida Statutes (1987), provides:

(2) ADVISORY SENTENCE BY THE JURY.—After hearing all the evidence, the jury shall deliberate and render an advisory sentence to the court, based upon the following matters:

(a) Whether sufficient aggravating circumstances exist as enumerated in subsection (5);

(b) Whether sufficient mitigating circumstances exist which outweigh the aggravating circumstances found to exist; and

(c) Based on these considerations, whether the defendant should be sentenced to life imprisonment or death.

The instructions and jury's recommendation form used in this case tracked the lan-

[1] Footnotes at end of article.

guage of the statute. During deliberations, however, the jury asked the court if it could recommend life imprisonment "in the event that the jury decides that sufficient aggravating circumstances exist to justify a death sentence and that sufficient mitigating circumstances do not exist." After conferring with the parties, the court told the jury to answer each question on the recommendation form "as you deem appropriate from the law and the evidence." Dougan now argues that the jury should be allowed to recommend life imprisonment regardless of its findings as to aggravating and mitigating circumstances. We disagree.

[2, 3] A jury may, in its discretion, decide to grant a "jury pardon" in deciding a defendant's guilt. *E.g., Amado* v. *State*, 585 So.2d 282 (Fla.1991). On the other hand, "where discretion is afforded . . . on a matter so grave as the determination of whether a human life should be taken or spared, that discretion must be suitably directed and limited so as to minimize the risk of wholly arbitrary and capricious action." *Gregg* v. *Georgia*, 428 U.S. 153, 188–89, 96 S.Ct. 2909, 2932, 49 L.Ed.2d 859 (1976). As pointed out by the United States Supreme Court, "there is no . . . constitutional requirement of unfettered sentencing discretion . . . and States are free to structure and shape consideration of mitigating evidence 'in an effort to achieve a more rational and equitable administration of the death penalty.'" *Boyde* v. *California*, 494 U.S. 370, 110 S.Ct. 1190, 1196, 108 L.Ed.2d 316 (1990) (quoting *Franklin* v. *Lynaugh*, 487 U.S. 164, 181, 108 S.Ct. 2320, 2331, 101 L.Ed.2d 155 (1988)). To that end, death penalty statutes must restrain and guide the sentencing discretion to ensure "that the death penalty is not meted out arbitrarily and capriciously." *California* v. *Ramos*, 463 U.S. 992, 999, 103 S.Ct. 3446, 3452, 77 L.Ed.2d 1171 (1983). *Cf. California* v. *Brown*, 479 U.S. 538, 541, 107 S.Ct. 837, 93 L.Ed.2d 934 (1987) ("death penalty statutes [must] be structured so as to prevent the penalty from being administered in an arbitrary and unpredictable fashion.").

[4] Under subsection 921.141(2) death may be the appropriate recommendation if, and only if, at least one statutory aggravating factor is established. After an aggravator has been established, any mitigating circumstances established by the evidence must be weighed against the aggravator(s). Florida's death penalty statute, and the instructions and recommendation forms based on it, set out a clear and objective standard for channeling the jury's discretion.

[5] Dougan's claim that the jury should be allowed to disregard the statutory directions and guidance would engender arbitrariness and capriciousness in jury recommendations. This is improper because [i]t is no doubt constitutionally permissible, if not constitutionally required, for the State to insist that "the individualized assessment of the appropriateness of the death penalty [be] a moral inquiry into the culpability of the defendant, and not an emotional response to the mitigating evidence." Whether a juror feels sympathy for a capital defendant is more likely to depend on that juror's own emotions than on the actual evidence regarding the crime and the defendant. It would be very difficult to reconcile a rule allowing the fate of a defendant to turn on the vagaries of particular jurors' emotional sensitivities with our longstanding recognition that, above all, capital sentencing must be reliable, accurate, and nonarbitary. At the very least, nothing . . . prevents the State from attempting to ensure reliability and nonarbitrariness by requiring that the jury consider and give effect to the defendant's mitigating evidence in the form of a "reasoned *moral* response," rather than an emotional one. The State must not cut off full and fair consideration of mitigating evidence; but it need not grant the jury the choice to make the sentencing decision according to its own whims or caprice.

Saffle v. *Parks*, 494 U.S. 484, 110 S.Ct. 1257, 1262–63, 108 L.Ed.2d 415 (1990) (citations omitted). Thus, we find no error in the trial court's directing the jury to follow the mandate of subsection 921.141(2).

[6] We also find no merit to Dougan's other arguments about the instructions on mitigating evidence. The standard jury instruction on nonstatutory mitigating evidence is not ambiguous and allows jurors to consider and weigh relevant mitigating evidence. *Robinson* v. *State*, 574 So.2d 108 (Fla.), *cert. denied*, —— U.S. ——, 112 S.Ct. 131, 116 L.Ed.2d 99 (1991). Dougan's contention that evidence of no prior criminal history can be rebutted only by convictions is incorrect. *Walton* v. *State*, 547 So.2d 622 (Fla. 1989), *cert. denied*, 493 U.S. 1036, S.Ct. 759, 107 L.Ed.2d 775 (1990).

The trial court found that three aggravators had been established—committed during a kidnapping; heinous, atrocious, or cruel; and committed in a cold, calculated, and premeditated manner. As nonstatutory mitigating evidence, the court specifically considered Dougan's civil rights activities, his community social, health, and welfare work, his family and personal background, his codefendants' lesser sentences, and the racial unrest at the time of this murder. The court held that, on this record, the evidence did not mitigate the penalty. Now, Dougan claims that the trial court erred both in finding that the aggravators had been established and in not finding that mitigators had been established. We disagree.

[7–9] Dougan states that the mitigating evidence related to four areas: 1) positive character traits; 2) contribution of racial oppression to the homicide; 3) potential for rehabilitation; and 4) inequality between his sentence and those of his codefendants and argues that the court erred in not finding that mitigators had been established. It is apparent from the judge's written findings that he considered these matters. Based on his evaluation of the evidence, however, he decided that the facts of this case did not support Dougan's contention that these matters constituted mitigating circumstances. *Rogers* v. *State*, 511 So.2d 526 (Fla. 1987), *cert. denied*, 484 U.S. 1020, 108 S.Ct. 733, 98 L.Ed.2d 681 (1988). Deciding whether particular mitigating circumstances have been established and, if established, the weight afforded it lies with the trial court, and a trial court's decision will not be reversed because an appellant reaches the opposite conclusion. *Sireci* v. *State*, 587 So.2d 450 (Fla. 1991); *Stano* v. *State*, 460 So.2d 890 (Fla. 1984), *cert. denied*, 471 U.S. 1111, 105 S.Ct. 2347, 85 L.Ed.2d 863 (1985). We find no reversible error regarding consideration of the evidence Dougan presented in his attempt to mitigate his sentence.

We likewise find no error in the trial court's holding three aggravators to have been established. The evidence fully supports finding this murder to have been committed during a kidnapping. The facts also set this murder apart from the norm of killing by illustrating the victim's suffering and Dougan's indifference to the victim's pleas and support finding the heinous, atrocious, or cruel aggravator. *Cf. Ponticeli* v. *State*, 593 So.2d 483 (Fla. 1991), and cases cited therein. Finally, the planning and execution of this murder demonstrate the heightened premeditation needed to find it had been committed in a cold, calculated, and premeditated manner. *Cf. Cruse* v. *State*, 588 So.2d 983 (Fla. 1991); *Rogers*. As discussed later, Dougan had no colorable claim of any moral or legal justification for this killing.

[10] Turning to Dougan's final point, we disagree that death is disproportionate in this case. There was no suggestion that Dougan is mentally deficient. To the contrary, he is intelligent and articulate and a leader among men. In fact, he recruited his codefendants while teaching them karate. He knew precisely what he was doing.

The dissent suggests that because Dougan has suffered a life of racial prejudice and that this murder was related to this, his sentence should be reduced to life. We do not minimize the injustices perpetrated by our society upon the black race. However, it must be noted that Dougan suffered less from the racial discrimination that occurred while he was growing up than many others of his race. Although abandoned by his mother, he was adopted at the age of two and one-half years by loving parents who provided him with a stable environment. Several witnesses said that he was well liked in high school, and he achieved the rank of Eagle Scout. There was no evidence that he suffered any racial discrimination not common to all of the black community.

We disagree with the dissent that this pitiless murder should be equated with the emotional circumstances often existent in homicides among spouses. While Dougan may have deluded himself into thinking this murder justified, there are certain rules by which every civilized society must live. One of these rules must be that no one may take the life of another indiscriminately, regardless of what that person may perceive as a justification.

Our review must be neutral and objective. This Court recently upheld the death penalty in the indiscriminate killing of two blacks by a white defendant. Asay v. *State, 580 So.2d 610 (Fla.), cert. denied, —— U.S. ——, 112 S.Ct. 265, 116 L.Ed.2d 218 (1991). The circumstances of this case merit equal punishment. To hold that death is disproportionate here would lead to the conclusion that the person who put the bomb in the airplane that exploded over Lockerbie, Scotland, or any other terrorist killer should not be sentenced to death if the crime were motivated by deep-seated philosophical or religious justifications.*

We have reviewed the other issues Dougan raises[4] and find no reversible error. Therefore, we affirm the sentence of death.

It is so ordered.

OVERTON, GRIMES and HARDING, JJ., concur.

KOGAN, J., concurs in result only.

McDONALD, J., dissents with an opinion, in which SHAW, C.J., and BARKETT, J., concur.

McDONALD, Justice, dissenting.

This case is unique; it is also a case of contrast. Dougan's counsel describes the events as a tragic aberration while others view them as frightening, inexcusable, and callous. In the entire bizarre series of events leading to and following the murder by "an unacceptable act of violence upon an unsuspecting white youth," Dougan was the leader and the planner.

Substantial evidence was presented at the last sentencing proceeding to assist the jury, the trial judge, and this Court in determining the appropriate sentence. The jury recommended death,[5] which the trial judge imposed. He found that the homicide was cold, calculated, and premeditated without any

pretense of moral justification, that in its planning it was especially cruel and atrocious and in its execution especially heinous, and that there was a kidnapping to facilitate the crime. The trial judge either rejected mitigating circumstances or found them to be so insignificant that they did not outweigh the aggravating ones.

It is not our function on review to reweigh the evidence, but, rather, to determine whether the trial judge's findings and conclusions are supported by the record. There is evidence to support the conclusions of the trial judge on the aggravating factors, even though in the mind of Dougan there was a pretense of moral justification for his acts. On the other hand, it is our responsibility to review the totality of the circumstances to determine whether death is appropriate when compared to other death sentences. *Adams* v. *State*, 412 So.2d 850 (Fla.), *cert. Denied*, 459 U.S. 882, 103 S.Ct. 182, 74 L.Ed.2d 148 (1982); *Brown* v. *Wainright*, 392 So.2d 1327 (Fla.), *cert. Denied*, 454 U.S. 1000, 102 S.Ct. 542, 70 L.Ed.2d 407 (1981). We have reduced death sentences to life imprisonment after reviewing both the aggravating and mitigating circumstances as shown in the record and concluding that death is not warranted. *E.g.*, *Halliwell* v. *State*, 323 So.2d 557 (Fla.1975).

Dougan's mother was white and his father, whom he never knew, was black. After Dougan's birth, his mother returned to an all white community where she abandoned her son. Although as much white as black, Dougan was rejected by his white relatives and the white population. Ultimately he was adopted by an understanding and compassionate family which also came from a biracial background. An intelligent person, Dougan was well educated and became a leader in the black community, but throughout his life was confronted with a perception of injustice in race relations. Within the black community he was respected. He taught karate and counseled black youths. When blacks were refused service at a lunch counter, he participated in a sit-down strike in defiance of a court order and was held in contempt of court therefor. This was the only blemish, if it can be called one, on his police record until this homicide.

The events of this difficult case occurred in tumultuous times. During the time of the late sixties and early seventies, there was great unrest throughout this country in race relations. Duval County, where this homicide occurred, did not escape and was also a place of such unrest. I mention these facts not to minimize what transpired, but, rather, to explain the environment in which the events took place and to evaluate Dougan's mind-set.

The trial judge was aware of everything I have stated. Indeed, he substantially recited these facts in his sentencing order. His final conclusion was that the grossness of the homicide clearly outweighed any other factor or combination thereof which may have lessened the ultimate penalty. The majority agrees, but I cannot.

We have said that the death penalty is reserved for those cases where the most aggravating and least mitigating circumstances exist.[6] We must determine whether Dougan belongs to that class of killers for whom the death penalty is the appropriate punishment. In resolving that issue and mindful of the factors set forth in section 921.141, Florida Statutes (1973), and established case law, we must carefully review what was done, how it was done, why it was done, and what kind of a person did it. How the public views these factors depends to a large extent upon the vantage point or perception of those looking at them. Understandably, in the eyes of the victim, or potential victims, the aggravating factors clearly outweigh the mitigating; in the eyes of the defendant, his friends, and most of those situated in the circumstances of Dougan, the death penalty is not warranted and is disproportionate to the majority of hate slayings, at least where the victim is black and the perpetrator is white.

Even though we are aware of and sensitive to these contrasting emotions, our review must be neutral and objective. This case is not simply a homicide case, it is also a social awareness case. Wrongly, but rightly in the eyes of Dougan, this killing was effectuated to focus attention on a chronic and pervasive illness of racial discrimination and of hurt, sorrow, and rejection. Throughout Dougan's life his resentment to bias and prejudice festered. His impatience for change, for understanding, for reconciliation matured to taking the illogical and drastic action of murder. His frustrations, his anger, and his obsession of injustice overcame reason.[7] The victim was a symbolic representative of the class causing the perceived injustices.

In comparing what kind of person Dougan is with other murderers in the scores of death cases that we have reviewed, I note that few of the killers approach having the socially redeeming values of Dougan. In comparison to Dougan's usual constructive practices, this homicide was indeed an aberration. He has made and, if allowed to live, can make meaningful contributions to society.

I ask again the question, is this one of the most aggravated and least mitigated cases reserved for the ultimate penalty of death? When considering the totality of the circumstances, but with compassion for and, hopefully, understanding from the family of the victim, I think not. A life sentence makes this penalty more proportionate to what has existed in emotional or other racially caused homicides.

Such a sentence reduction should aid in an understanding and at least a partial reconciliation of the wounds arising from discordant racial relations that have permeated our society. To a large extent, it was this disease of racial bias and discrimination that infected an otherwise honorable person and contributed to the perpetration of the most horrible of crimes. An approval of the death penalty would exacerbate rather than heal those wounds still affecting a large segment of our society.

Accordingly, I believe that the death penalty should be vacated and that Dougan's sentence should be reduced to life imprisonment without eligibility for parole for twenty-five years from the date of his incarceration for this murder.

SHAW, C.J. and BARKETT, J., concur.

FOOTNOTES

1. We have jurisdiction. Art. V, §3(b)(1), Fla. Const.

2. *Barclay* v. *State*, 343 So.2d 1266 (Fla. 1977), *cert. denied*, 439 U.S. 892, 99 S.Ct. 249, 58 L.Ed.2d 237 (1978); *Barclay* v. *State*, 362 So.2d 657 (Fla. 1978); *Dougan* v. *State*, 398 So.2d 439 (Fla.), *cert. denied*, 454 U.S. 882, 102 S.Ct. 367, 70 L.Ed.2d 193 (1981); *Dougan* v. *Wainwright*, 448 So.2d 1005 (Fla. 1984); *Dougan* v. *State*, 470 So.2d 697 (Fla. 1985), *cert. denied*, 475 U.S. 1098, 106 S.Ct. 1499, 89 L.Ed.2d 900 (1986).

3. Several issues have been decided adversely to Dougan's contentions: 1) adequacy of instructions on aggravating factors, *e.g.*, *Sochor* v. *State*, 580 So.2d 595 (Fla.), *cert. granted*, — U.S. —, 112 S.Ct. 436, 116 L.Ed.2d 455 (1991); 2) ex post facto application of the cold, calculated, and premeditated aggravating factor, *Combs* v. *State*, 403 So.2d 418 (Fla. 1981), *cert. denied*, 456 U.S. 984, 102 S.Ct. 2258, 72 L.Ed.2d 862 (1982); and 3) diminution of the jurors' sense of responsibility, *e.g.*, *Grossman* v. *State*, 525 So.2d 833 (Fla. 1988), *cert. denied*, 489 U.S. 1071, 109 S.Ct. 1354, 103 L.Ed.2d 822 (1989).

4. The remaining issues are: 1) impermissible appeal to racial bias; 2) refusal to grant change of venue; 3) no probable cause for the arrest; and 4) abdication of prosecutorial function.

5. The State describes the jury's recommendation of death as basically saying "that Mother Theresa would get the death penalty for organizing a plan to go out and kidnap an innocent man, torture him and then twice shoot him in the head."

6. "Death is a unique punishment in its finality and in its total rejection of the possibility of rehabilitation. It is proper, therefore, that the Legislature has chosen to reserve its application to only the most aggravated and unmitigated of most serious crimes." *State* v. *Dixon*, 283 So.2d 1, 7 (Fla. 1973), *cert. denied*, 416 U.S. 943, 94 S.Ct. 1950, 40 L.Ed.2d 295 (1974).

7. To some extent, his emotions were parallel to that of a spouse disenchanted with marriage, full of discord and disharmony which, because of frustration or rejection, culminate in homicide. We seldom uphold a death penalty involving husbands and wives or lovers, yet the emotions of that hate-love circumstance are somewhat akin to those which existed in this case. *See, e.g.*, *Ross* v. *State*, 474 So.2d 1170 (Fla. 1985); *Blair* v. *State*, 406 So.2d 1103 (Fla. 1981). However, if pecuniary gain is a dominant motive in a spousal homicide, we have upheld it. *E.g.*, *Buenoano* v. *State*, 527 So.2d 194 (Fla. 1988); *Byrd* v. *State*, 481 So.2d 468 (Fla. 1985), *cert. denied*, 476 U.S. 1153, 106 S.Ct. 2261, 90

EXHIBIT 2

JUSTICE BARKETT AND CRIMINAL LAW

This memorandum presents opinions by Justice Barkett in the field of criminal law that raise concerns about her decisionmaking in this field. This memorandum generally does not address Justice Barkett's death penalty jurisprudence, which is the subject of a separate memorandum.[1]

FOURTH AMENDMENT

Justice Barkett has a pattern of unduly restrictive search-and-seizure decisions that would hamstring the police in their battle against drugs if her views had prevailed.

Bostick v. *State*, 554 So.2d 1153 (Fla. 1989), rev'd, 111 S. Ct. 2382 (1991), on remand, 593 So.2d 494 (Fla. 1992)

Two Broward County Sheriff's officers searching for persons with illegal drugs boarded a bus going from Miami to Atlanta during a stopover in Fort Lauderdale. They had badges and insignia and one had a zipper pouch containing a visible pistol. They asked to inspect the defendant's ticket and identification. The ticket and identification matched. "However, the two police officers persisted and explained their presence as narcotics agents on the lookout for illegal drugs. In pursuit of that aim, they then requested the defendant's consent to search his luggage." Cocaine was discovered in his luggage, and he was arrested and charged with cocaine trafficking.

The trial judge determined, as a question of fact, that the defendant consented to the search and had been informed of his right to refuse consent. His motion to suppress was denied, and he then pled guilty, reserving his right to appeal the denial of the suppression motion. An appellate court affirmed.

By a 4 to 3 vote, the Florida Supreme Court, in an opinion by Justice Barkett, ruled that the search violated Bostick's Fourth Amendment rights. Justice Barkett's opinion adopted a per se rule that the police practice of routinely boarding buses to question passengers violates the Fourth Amendment rights of the persons questioned, and that any consent to search is necessarily tainted by this violation. The three dissenters rejected this per se rule; relying on U.S.

Footnotes at end of article.

Supreme Court precedent, they instead stated that the validity of consent was to be determined from the totality of circumstances, and they would have upheld the conviction.

By a 6 to 3 vote, the U.S. Supreme Court, in an opinion by Justice O'Connor, reversed Justice Barkett's ruling. *Florida* v. *Bostick*, 111 S. Ct. 2382 (1991). The Court rejected creation of a per se rule, and instead ruled that the determination whether a particular encounter constitutes a seizure must be made in the light of all the circumstances. The Court found "dispositive" the same U.S. Supreme Court precedent that the dissenters to Justice Barkett's opinion had relied on.

On remand, the Florida Supreme Court, by a 4–3 vote, ruled the search lawful. Justice Barkett, in dissent, concluded that "Bostick's consent to search was invalid as a product of an unreasonable seizure under the specific facts of this case."

This case is noteworthy in several respects:

1. Justice Barkett initially adopted an overbroad per se rule that would clearly have had the effect (including in the specific case at hand) of vitiating freely given consent to search and of freeing criminals.

When asked why she did not apply the totality-of-the-circumstances test called for under U.S. Supreme Court precedent, Justice Barkett did not answer the question. Instead, she stated that "search and seizure I think is one of the most difficult areas of the law" [135:7–8] and suggested (despite clear per se language in her opinion) that it was the U.S. Supreme Court that had "interpreted" her opinion to create a per se rule [135:12–14].

2. Justice Barkett did not follow existing U.S. Supreme Court precedent that both the U.S. Supreme Court and three of her colleagues recognized as dispositive. (The fact that three Supreme Court Justices sided with Justice Barkett does not in any sense validate her position: they were not obligated to adhere to Supreme Court precedent; she was.)

3. Justice Barkett found occasion to compare the police search method at issue to methods used by "Nazi Germany, Soviet Russia, and Communist Cuba."[2]

At her hearing Justice Barkett denied that she had made any such comparison: "Senator, I would never compare the conduct of any of our police officers in this country to those of Nazi Germany or Soviet Russia, and I do not think there is any question but that had I made such a comparison, I would not have received the support of many of the rank-and-file officers in my State." [136:23–137:3]

Her opinion shows, however, that Justice Barkett clearly did make such a comparison. The fact that she was able to obtain the support of many police officers in her retention campaign is beside the point (as is the number of prosecutors and law enforcement personnel who opposed her retention).

Justice Barkett's opinion elicited a rebuke from Florida Attorney General Bob Butterworth (a Barkett supporter). A January 23, 1990, St. Petersburg Times article reported on a speech he gave to the Florida Sheriffs Association:

"'A pattern appears to be developing, a pattern that should be discouraging to every law-abiding Floridian,' Butterworth said. 'During the past two or three years, the Florida Supreme Court has begun to show itself substantially more liberal on crime issues than the U.S. Supreme Court.'

"Butterworth said the time may be approaching when Floridians should consider constitutional amendments so accused criminals in Florida don't have rights that aren't available in other states.

"Butterworth gave the sheriffs a blow-by-blow look at three Florida Supreme Court rulings that overturned the convictions of defendants in drug cases. Two of the three were written by Justice Rosemary Barkett; the third was an unsigned opinion approved by a 4–3 majority of the justices.

"One of the opinions, written by Barkett in November, compared the searches conducted by Broward County sheriff's deputies on commercial buses with the roving patrols and arbitrary searches conducted in Nazi Germany, Soviet Russia and communist Cuba.

"'It is an insult to the 36,000 police officers in our state to be likened to Nazis,' Butterworth said. 'I can assure you that the three Florida law enforcement officers who lost their lives in the line of duty last year were not Nazis. Such language is simply not appropriate, and we should expect more from the highest court in this state.'"

State v. *Riley*, 511 So.2d 282 (Fla. 1987), rev'd, 488 U.S. 445 (1989), on remand, 549 So.2d 673 (Fla. 1989)

From a helicopter hovering 400 feet above Riley's property, police detected marijuana growing in a greenhouse. They then obtained a warrant to search the greenhouse, and arrested Riley. The trial court granted Riley's motion to suppress, but the appellate court reversed.

In a unanimous opinion by Justice Barkett, the Florida Supreme Court ruled that the helicopter surveillance of Riley's greenhouse violated the Fourth Amendment. In determining that Riley had a reasonable expectation of privacy that was invaded by the helicopter surveillance, Justice Barkett sought to distinguish the U.S. Supreme Court's decision in *California* v. *Ciraolo*, 476 U.S. 207 (1986). In *Ciraolo*, the Court had held that surveillance from a fixed-wing aircraft flying at 1000 feet did not violate the Fourth Amendment. According to Justice Barkett, "We simply cannot dismiss as irrelevant the difference between a fixed-wing aircraft flying at 1,000 feet and a helicopter circling and hovering at 400 feet so that its occupants can look through an opening in a roof." She further stated that "[s]urveillance by helicopter is particularly likely to unreasonably intrude upon private activities" and that "the details observed here from the vantage point of a circling and hovering helicopter could [not] just as easily have been discerned by any person casually flying over the area in a fixed- wing aircraft."

The U.S. Supreme Court reversed by a 5–4 vote. The plurality and concurring opinions found *Ciraolo* indistinguishable (as, apparently, did the authors of the dissenting opinions, since they had also dissented in *Ciraolo*). In the words of the plurality opinion: "there is nothing in the record or before us to suggest that helicopters flying at 400 feet are sufficiently rare in this country to lend substance to [Riley's] claim that he reasonably anticipated that his greenhouse would not be subject to observation from that altitude." *Florida* v. *Riley*, 488 U.S. 445, 451–452 (1989).

On remand, the Florida Supreme Court remanded to the trial court for further evidentiary development. *Riley* v. *State*, 549 So.2d 673 (Fla. 1989). Justice Barkett's opinion for the court asserted, "All nine justices of the United States Supreme Court agreed that the record lacked evidentiary development of Riley's claimed expectation of privacy." A separate opinion took the position that Riley's Fourth Amendment claim should be decided adversely to him, without any further evidentiary development.

A couple aspects of this case warrant attention:

1. Justice Barkett's attempted distinction of *Ciraolo* is not faithful to the rationale of *Ciraolo*. The question is whether an expectation of privacy is reasonable. To determine this, one should look, under the principle of *Ciraolo*, to whether helicopter flights at an altitude of 400 feet are legal or common. To instead compare what can be seen at 400 feet from a helicopter to what can be seen at 1000 feet from a plane is to misapply *Ciraolo*.

2. Justice Barkett's suggestion on remand that all 9 U.S. Supreme Court Justices believed that additional evidentiary development was necessary is not accurate. Both the plurality and the concurring opinion clearly believed that the state of the record could be held against Riley. Ultimately, it is probably a question of state law whether further development should be permitted. But the fact that Justice Barkett mischaracterized what the U.S. Supreme Court had said in order to support her remand order is troublesome.

The White House briefing materials contain a similar distortion: "The United States Supreme Court narrowly reversed on the question of allocation of the burden of proof in showing a constitutionally unacceptable invasion of privacy." [Br. at 23]

This is the second of the three cases Florida Attorney General Butterworth cited in his January, 1990 speech as part of a pattern of liberal criminal decisions of the Florida Supreme Court.

Cross v. *State*, 560 So.2d 228 (Fla. 1990)

Three detectives spotted Cross in an Amtrak station. Based on her monitoring of them and her lack of luggage for the trip that she was taking, they asked if they could speak with her. She said yes. When the name on her ticket did not match the name on her driver's license, they asked for permission to search her tote bag but advised her that she did not have to consent. She consented. Inside the tote bag, the detectives found a hard baseball-shaped object wrapped in brown tape inside a woman's slip. Having seen cocaine packaged in this manner on "hundreds of occasions" in their combined 20 years of law enforcement experience, they then arrested Cross. The contents of the package proved to be cocaine. The trial judge granted Cross's motion to suppress, but the court of appeal (ultimately) reversed.

By a vote of 5–2, the Florida Supreme Court held that probable cause existed for the arrest. The majority opinion cited Florida precedent holding that the observation of an experienced policeman of circumstances associated with drugs could provide sufficient probable cause. Justice Barkett, dissenting, adopted the reasons stated by a dissenting judge below, who opined that the taped package did not create probable cause. That opinion did not acknowledge, much less credit, the experience of the police officers that cocaine is often packaged in that unusual manner.

The majority opinion appears clearly correct, and Justice Barkett's dissent appears to reflect an unwarranted reluctance to rely on the experience of police officers (despite precedent warranting such reliance).

At her hearing, Justice Barkett stated: "My concern in that case, Senator, was to the quality of the evidence presented. *The conclusion of a police officer that it was his experience that this is the way it was does not comport, in my judgment with evidence.* A sim-

ple conclusory statement does not comport with the requisite evidence." [146:22–147:2]

The police officers' sworn testimony that they had seen cocaine packaged that way "hundreds of times" was not "conclusory." Justice Barkett is simply refusing to credit the police officers' testimony.

Sarantopoulos v. *State* (Fla. Dec. 9, 1993)

Having received an anonymous tip that Sarantopoulos was growing marijuana in his backyard, two police officers went to his residence. They entered a neighbor's yard, and one of the officers, standing on his tiptoes, peered over a six-foot high wood fence and spotted marijuana plants. The police then obtained a search warrant and arrested Sarantopoulos. The trial court granted Sarantopoulos's motion to suppress, but the appellate court reversed.

The Florida Supreme Court, by a 5–2 vote, held that the search was lawful. It reasoned that Sarantopoulos lacked a reasonable expectation of privacy in his backyard, since it was protected from view only from those who remained on the ground and who were unable to see over the six-foot fence.

Justice Barkett, dissenting, stated, "I cannot believe that American citizens sitting on porches or in their backyards are not constitutionally protected when government agents, acting only on an anonymous tip, climb on ladders or stretch on tiptoes to peer over privacy fences."

The core legal issue under U.S. Supreme Court law—which, under Florida law, governs application of Florida's search-and-seizure provision—is whether Sarantopoulos had a reasonable expectation of privacy. Justice Barkett's opinion, unlike the majority's, does not meaningfully address this issue. Instead, it simply reflects a hostility towards what she regards as overly intrusive law enforcement.

At her hearing, Justice Barkett said that the fact that the search was based on an anonymous tip was "a factor which I found very significant here." [141:20] But this factor is irrelevant to the question whether Sarantopoulos had a reasonable expectation of privacy in the first place; it comes into play only if he did. She also claimed that "another element [was] whether or not the police were lawfully in the [neighbor's] yard." [143:1–2] Again, that question has nothing to do with the prior question whether Sarantopoulos had a reasonable expectation of privacy.

State v. *Wells*, 539 So.2d 464 (Fla. 1989), aff'd (but criticized), 495 U.S. 1 (1990)

Wells was stopped for speeding. When the officer smelled alcohol on his breath, he arrested Wells for DUI. The officer then noticed cash lying on the car's floorboard, and asked Wells to open the car's trunk. Wells agreed to do so, but neither he nor the officer was able to work the trunk's lock. The officer then informed Wells that the car would be impounded. Wells gave permission for the trunk to be forced open and examined. The car was then transported to a facility, and a locked suitcase was found in the trunk. The suitcase was forced open and was found to contain a large amount of marijuana.

By a vote of 6–1, the Florida Supreme Court, in an opinion originally signed by Justice Barkett but later issued per curiam, held that the search of the suitcase violated Wells' Fourth Amendment rights. Among other things, the court held that the search of the luggage was not permissible under an inventory search theory. Justice Barkett construed a U.S. Supreme Court precedent, *Colorado* v. *Bertine*, 479 U.S. 367 (1987), as "mandat[ing] either that all containers will be opened during an inventory search, or that no containers will be opened. There can be no room for discretion." Since the police did not have a policy specifically requiring the opening of closed containers, the search of the suitcase was held to violate *Bertine*.

The U.S. Supreme Court, while affirming the judgment of the Florida Supreme Court, criticized Justice Barkett's reading of *Bertine*: "in forbidding uncanalized discretion to police officers conducting inventory searches, there is no reason to insist that they be conducted in a totally mechanical 'all or nothing' fashion. * * * A police officer may be allowed sufficient latitude to determine whether a particular container should or should not be opened in light of the nature of the search and characteristics of the container itself. * * * The allowance of the exercise of judgment based on concerns related to the purposes of an inventory search does not violate the Fourth Amendment." *Florida* v. *Wells*, 495 U.S. 1, 4 (1990). (This opinion was joined by five Justices; two other Justices also expressly disagreed with Justice Barkett's reading; and no Justice defended it.)

This case illustrates Justice Barkett's inclination to create mechanical rules that severely limit police discretion and that turn the Fourth Amendment into a straitjacket.

The White House briefing materials note that the U.S. Supreme Court upheld the decision in *Wells*, but fail to mention the fact that the Court criticized Justice Barkett's reasoning. [Br. at 22] The White House cites *Wells* and *Riley* in support of the claim that Justice Barkett is "vigilant in upholding the rights of individuals *while respecting the critical need for swift and fair law enforcement*." [Br. at 22]

PROSECUTORIAL DISCRETION

Foster v. *State*, No. 76,639 (Fla. Apr. 1, 1993)

(This case is addressed more fully in the death penalty memorandum. Its implications for quotas are discussed in the constitutional law memorandum. This memorandum will address its implications for criminal law generally.)

Foster, two young women, and another man, Lanier, drove to a deserted area where one of the women was to make some money by having sex with Lanier. As Lanier, who was very drunk, was disrobing, Foster suddenly began hitting him and then held a knife to Lanier's throat and sliced his neck. Foster and the women then dragged the still-breathing Lanier into the bushes and covered him with branches and leaves. Foster then took a knife and cut Lanier's spine. Foster and the women then split the money found in Lanier's wallet.

Foster was convicted of murder and sentenced to death in 1975. On resentencing, the trial court, finding three aggravating circumstances, again imposed the death penalty. The Florida Supreme Court, by a 4–3 vote, rejected Foster's claim that his death sentence was a product of racial discrimination against black victims. (The court did remand for resentencing on other grounds.)

Justice Barkett, dissenting from this racial discrimination ruling, would not accept the majority's determination that Foster's statistical evidence purporting to show that white-victim defendants in Bay County were more likely to get the death penalty than black-victim defendants failed to establish a constitutional violation. (Lanier, evidently, was white; Foster's race does not appear to be stated, but newspaper accounts report that he is also white.) Justice Barkett would have relied on the Florida Constitution's Equal Protection Clause to reach a result rejected by the U.S. Supreme Court in *McCleskey* v. *Kemp*, 481 U.S. 279 (1987), under the federal Equal Protection Clause. In *McCleskey*, the Court ruled that a capital defendant claiming a violation of the federal Equal Protection Clause must show the existence of purposeful discrimination and a discriminatory effect on him. According to Justice Barkett:

(1) The *McCleskey* standard fails to address the problem of "unconscious discrimination."

(2) Statistical evidence of discriminatory impact in capital sentencing that "cannot be traced to blatant or overt discrimination" should establish a violation of Florida's Equal Protection Clause.

(3) This statistical evidence should be construed broadly to include not only analysis of the disposition of first-degree murder cases, "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, and *the general conduct of a state attorney's office, including hiring practices and the use of racial epithets and jokes*." (Emphasis in italic.)

(4) The defendant should have the initial burden of showing the strong likelihood that discrimination influenced the decision 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 initial burden has been met, "the burden then shifts to the State to show that the practices in question are not racially motivated."

In addition to the fact (addressed elsewhere) that Justice Barkett's proposed standard would paralyze implementation of the death penalty, there is no reason why the standard should be limited to death penalty cases; her theory would apply equally to robbery, rape, and all other crimes. There is likewise no reason why Justice Barkett's standard would be limited to cases with white victims; a killer of a male victim, for example, could try to show that sexism pervades the prosecutor's office. As Justice Powell said in rejecting this standard in *McCleskey*: "McCleskey's claim, taken to its logical conclusion, throws into serious question the principles that underlie our entire criminal justice system." *McCleskey*, 481 U.S., at 314–315.

Justice Barkett's proposed standard would effectively impose rigid judicial oversight of prosecutorial decisionmaking.

STATUTORY CONSTRUCTION

State v. *Bivona*, 460 So.2d 469 (Fla. DCA 1984), rev'd, 496 So.2d 130 (Fla. 1986)

Bivona was arrested for shoplifting in California in June 1983. He was also charged by information with a previous bank robbery in Florida. On Florida's request, the State of California held him in jail pending his extradition to Florida, which occurred in August 1983. In January 1984, Bivona filed a motion claiming that the state had failed to bring him to trial within the 180 days required under Florida law. Bivona's motion counted from the time he was first arrested in California, not from the time he was returned to Florida. The trial judge granted the motion and dismissed the charges against him.

Judge Barkett, then on the district court of appeals, wrote the opinion for a divided (2–1) court affirming the dismissal of charges. The State relied on a section of the law in question, Rule 3.191(b)(1), that read:

"A person who is . . . incarcerated in a jail or correctional institution outside the juris-

diction of this State, or who is charged by indictment or information issued or filed under the laws of this State, is not entitled to the benefit of [the 180-day time period] until that person returns or is returned to the jurisdiction of the court within which the Florida charge is pending and until written notice of this fact is filed with the court and served upon the prosecutor."

Noting that Bivona had cooperated in being extradited, Judge Barkett ruled that this section "must be interpreted to apply [only] when a defendant is incarcerated in jails outside the jurisdiction of this state *on charges pending in the other state*." (Emphasis in italic.)

The Florida Supreme Court unanimously reversed. It found the language of Rule 3.191(b)(1) to be "without ambiguity" and criticized Judge Barkett for "put[ting] a gloss on it, unwarranted by anything that appears in rule 3.191."

Gayman v. *State*, 616 So.2d 17 (Fla. 1993)

Facts: Gayman was found guilty of petit theft. Because he had two prior convictions for petit theft, the trial court adjudicated him guilty of felony petit theft. It also classified him as a habitual violent felony offender (under the state habitual offender statute) based on a prior felony conviction for aggravated battery. His sentence was enhanced accordingly. A second petitioner, Williams, faced a similar situation; his prior felonies were for burglary and cocaine selling.

By a 6–1 vote, the Florida Supreme Court rejected Gayman's and Williams' claim that enhancement of a sentence based on a prior conviction constituted double jeopardy.

Justice Barkett, dissenting in part, opined that it was not sufficiently clear that the Florida legislature specifically intended the double enhancement (as a felony and as a habitual felony offender).

Justice Barkett fails to demonstrate that the ordinary operation of the Florida statutes would provide anything other than double enhancement. In asserting that the Florida legislature's intent was not sufficiently clear, Justice Barkett is implicitly repudiating the basic principle that legislative intent is reflected in the plain meaning of statutes. This repudiation is a license for judicial activism.

ANTI-LOITERING LAWS

A separate memorandum discusses the serious defects arising from Justice Barkett's opinions that held unconstitutional laws prohibiting loitering for the purpose of prostitution (Wyche) and for the purpose of drug-related activity (E.L. and Holliday). The injury that these rulings inflict on the ability of communities to police themselves bears attention.

OBSCENITY

Justice Barkett's dubiously reasoned position that laws against obscenity violate due process (in Stall) is discussed in a separate memorandum. Justice Barkett uses the hypothetical danger of misapplication of obscenity laws to strike down provisions that safeguard the civilized life of the community.

FOOTNOTES

[1] The case summaries in this memorandum are not intended to discourage the reader from reviewing the opinions themselves. Indeed, we encourage such review. In addition, the transcript of Justice Barkett's hearing is available for review in the minority office of the Senate Judiciary Committee.

[2] The passage in fuller context reads: "The intrusion upon privacy rights caused by the Broward County police is too great for a democracy to sustain. Without doubt the inherently transient nature of drug courier activity presents difficult law enforcement problems. Roving patrols, random sweeps, and arbitrary searches or seizures would go far to eliminate such crime in this state. Nazi Germany, Soviet Russia, and Communist Cuba have demonstrated all too tellingly the effectiveness of such methods. Yet we are not a state that subscribes to the notion that ends justify means."

JUSTICE BARKETT AND THE DEATH PENALTY

This memorandum presents Justice Barkett's approach to the death penalty. It is based on a review of over 300 death penalty cases in which Justice Barkett has participated, including every case in which she has written an opinion.[1]

Part I provides basic background on Florida's death penalty statute and on applicable laws governing death penalty proceedings. Part II examines a broad array of cases that illustrate how Justice Barkett applies these laws. Part III analyzes the oft-made (but little-scrutinized) claim by Justice Barkett's supporters that she has voted to enforce the death penalty in more than 200 cases.

At the outset, it should be made clear that Justice Barkett has voted to uphold the death penalty on a substantial number of occasions. This only begins the inquiry, however, for one would expect that a judge in a state with a death penalty and many murders committed within it will have many occasions when he or she must uphold the death penalty. But if a nominee exhibits a clear tendency to strain for unconvincing escapes from imposing the death penalty in cases where it is appropriate, that raises a concern about a judge's fidelity to the law, no matter how many times the nominee has upheld the death penalty in other cases. Moreover, as explained below, if Justice Barkett's view in the Foster case had prevailed, it is likely that the death penalty would be effectively repealed.

I. FLORIDA DEATH PENALTY LAW

Under Florida law, Fla. Stat. §921.141, a defendant who has been found guilty of capital murder then faces a separate sentencing proceeding to determine whether he should be sentenced to death or to life imprisonment. Florida is a so-called "weighing" state: the death sentence is warranted if the statutory "aggravating circumstances" outweigh the "mitigating circumstances." Florida law expressly limits the aggravating circumstances (or "aggravators") to the following list of 11:

(a) the defendant was under sentence of imprisonment when he committed the capital crime;

(b) the defendant was previously convicted of another capital felony or of a felony involving use or threat of violence;

(c) the defendant knowingly created a great risk of death to many persons;

(d) the capital crime was committed while the defendant was committing, or attempting to commit, or fleeing from committing or attempting to commit, a robbery, sexual battery, arson, burglary, kidnapping, aircraft piracy, or bombing;

(e) the capital crime was committed for the purpose of avoiding or preventing a lawful arrest or effecting an escape from custody;

(f) the capital crime was committed for pecuniary gain;

(g) the capital crime was committed to disrupt or hinder the lawful exercise of any government function;

(h) the capital crime was especially heinous, atrocious, or cruel;

(i) the capital crime was a homicide and was committed in a cold, calculated, and premeditated manner without any pretense of moral or legal justification;

(j) the victim was a law enforcement officer engaged in the performance of his official duties; and

(k) the victim was an elected or appointed public official engaged in the performance of his official duties, and the motive was related to the victim's official capacity.

Fla. Stat. §921.141(5). Florida law lists the following seven mitigating circumstances (or "mitigators"):

(a) the defendant has no significant history of prior criminal activity;

(b) the capital crime was committed under the influence of extreme mental or emotional disturbance;

(c) the victim participated in the defendant's conduct or consented to the act;

(d) the defendant was merely an accomplice whose participation was relatively minor;

(e) the defendant acted under extreme duress or the substantial domination of another person;

(f) 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; and

(g) the age of the defendant at the time of the crime. Fla. Stat. §921.141(6). In addition, under current federal constitutional rulings, any other mitigating evidence is also to be weighed.

The capital sentencing proceeding has two stages. In the first stage, the jury renders an advisory sentence based on whether sufficient aggravators exist and on whether the mitigators outweigh the aggravators. Fla. Stat. §921.141(2). In the second stage, the trial judge makes these same determinations. Id. §921.141(3). But under Florida case law, *Tedder* v. *State*, 322 So.2d 908 (Fla. 1975), a jury's recommendation of a life sentence is to be given great weight and can be overturned by the trial judge only if no reasonable person could conclude that death was not warranted.

A death sentence is entitled to automatic review by the Florida Supreme Court. Fla. Stat. §921.141(4). *Under a 1972 provision, anyone who is punished by "life" imprisonment may be eligible for parole after 25 years. Fla.* Stat. §775.082.

Once death-sentenced murderers have lost their direct appeal, they may pursue postconviction relief under state law (as well as federal postconviction relief in the federal courts). Two basic avenues may be pursued. First, a convicted capital murderer may file a motion for postconviction relief in the trial court under Florida Rule of Criminal Procedure 3.850. Denial of this motion is then reviewable by the Florida Supreme Court. Second, a convicted capital murderer may file an original action in the Florida Supreme Court for a writ of habeas corpus under Article V, section 3(b)(9) of the Florida Constitution.

II. JUSTICE BARKETT'S DEATH PENALTY JURISPRUDENCE

This Part will present cases that illustrate various of the means employed by Justice Barkett to vote against the death penalty. These include: (A) construing aggravators exceedingly narrowly; (B) construing mitigators very broadly; (C) creating categorical exclusions from death penalty eligibility; (D) subjecting the death penalty to racial statistical analyses that would paralyze its imple-

[1] The case summaries in this memorandum are not intended to discourage the reader from reviewing the opinions themselves. Indeed, we encourage such review. In addition, the transcript of Justice Barkett's hearing is available for review in the minority office of the Senate Judiciary Committee.

mentation; (E) developing procedural anomalies; and (F) failing to provide any reason at all.

A. Construing Aggravators Exceedingly Narrowly

When aggravators are given artificially narrow constructions, those who would face the death penalty escape it. Many of Justice Barkett's opinions illustrate a tendency to read the aggravators far too narrowly. For example:

Cruse v. *State*, 588 So.2d 983 (Fla. 1991)—

Cruse loaded an assault rifle, a shotgun, a pistol, and 180 rounds of ammunition into his car and began driving to a shopping center. On the way, he fired the shotgun at a 14-year-old boy who was playing basketball and then at the boy's parents and brother. At the shopping center, he shot and killed two shoppers who were leaving a grocery store and wounded a third. He then shot at various other customers, killing one and wounding another.

When Cruse heard sirens approaching, he got back in his car and drove across the street to another shopping center. When Officer Ronald Grogan approached in his police car, Cruse turned, inserted a new clip into his rifle, and fired eight times into the car, killing Officer Grogan.

Officer Gerald Johnson then entered the parking lot and exited his car. Cruse shot at Officer Johnson and wounded him in the leg. Cruse then headed into the parking lot, searching for the wounded officer. When he found him, he shot Officer Johnson several more times, killing him. As a rescue team attempted to move Officer Grogan's car out of Cruse's line of fire, Cruse fired several shots at them and told them to "get away from the cop. I want the cop to die."

Cruse then entered a store and began firing at people trying to escape. He killed one more and wounded many others. He then found two women hiding in the women's restroom and held one as a hostage for several hours. In all, Cruse killed six people and wounded 10 others.

Cruse was found guilty of, among other things, six counts of first-degree murder. The jury recommended death on all six counts. The trial court imposed the death penalty for the murders of Officers Grogan and Johnson.

By a vote of 6 to 1, the Florida Supreme Court affirmed the convictions and the death sentences. In her lone dissent, Justice Barkett voted to reverse the convictions. In addition, she stated that the death sentence was in any event inappropriate for Cruse.

The basis upon which Justice Barkett would have reversed the convictions was the prosecution's alleged failure to make available to Cruse so-called "Brady evidence." Under the U.S. Supreme Court's ruling in *Brady* [v. *Maryland*, 373 U.S. 83 (1963)], the prosecution must provide the accused, upon the accused's request, material evidence in its possession that is favorable to the accused. As she stated in your opinion, "Evidence is material when 'there is a reasonable probability that, had the evidence been disclosed to the defense, the result of the proceeding would have been different.'"

Justice Barkett would have ruled that evidence of the names of two mental health experts whom the prosecution had contacted should have been turned over to Cruse, and that the failure to turn over this evidence required reversal of the convictions and remand for a new trial. In her opinion, she rejected the majority's opinion that this evidence was merely cumulative. In addition, she stated, "I do not believe that the fact that other experts at trial expressed the same opinion [regarding Cruse's mental state] is a pertinent part of the inquiry of whether or not a Brady violation occurred."

In the second part of her dissent, Justice Barkett concluded that even if the convictions were to be upheld, the death sentence was in any event not warranted and should be reduced to life. She would have found that the cold-calculated-and-premeditated aggravator was not met. In particular, she concluded that Cruse had the "pretense of moral or legal justification" for his killings because "the evidence shows that Cruse was acting in response to his delusions that people were trying to harm him."

Justice Barkett also took the position that even apart from what she saw as a pretense of moral or legal justification, there was insufficient evidence of heightened premeditation in the murders of the two police officers.

Analysis: Justice Barkett's dissent appears riddled with flaws:

(1) Her position that it is not pertinent under *Brady* whether evidence is merely cumulative conflicts with the principle that evidence is material for purposes of *Brady* only if there is a reasonable probability that disclosure of the evidence would have led to a different result at trial. Merely cumulative evidence is by definition not material. So it appears that the basis upon which she voted to reverse Cruse's convictions is clearly invalid.

(2) As the majority pointed out, the consensus of the experts who testified was that Cruse's delusions related to a fear that others were trying to turn him into a homosexual, not to a fear of any physical harm. It therefore appears that Justice Barkett's finding of a pretense of moral or legal justification rests on a serious mischaracterization of the evidence.

(3) What additional facts would be needed to persuade Justice Barkett that Cruse had heightened premeditation? The evidence of heightened premeditation was clear: With respect to the murder of Officer Grogan, the evidence shows that when Officer Grogan approached in his police car, Cruse turned, inserted a new clip into his rifle, and fired eight times into the car, killing Officer Grogan. In addition, as a rescue team attempted to move Officer Grogan's car out of Cruse's line of fire, Cruse fired several shots at them and told them to "get away from the cop. I want the cop to die." With respect to the murder of Officer Johnson, the evidence shows that when Officer Johnson entered the parking lot and exited his car, Cruse shot at him and wounded him in the leg. Cruse then headed into the parking lot, searching for the wounded officer. When he found him, he shot Officer Johnson several more times, killing him.

McKinney v. *State*, 579 So.2d 80 (Fla. 1991)—

A driver of a rental car was shot to death in Miami when he stopped to ask directions. McKinney was convicted of first-degree murder (as well as armed robbery, armed kidnapping, and other offenses) and was sentenced to death.

The Florida Supreme Court, in an opinion by Justice Barkett, voted 6-1 to reverse the death sentence on the ground that the aggravators had not been sufficiently proven. E.g.: "While it is true that the victim was shot multiple times, a murder is not heinous, atrocious, or cruel without additional facts to raise the shooting to the shocking level required by this factor."

Analysis: Justice Barkett's determination that the only evidence supporting the "heinous, atrocious, or cruel" aggravator was the number of gunshot wounds ignores the special vulnerabilities that visitors face and the shocking nature of the crime. Indeed, there has been a recent rash of killings of tourists driving rental cars in Miami.

Porter v. *State*, 564 So.2d 1060 (Fla. 1990)—

Porter was the live-in lover of Evelyn Williams from 1985 until July 1986. Their relationship was marked by several violent incidents, including Porter's threat to kill Williams and her daughter. Porter left town for a few months, during which time Williams established a relationship with another man, Burrows.

When Porter returned to town in October 1986, Williams refused to see him. Porter contacted Williams' mother, who told him that Williams did not wish to see him anymore. A few days before the murders, Williams asked to borrow a gun from a friend; the friend declined, but the gun was later missing. During each of the two days before the murder, Porter was seen driving past Williams' home. Then, after drinking heavily, Porter invaded Williams' home, shot her to death, threatened to kill her daughter, and then killed Burrows in a scuffle. Porter pled guilty to the two murders, and was sentenced to death for the murder of Williams.

By a vote of 5 to 2, the Florida Supreme Court affirmed the death sentence. Barkett, dissenting (with Kogan), opined that in "almost every other case where a death sentence arose from a lover's quarrel or domestic dispute," the court had reversed the death sentence, and that the heightened premeditation aggravator had therefore not been met. She also concluded that Porter's heavy drinking rendered the death sentence disproportionate.

Analysis: The evidence of heightened premeditation was clear; indeed, Porter basically stalked his victim for two days. Justice Barkett's characterization of the murder as arising from "lover's quarrel or domestic dispute" appears inaccurate and beside the point.

Hodges v. *State*, 595 So.2d 929 (Fla. 1992)—

On the morning that Hodges was scheduled for a hearing on a charge of indecent exposure, the 20-year-old clerk who had complained of the indecent exposure was found shot to death next to her car in her store's parking lot. Hodges was convicted and sentenced to death. By a 6-1 vote, the Florida Supreme Court affirmed the death sentence.

Justice Barkett, dissenting, would have ruled that the two aggravators—witness elimination and cold, calculated, and premeditated killing—were "so intertwined here that they should be considered as one" and that, so considered, they did not strongly outweigh the mitigators.

Analysis: The two aggravators are "intertwined" only in the sense that aggravators arising out of the same murderous episode are inevitably intertwined. Witness elimination clearly involves a concern that the "cold, calculated, and premeditated" aggravator does not.

At her hearing, Justice Barkett claimed that her dissent followed (though it did not cite) a case called *Cherry* v. *State*, 544 So.2d 184 (Fla. 1989). In *Cherry*, the court, in an opinion by Justice Barkett, held that the aggravating factor of murder for pecuniary gain improperly duplicated the aggravating factor of murder during the commission of a burglary where the sole purpose of the burglary was pecuniary gain. The central precedent cited in *Cherry*, however, permits aggravators to be counted separately where they relate to "separate analytical con-

cepts," *Provence* v. *State*, 337 So.2d 783 (Fla. 1976), which would certainly appear to be the case in *Hodges*. Justice Barkett's dissent surely does not provide an adequate basis for her conclusion.

The White House briefing materials brazenly and falsely describe Justice Barkett's dissent in *Hodges* as "another excellent example of Justice Barkett's strict adherence to established Florida and U.S. death penalty jurisprudence." [Br. at 25]

B. Construing mitigators too expansively

In many cases, Justice Barkett appears to give undue weight to alleged mitigating evidence or to rely on such evidence to contend that the death penalty is somehow disproportionate to the crime. She appears too ready to adopt the view that society, or racism, or deprivation, mitigates responsibility for the horrific crime that the defendant has committed.

Dougan v. *State*, 595 So.2d 1 (Fla. 1992)—

Dougan was the leader of a group that called itself the Black Liberation Army and that, according to the trial judge, had as its "apparent sole purpose . . . to indiscriminately kill white people and thus start a revolution and a race war." He conceived a plan for his group to kill a "devil"—i.e., "any white person they came upon under such advantageous circumstances that they could murder him." One evening in 1974, he and four other members of his group, armed with a pistol and a knife, picked up a white hitchhiker, drove him to a trash dump, stabbed him repeatedly, and threw him to the ground. "As the 18-year-old youth writhed in pain and begged for his life, Dougan put his foot on [the youth's] head and shot him twice—once in the chest and once in the ear." Later, Dougan made several tape recordings bragging about the murder, and mailed them to the victim's mother as well as to the media. The following tape excerpt was said to be illustrative of the tapes' content: "He [the youth] was stabbed in the back, in the chest and the stomach, *ah, it was beautiful. You should have seen it. Ah, I enjoyed every minute of it. I loved watching the blood gush from his eyes.*" (Emphasis in italics.)

Dougan's case had been considered on the merits five previous times by the Florida Supreme Court. The court had affirmed two prior sentences but later vacated them and remanded for resentencing. On the most recent resentencing, the jury recommended death, and the trial court found three aggravating circumstances and no mitigating circumstances and therefore sentenced Dougan to death.

The Florida Supreme Court affirmed the death sentence. The plurality rejected a slew of arguments, including the claim that the death penalty was disproportionate under the circumstances.

Justice Barkett *joined* a dissent written by Justice McDonald that would have held the death penalty disproportionate. The dissent made the following remarkable observations:

1. "This case is not simply a homicide case, *it is also a social awareness case*. Wrongly, but *rightly in the eyes of Dougan, this killing was effectuated to focus attention on a chronic and pervasive illness of racial discrimination and of hurt, sorrow, and rejection*. Throughout Dougan's life his resentment to bias and prejudice festered. His impatience for change, for understanding, for reconciliation *matured* to taking the illogical and drastic action of murder. His frustrations, his anger, and his *obsession of injustice overcame reason. The victim was a symbolic representation of the class causing the perceived injustices.*" 595 So.2d, at 7–8 (emphasis in italics).

2. "To some extent, [Dougan's] emotions were parallel to that of a spouse disenchanted with marriage, full of discord and disharmony which, because of frustration or rejection, culminate in homicide. We seldom uphold a death penalty involving husbands and wives or lovers, yet the emotion of that hate-love circumstance are somewhat akin to those which existed in this case." 595 So.2d at 7 n. 7.

3. "*The events of this difficult case occurred in tumultuous times*. During the time of the late sixties and early seventies, there was great unrest throughout this country in race relations. . . . I mention these facts not to minimize what transpired, but, rather, to *explain the environment* in which the events took place and to *evaluate Dougan's mindset*." 595 So.2d, at 7 (emphasis in italics).

4. "There is evidence to support the conclusions of the trial judge on the aggravating factors, *even though in the mind of Dougan there was a pretense of moral justification for his acts*." 595 So.2d, at 6 (emphasis in italics).

5. "Understandably, in the eyes of the victim, or potential victims, the aggravating factors clearly outweigh the mitigating; *in the eyes of the defendant, his friends, and most of those situated in the circumstances of Dougan, the death penalty is not warranted* and is disproportionate to the majority of hate slayings, at least where the victim is black and the perpetrator is white. Even though we are aware of and sensitive to these contrasting emotions, our review must be neutral and objective." 595 So.2d, at 7 (emphasis in italics). (The dissent proceeds directly from here to the first passage quoted above.)

6. "In comparing what kind of person Dougan is with other murderers in the scores of death cases that we have reviewed, I note that few of the killers approach having the socially redeeming values of *Dougan*." 595 So.2d, at 8 (emphasis added). (This apparently refers to the dissent's earlier observations that Dougan was "intelligent," "well educated," "a leader in the black community," "taught karate and counseled black youths," and once "participated in a sit-down strike in defiance of a court order" at a lunch counter that refused service to blacks.)

Analysis: (1) The October 11, 1992, *Sunshine* magazine quoted two prosecutors' responses to the dissent that Justice Barkett joined:

"'How can they compare a cold-blooded, premeditated, torturous crime that's motivated by racial hate and equate that to the emotional circumstances in domestic murders?' asks prosecutor Chuck Morton, himself a black man, after rereading the Dougan case.

"Adds Tallahassee prosecutor Ray Markey: 'To say that this white victim was a sacrificial lamb and call it a social awareness case—that's scary.'"

In the words of the plurality, "While Dougan may have deluded himself into thinking this murder justified, there are certain rules by which every civilized society must live. . . . To hold that death is disproportionate here would lead to the conclusion that the person who put the bomb in the airplane that exploded over Lockerbie, Scotland, or any other terrorist killer should not be sentenced to death if the crime were motivated by deep- seated philosophical or religious justifications." 595 So.2d, at 6.

(2) While Justice Barkett did not author the dissent, she signed onto it in its entirety. The fact that she would join such an opinion speaks volumes, especially since she regularly writes separately when she has a different view.

At her hearing, Justice Barkett stated that she had taken a position in *Dougan* at one point that was "different from the one I took ultimately in the dissent. It is a very close case. I cannot quarrel with a conclusion which would have found it the other way. I cannot quarrel with the majority in that case." [74:10–15]

This comment is troubling in several respects: (1) What happens in conference is confidential. To engage in self-serving, selective disclosure of confidences is to abuse the process. (2) If Justice Barkett found the dissent so persuasive that she abandoned a previously held position, that exacerbates the concerns that *Dougan* raises. (3) How can she say that she cannot quarrel with the majority? She did quarrel with it: she dissented. If she is saying that she cannot express a reasoned argument against the majority, then on what basis did she dissent?

Wickham v. *State*, 593 So.2d 191 (Fla. 1991)—

In March 1986, Wickham was driving with family and friends when they discovered that they were low on money and gas. Wickham decided to obtain money through robbery. His group tricked a passing motorist into stopping to examine their car, and Wickham then pointed a gun at him. When the motorist attempted to return to his car, Wickham shot him in the back, and then again in the chest. When the victim pled for his life, Wickham shot him twice in the head. Wickham then rummaged through the victim's pockets and found $4.05. At trial, the jury convicted and recommended death. The trial judge found six aggravating circumstances and no mitigating circumstances, and sentenced Wickham to death.

The Florida Supreme Court affirmed the death sentence by a 4 to 2 vote, with Justices Barkett and McDonald dissenting. According to Justice Barkett's dissent, "If the death penalty is supposed to be reserved for the most heinous of crimes and the most culpable of murderers, Jerry Wickham does not seem to qualify. . . . At the time he committed this senseless murder, Jerry Wickham was a forty-year-old mentally deficient, socially maladjusted individual who had been institutionalized for almost his entire life." 593 So.2d, at 194–195.

Analysis: (1) *Wickham* and *Dougan*, read together, are especially revealing: Wickham was "mentally deficient"; Dougan was "intelligent" and "well educated." Wickham was "socially maladjusted"; Dougan was socially well-adjusted ("a leader in the black community," "respected," etc.). Remarkably, the very qualities that Justice Barkett sees as somehow sparing Wickham from the death penalty, when converted into their opposites, manage to spare Dougan. (2) Justice Barkett's tendency to find unjustified mitigation for violent crime is reflected in the following passage from her dissent: "In early 1966, at the age of twenty-two, [Wickham] was permanently discharged from the mental hospital with no directions, no support, and no medication. *Not surprisingly*, seven months later he attempted to rob a cab driver, shooting him in the process." 593 So.2d, at 195 (emphasis in italics).

Hayes v. *State*, 581 So.2d 121 (Fla. 1991)—

In the course of an evening consuming beer, cocaine, and marijuana, Hayes and two friends conspired to rob and shoot a taxicab driver in order to raise money to buy more cocaine. Hayes volunteered to do the shooting. Carrying out their plan, they borrowed a gun, then called a taxicab. During the ride, Hayes shot the driver in the back of his neck and killed him. Hayes then took forty dollars from the driver's pockets.

Hayes was convicted of first-degree murder. Mitigating evidence at the penalty phase showed that he had a neglectful, abusive, and deprived upbringing, that he had borderline intelligence, and that he had been consuming drugs and alcohol heavily for three years. The jury recommended death, and the trial court, finding that the aggravators—(1) "cold, calculated, and premeditated" and (2) for pecuniary gain and in the course of an armed robbery—clearly outweighed the mitigating evidence, sentenced Hayes to death.

The Florida Supreme Court, by a 5–2 vote, affirmed the death sentence. Justice Barkett, dissenting with Kogan, would have found that the mitigating evidence "renders the death sentence disproportional punishment in this case."

Hudson v. *State*, 538 So.2d 829 (Fla. 1989)—

Two months after breaking up with his girlfriend, Hudson, armed with a knife, broke into her home during the night. The former girlfriend, having received threats from him, was spending the night elsewhere. But her roommate was at home. When she began screaming at him to leave, Hudson stabbed her to death, put her body in the trunk of her car, and dumped her in a drainage ditch in a tomato field. Hudson was convicted and sentenced to death.

By a 6 to 1 vote, the Florida Supreme Court affirmed the death sentence. Justice Barkett, dissenting from the sentence, relied on the trial court's finding that Hudson "was apparently surprised by the victim during [his] burglarizing of [her] home" in support of her view that the death penalty was disproportionate to the offense.

Analysis: Anyone who breaks into a home that he believes to be occupied should expect to encounter an occupant. It is odd that this would somehow become mitigating.

King v. *State*, 514 So.2d 354 (Fla. 1987)—

While an inmate at a work-release correctional facility, King killed an elderly woman and robbed and burned her home. He was convicted of first-degree murder and was sentenced to death. The conviction and death sentence were affirmed on direct appeal, and his state postconviction petition was denied. On federal habeas, he obtained resentencing, but was again sentenced to death.

By a 5–2 vote, the Florida Supreme Court affirmed the resentence of death. In dissent, Justice Barkett (with Kogan) opined that a capital defendant must be permitted to offer at the penalty phase so-called "lingering doubt evidence"—evidence that the defendant might not actually be guilty of the crime of which he has just been convicted beyond a reasonable doubt.

Analysis: (1) If the defendant has been found guilty beyond a reasonable doubt, it follows that any evidence suggestive of his innocence either has already been rejected by the jury and the judge as not credible or would give rise, at most, only to *un*reasonable or whimsical doubts. Why should evidence that does not give rise to even a reasonable doubt of guilt and that is not otherwise relevant in any respect be required to be admitted in the sentencing phase as evidence of possible innocence? (2) In *Franklin* v. *Lynaugh*, 487 U.S. 164 (1988), the U.S. Supreme Court rejected Justice Barkett's position and made clear that it was not consistent with pre-existing precedent. In the words of Justice O'Connor's concurring opinion, "Our cases do not support the proposition that a defendant who has been found to be guilty of a capital crime beyond a reasonable doubt has a constitutional right to reconsideration by the sentencing body of lingering doubts about his guilt." 487 U.S. at 187.

C. Categorical exclusions

Justice Barkett would define certain categories of criminals—e.g., minors and those who are mentally retarded—as ineligible for the death penalty, and then would construe those categories very expansively. For example:

LeCroy v. *State*, 533 So.2d 750 (Fla. 1988)—

By a vote of six to one, the court affirmed a death sentence for two brutal first-degree murders by LeCroy, who was 17 years and ten months when he committed the murders. The court noted, among other things, that the sentencing judge gave great weight to LeCroy's youth but found him mentally and emotionally mature, and that Florida statutes specify that a child of any age charged with a capital crime "shall be tried and handled in every respect as if he were an adult." Construing U.S. Supreme Court precedent, it ruled that there was no constitutional bar to the imposition of the death penalty on those who were 17 at the time of the capital offense.

Justice Barkett, dissenting from the death sentence, stated her belief that both the Eighth Amendment of the federal Constitution and a state constitutional provision prohibit imposition of the death penalty on one who was a "child" at the time of the crime. "[T]he death penalty is totally inappropriate when applied to persons who, because of their youth, have not fully developed the ability to judge or consider the consequences of their behavior." 533 So.2d, at 758. "I am confident that most reasonable persons would agree that the death penalty cannot be imposed on children below a certain age. . . . In my view, that line should be drawn where the law otherwise distinguishes 'minors' from adults"—i.e., at 18 years. *Id.*, at 759. "I cannot agree, as the majority implicitly holds, that one whose maturity is deemed legally insufficient in other respects should be considered mature enough to be executed in the electric chair." *Id.*

Analysis:

(1) It would seem that the existing statutes permitting execution of those under 18, both in Florida and in other states, are a more reliable barometer than Justice Barkett's own subjective sense of what "most reasonable persons would agree."

(2) As the majority emphasizes, the trial court found that LeCroy's ability to judge the consequences of his behavior was fully developed. It would seem that a State should be able to choose to structure its determination on an individualistic basis, rather than be required to engage in the fiction that the moment a person turns 18, he acquires a maturity that did not previously exist.

(3) The relevant question is not whether someone is "mature enough to be executed" (whatever that means); rather, it is whether someone is mature enough to recognize the wrong of brutally killing a human being. It is plainly commonsensical, and surely constitutional, for the people of a State to conclude that the degree of maturity that is necessary to exercise sound judgment regarding voting or marrying may be somewhat greater than the degree necessary to recognize the wrong of brutally killing a human being.

(4) In *Stanford* v. *Kentucky*, 492 U.S. 361 (1989), the U.S. Supreme Court later rejected her position, as it held that there was no constitutional bar to execution of 16- and 17-year-olds.

In her written response to written questions submitted after her hearing, Justice Barkett stated that "there was no express evidence that the Florida Legislature had considered the question" of executing minors and that her *LeCroy* dissent "concluded that the Legislature had not sufficiently expressed its intent to execute juveniles to satisfy the Eighth Amendment."

This response is unsatisfactory in at least two respects: (1) It fails to acknowledge, much less rebut, the majority's detailed demonstration that the Florida legislature had, for the past 35 years, "repeatedly reiterated the historical rule that juveniles charged with capital crimes will be handled in every respect as adults" and that "it cannot be seriously argued that the legislature has not consciously decided that persons seventeen years of age may be punished as adults" and be subject to the death penalty. (2) Justice Barkett's written response gives the misimpression that her dissent rests on the ground that the legislature was not sufficiently clear. In fact, her dissent is in no way so limited.

Hall v. *State*, 614 So.2d 473 (Fla. 1993)—

In 1978, Hall and another man decided to steal a car to use in a robbery. They spotted a 7-month-pregnant woman in a grocery store parking lot. Hall forced her into her car and drove her to a secluded area, where Hall and the other man raped, beat and shot her to death. Hall was convicted and sentenced to death.

By a 5–2 vote, the Florida Supreme Court affirmed Hall's death sentence. The court ruled in part that the trial record supported the trial judge's conclusion that the mitigators alleged by Hall either had not been established or were entitled to little weight.

Justice Barkett, dissenting (with Kogan), did not agree that the mitigators had not been established. Instead, she would have found that Hall was mentally retarded and would have held that execution of the mentally retarded is cruel and unusual punishment under the Florida Constitution.

Analysis: (1) Justice Barkett relies on provisions of the Florida Constitution to reach anti-death penalty results well beyond what identical provisions of the federal Constitution have been construed to require. (2) Justice Barkett is often more ready than her colleagues to credit the defendant's mitigating evidence.

D. Racial quotas

Foster v. *State*, No. 76,639 (Fla. Apr. 1, 1993)—

Foster, two young women, and another man, Lanier, drove to a deserted area where one of the women was to make some money by having sex with Lanier. As Lanier, who was very drunk, was disrobing, Foster suddenly began hitting him and then held a knife to Lanier's throat and sliced his neck. Foster and the women then dragged the still-breathing Lanier into the bushes and covered him with branches and leaves. Foster then took a knife and cut Lanier's spine. Foster and the women then split the money found in Lanier's wallet.

Foster was convicted of murder and sentenced to death in 1975. On resentencing, the trial court, finding three aggravating circumstances, again imposed the death penalty. The Florida Supreme Court, by a 4–3 vote, rejected Foster's claim that his death sentence was a product of racial discrimination against black victims. (The court did remand for resentencing on other grounds.)

Justice Barkett, dissenting on this point, would not accept the majority's determination that Foster's statistical evidence purporting to show that white-victim defendants in Bay County were more likely to get

the death penalty than black-victim defendants failed to establish a constitutional violation. (Lanier, evidently, was white; Foster, according to newspaper accounts, was also white.) Justice Barkett would have relied on the Florida Constitution's Equal Protection Clause to reach a result rejected by the U.S. Supreme Court in *McCleskey* v. *Kemp*, 481 U.S. 279 (1987). In *McCleskey*, the Court ruled that a capital defendant claiming a violation of the federal Equal Protection Clause must show the existence of purposeful discrimination and a discriminatory effect on him. According to Justice Barkett:

(1) The *McCleskey* standard fails to address the problem of "unconscious discrimination."

(2) "Statistical evidence" of discriminatory *impact* in capital sentencing that "cannot be traced to blatant or overt discrimination" should establish a violation of Florida's Equal Protection Clause.

(3) This "'statistical' evidence" should be construed broadly to include not only analysis of the disposition of first-degree murder cases, "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, and *the general conduct of a state attorney's office, including hiring practices and the use of racial epithets and jokes*." (Emphasis in italics.)

(4) The defendant should have the initial burden of showing the strong likelihood that discrimination influenced the decision 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 initial burden has been met, "the burden then shifts to the State to show that the practices in question are not racially motivated."

Analysis: (1) Justice Barkett's proposed standard would paralyze implementation of the death penalty. (This point should be kept in mind in considering her supporters' claims about her death penalty record.) Under her standard, in every capital case involving either a non-white defendant or a white victim, the capital defendant would be able to investigate the general practices of the state attorney's office. A more burdensome inquiry could hardly be imagined. (2) Indeed, as Justice Powell pointed out in his opinion in *McCleskey*, there is no reason why Justice Barkett's standard would be limited to cases with non-white defendants or white victims. A white defendant should be able to try to show that racial discrimination against whites infected the State's decision. A Catholic defendant could try to show that state attorneys told jokes about the priest and the rabbi, etc. A female defendant (or a killer of a male victim) could try to show that sexism pervades the prosecutor's office. (3) There is also no reason why Justice Barkett's standard should be limited to death penalty cases; her theory would apply equally to robbery, rape, and all other crimes. In Justice Powell's words, "McCleskey's claim, taken to its logical conclusion, throws into serious question the principles that underlie our entire criminal justice system." *McCleskey*, 481 U.S., at 314-315.

At her hearing, Justice Barkett stated: "I have not suggested in this opinion or anywhere else that statistics is the be-all and 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." [157:1-6] How this statement can be reconciled with her opinion—in which she clearly embraces reliance on statistical evidence—is not clear.

E. Developing procedural anomalies

Justice Barkett has taken a number of positions that would place substantial procedural roadblocks in the way of the death penalty; she has taken other positions that give capital defendants special advantages. In the postconviction context, where the doctrine of procedural bar enables courts to dispose of claims that were not timely raised or that were otherwise not properly preserved, Justice Barkett has frequently declined to apply the law of procedural bar as uniformly as the court and has instead created ad hoc exceptions. See, e.g., *Bundy* v. *State*, 538 So.2d 445 (Fla. 1989); *Francis* v. *Dugger*, 581 So.2d 583 (Fla. 1991); *Foster* v. *State*, 518 So.2d 901 (Fla. 1987); *Johnson* v. *State*, 536 So.2d 1009 (Fla. 1988); *Jones* v. *State*, 533 So.2d 290 (Fla. 1988).

Grossman v. *State*, 525 So.2d 833 (Fla. 1988)—

Grossman, on probation following a prison term, drove with a companion to a wooded area to shoot a handgun that he had recently stolen from a home. When a wildlife officer came upon them, she took possession of Grossman's shotgun. Grossman pleaded with her not to turn him in, since he would be returned to prison for violating the terms of his probation. When the officer refused his plea, Grossman beat her with a large flashlight. After she fired her weapon in self-defense, Grossman wrestled the weapon away and shot her in the back of the head, killing her. Grossman was convicted and sentenced to death.

By a 6-1 vote, the Florida Supreme Court affirmed the death sentence. Justice Barkett, dissenting, would have continued to adhere to a view concededly rejected by numerous Florida Supreme Court decisions: namely, that the U.S. Supreme Court decision in *Caldwell* v. *Mississippi*, 472 U.S. 320 (1985)—which held that it was error for a prosecutor to urge a capital sentencing jury not to view itself as determining whether the defendant would die, since the correctness of the death sentence would be reviewed on appeal—applied under Florida's scheme to the advisory jury as well as to the sentencing judge. Justice Barkett also would not have permitted written findings in support of sentencing to be made three months after sentencing, where no specific oral findings were made at the time that the death sentence was imposed. She therefore would have required that the sentence be reduced to life.

Burr v. *State*, 518 So.2d 903 (Fla. 1987)—

Burr was convicted of first-degree murder and robbery with a firearm and was sentenced to death. His conviction and sentence were affirmed on direct appeal. Following the signing of a death warrant, he filed a motion for postconviction relief, which was denied by the trial court.

By a 6-1 vote, the Florida Supreme Court affirmed the denial of relief. Justice Barkett, dissenting, would have decided for Burr based on an issue that she conceded had not even been raised by Burr—the consideration of collateral crimes evidence during the sentencing phase.

At her hearing, Justice Barkett claimed that "the United States Supreme Court reversed Burr on the same basis upon which I dissented." [95:9-10] This claim is not accurate: The U.S. Supreme Court GVRed—granted, vacated and remanded—Burr in light of its intervening decision in a case called Johnson v. *Mississippi, where the Court ruled that a death sentence could not be based on a conviction that is no longer valid. Justice Barkett's dissent is not so limited and would appear to challenge the admission of any collateral crimes evidence.*

Stewart v. *State*, 549 So.2d 171 (Fla. 1989)—

Stewart, hitchhiking, was a passenger in a car. When the driver stopped to drop him off, Stewart, struck her on the head with the butt of a gun, shot her and shot and killed her companion, forced them from the car, and drove away. The trial judge, following the jury's recommendation, sentenced Stewart to death. The trial court made detailed oral findings that were dictated into the record; it failed, however, to provide separate written findings in support of its sentence.

The Florida Supreme Court, by a 5-2 vote, remanded so that the trial court could provide written findings, as required by an intervening decision construing state law. Justice Barkett, dissenting with Kogan, would have overruled a recent precedent by holding that a trial court's failure to provide contemporaneous written findings required that a death sentence be converted to life.

Hamblen v. *Dugger*, 546 So.2d 1039 (Fla. 1989)—

Hamblen pled guilty to first-degree murder and waived his right to have a jury consider whether he should be executed. At his sentencing hearing, he presented no mitigating evidence and agreed with the prosecutor's recommendation of death. The trial judge sentenced him to death. The sentence was affirmed on direct appeal (with Justice Barkett dissenting).

The capital collateral representative then filed a habeas petition on Hamblen's behalf. The Florida Supreme Court, by a vote of 6-1, denied the petition. Justice Barkett, dissenting, opined that a court that "gives a defendant the 'right' to waive presentation of mitigating factors" cannot perform its required function of weighing the aggravating and mitigating factors.

Woods v. *State*, 531 So.2d 79 (Fla. 1988)—

Justice Barkett opined that she would require a court to entertain any claim made by a condemned prisoner, no matter how dilatory the assertion of the claim: "a court must consider any point raised by a condemned prisoner as a reason why the death penalty should not be imposed."

Analysis: One of the problems in state administration of the death penalty has been the deliberate 11th-hour filing of claims by death row inmates whose sentences have been validly imposed and upheld both on direct and collateral appeal. At some reasonable point, a State must be permitted to prevent abuse of its criminal justice system. Otherwise, a death row inmate could delay his execution forever simply by filing another claim. Justice Barkett's dissent does not seem at all attentive to the legitimate interests of the State.

F. Providing no reason

In some 50 or so cases, Justice Barkett has provided no explanation—or at times only a conclusory statement—when she has refused simply to join the opinion of the court. In a number of these cases, she actually voted to grant relief. For example:

White v. *State*, 559 So.2d 1097 (Fla. 1990)—

White was convicted of robbing a small grocery store and shooting to death a customer. His conviction and death sentence were affirmed on appeal. In a petition for postconviction relief, White claimed, among other things, that his counsel had been ineffective. The Florida Supreme Court, by a vote of 5 to 2, affirmed the denial of his petition; in particular, the court addressed in de-

tail, and found meritless, White's claim of ineffective assistance of counsel.

Justice Barkett's entire dissent reads as follows: "I cannot concur in the majority's conclusion that appellant received a fair trial with effective assistance of counsel."

When asked at her hearing why she did not provide any further explanation for overturning a sentence recommended by the jury, imposed by the trial judge, affirmed on direct appeal, and upheld by the trial judge and the majority of her colleagues in postconviction proceedings, Justice Barkett stated: "[O]ur court is an extremely busy court. . . . I would have liked to have had, I am sure, the opportunity to have expanded here. But time constraints sometimes preclude you from amplifying any further than that." [87:8–17] This response does not adequately explain why Justice Barkett failed even to identify the primary reasons that led her to dissent.

Engle v. *Florida*, 510 So.2d 881 (Fla. 1987)—

Engle and another man robbed $67 from a convenience store, took the female cashier from the store, and strangled and stabbed her to death. A four-inch laceration, likely caused by a fist, was found in the interior of the victim's vagina. The jury recommended life, but the trial judge, finding four aggravators and no mitigators, sentenced Engle to death.

By a vote of 6–1, the Florida Supreme Court ruled that there was not a reasonable basis for the jury's life recommendation and affirmed the death sentence. Justice Barkett, in a two-sentence dissent, stated, without any further explanation, her belief that "the record adequately supports the jury's recommendation of life imprisonment."

See also *Kennedy* v. *Wainwright*, 483 So.2d 424 (Fla. 1986); *Thomas* v. *Wainwright*, 486 So.2d 574 (Fla. 1986); *Thomas* v. *Wainwright*, 486 So.2d 577 (Fla. 1986); *Funchess* v. *State*, 487 So.2d 295 (Fla. 1986); *Spaziano* v. *State*, 570 So.2d 289 (Fla. 1990); *Swafford* v. *Dugger*, 569 So.2d 1264 (Fla. 1990); *Turner* v. *State*, 530 So.2d 45 (Fla. 1987).

G. Other noteworthy cases Torres-Arboledo v. *State*, 524 So.2d 403 (Fla. 1988)—

Torres-Arboledo, an illegal alien from Colombia, rounded up two other men and went to a car body shop, where they attempted to take the owner's gold chain. When the owner resisted, Torres-Arboledo shot him to death. The jury recommended a life sentence, but the trial judge, finding two aggravators and no mitigators, overrode it and imposed death.

The Florida Supreme Court, by a 6–1 vote, affirmed the death sentence. Justice Barkett, in a three-sentence dissent, opined that the standard for overriding a jury life recommendation had not been met: "In light of the totality of the circumstances presented, it simply cannot be said that no reasonable jury could have recommended life."

In a number of other cases, Justice Barkett has been far more ready than her colleagues to find that a trial judge's override of a jury's life recommendation was not warranted. See, e.g., *Routly* v. *Wainwright*, 590 So.2d 397 (Fla. 1991); *Johnson* v. *State*, 536 So.2d 1009 (Fla. 1988).

Swafford v. *State*, 533 So.2d 270 (Fla. 1988)

Facts: The body of a female gas station attendant was found in a wooded area by a dirt road some miles from where she worked. She had been sexually battered and shot nine times, twice in the head. Swafford was convicted and sentenced to death. At his trial, evidence included testimony regarding an incident that took place two months after the murder: A witness, Johnson, testified that Swafford suggested that they "go get some women" and proceeded to say that "we'll do anything we want to her" and then "I'll shoot her in the head twice." In response to Johnson's question whether that wouldn't bother him, Swafford said that "it does for a while, you know, you just get used to it." Swafford then proceeded to target a victim and draw his gun, but Johnson ended the enterprise.

By a vote of 5–2, the Florida Supreme Court affirmed the death sentence. The majority held that Johnson's "other acts" evidence was admissible under the state counterpart to Rule 404(2) of the Federal Rules of Evidence as evidence of the meaning of Swafford's statement that "you just get used to it," and that this statement, in context, was relevant to establishing his crime two months before.

Justice Barkett, dissenting, asserted that the "only relevance of this testimony was to establish the criminal propensity and character of Swafford" and that it should therefore have been excluded under Rule 404(2).

Analysis: The majority's analysis is sound. While one might question how probative Swafford's statement was, Justice Barkett is wrong when she says its "only relevance" is to propensity and character.

III. CLAIMS REGARDING JUSTICE BARKETT'S PRO-DEATH PENALTY VOTES

Justice Barkett's supporters have routinely claimed that she has voted to enforce the death penalty in more than 200 cases. The White House has made available a list of 275 supposed such cases. Here is a statement made by Senator Hatch at Justice Barkett's hearing in response to these statistical claims:

"The White House and other supporters of Justice Barkett's nomination have made statistical claims regarding her death penalty record in an effort to rebut charges that she is soft on the death penalty. In support of these statistical claims, the White House has produced a lengthy table of her death penalty rulings. I would like to respond to these claims.

"Let me say at the outset that I believe that judges should be judged by the quality of their legal reasoning and by their fidelity to the law. A careful examination of particular opinions is the best measure of these qualities. It is precisely such an examination that I have conducted and hope to continue at this hearing. By contrast, because the craft of judging lies foremost in reasoning and not in results, broad statistical compilations of results often obscure far more than they clarify.

"Unfortunately, the White House's statistics suffer from more than the usual deficiencies. In the first place, the table of death penalty cases contains pervasive doublecounting. In particular, where (as routinely happens) the Florida supreme court addresses both a Rule 3.850 postconviction petition and a habeas petition in the same case, the White House counts this case as two cases. This doublecounting has the predictable effect of padding the list of cases in which the White House says that Justice Barkett has voted to enforce the death penalty. Even more remarkably, it has the perverse effect of including in this list of supposed votes to enforce the death penalty numerous cases in which Justice Barkett has in fact voted to grant relief to the petitioning convicted murderer.

"Second, the White House's list of cases in which Justice Barkett "has voted with the majority" is not limited to those cases in which she has been part of the majority. It includes, for example, a substantial number of cases in which she has refused to join the majority and has instead either dissented in part or relied on grounds significantly more adverse to the death penalty. It also includes a very large number of cases in which, without offering any explanation, she has merely concurred in the result.

"Thus, for example, a case such as *Foster* v. *State*—in which Justice Barkett, in partial dissent, takes a position that would virtually paralyze implementation of the death penalty—is listed by the White House as a case in which Justice Barkett and the majority are in agreement. [Case 91 on White House list] Other examples abound. For example, *Melendez* v. *State* [498 So.2d 1258 (Fla. 1986)]—#576 on the White House list—is identified as a case in which the majority and Justice Barkett were in agreement even though Justice Barkett, writing separately in that case, opined that she "believe[d] that the evidence does not rise to the level of certainty that should support imposition of the death penalty." Likewise, if one starts running through the list chronologically, in three of the very first cases [*Kennedy* v. *Wainwright*, 483 So.2d 424 (Fla. 1986) (#625 on list), *Adams* v. *Wainwright*, 484 So.2d 1211 (Fla. 1986) (#624 on list), and *Thomas* v. *Wainwright*, 486 So.2d 574 (Fla. 1986) (#621 on list)], Justice Barkett voted to stay the petitioner's execution and the majority did not, but the White House fails to identify this disagreement.

"A third basic flaw in the White House's statistical analysis is that the White House fails to compile, much less analyze, case histories of death-sentenced convicts. It is not at all unusual for a death-sentenced murderer to make numerous passes through the court system. This point is shown by the fact that the set of 275 occasions on which the White House says that Justice Barkett has voted to enforce the death penalty comprises well under 200 separate convicted murderers, many or most of whom will make yet more passes at escaping their sentence. In this regard, it bears mention that of these fewer than 200 murderers, Justice Barkett would have granted relief, even beyond what her court had elsewhere granted or what her positions in yet other cases might dictate, to some one-third of them somewhere along the line.

"The White House also makes certain statistical claims regarding Justice Barkett's death penalty cases and the U.S. Supreme Court. It states, for example, that "on eight occasions since 1987, Justice Barkett has voted to impose the death penalty in cases where a majority of the U.S. Supreme Court has voted to vacate that punishment." But the White House fails to make clear a number of relevant matters:

"'In none of these cases did the U.S. Supreme Court rule that the death sentence could not be imposed or even that resentencing was necessary.

"'Indeed, only one of these eight cases was even argued before the Court. In the other seven cases, the Supreme Court used the procedural device known as a GVR —grant, vacate, and remand—to enable the state supreme court to consider the possible impact of an intervening U.S. Supreme Court decision. The Supreme Court liberally uses this GVR device, especially in death cases. A GVR does not necessarily reflect disagreement with the state supreme court's ruling; rather, it simply gives the state supreme court the opportunity to consider the possible application of the intervening U.S. Supreme Court decision.

"'In the one case that was decided on the merits, the Supreme Court remanded so that the Florida supreme court could make the basis for its ruling more clear. In seven of these eight cases, the death penalty was imposed on remand from the Supreme Court. In short, these cases provide no meaningful basis for a comparison of how Justice Barkett stands in relation to the Supreme Court on the death penalty.'

"The White House also asserts that 'in four cases in which Justice Barkett dissented from a death sentence and that case was reviewed by the U.S. Supreme Court, the Court agreed with Justice Barkett, and not the Florida Supreme Court majority.' In fact, however, the Supreme Court did not agree with the legal position that Justice Barkett took in any of the four cases. Instead, it relied on other grounds in summarily vacating the death sentence in one of the cases and issuing GVRs in light of intervening precedent in the other three.

"For these same reasons, the White House's claim regarding the 'nine instances in which the U.S. Supreme Court has reached a conclusion different from Rosemary Barkett's in a capital case' misses the mark. I must also note that the White House fails to consider those cases from other jurisdictions in which the U.S. Supreme Court has rejected the very positions taken by Justice Barkett in other cases.

"The White House also fails to observe a striking fact that the statistics do show. Even if one accepts the White House's loaded numbers, these numbers show that there have been more than one hundred occasions on which Justice Barkett has dissented from the Florida Supreme Court's decision to enforce the death penalty. By contrast, there has not been one occasion—not one single occasion—on which Justice Barkett has been in dissent from a majority decision to grant relief to a convicted capital murderer. This drastic disparity makes all the more telling the White House's refusal to compile—or at least to disclose—data on any cases in which even a single justice has taken a position that is more favorable to the convicted murderer than Justice Barkett's.

"I emphasize again that I believe that a careful reading of a judge's cases is the best means of examining that judge's record."

JUSTICE BARKETT'S CONSTITUTIONAL DECISIONMAKING

Florida chief justice Rosemary Barkett, who has been nominated for a seat on the Eleventh Circuit Court of Appeals, has a record of constitutional decisionmaking that merits careful scrutiny. This memorandum will discuss some opinions of hers that raise serious concerns. In particular, it will focus on her constitutional decisionmaking in such areas as equal protection, substantive due process, the First Amendment, obscenity, and quotas.

As one would expect with any judge who has decided a large number of cases, Justice Barkett has, of course, written a number of opinions that are unobjectionable or soundly reasoned. But the broader question is whether her judicial record reflects a strong commitment to apply the Constitution and laws as written, or whether it instead reflects an inclination to impose her own policy outlook in the guise of judging.[1]

[1] The case summaries in this memorandum are not intended to discourage the reader from reviewing the opinions themselves. Indeed, we encourage such review. In addition, the transcript of Justice Barkett's hearing is available for review in the minority office of the Senate Judiciary Committee.

I. RATIONAL-BASIS REVIEW UNDER THE EQUAL PROTECTION CLAUSE

The U.S. Supreme Court's equal protection jurisprudence is well-settled: "this Court's cases are clear that, unless a classification warrants some form of heightened review because it jeopardizes exercise of a fundamental right or categorizes on the basis of an inherently suspect characteristic, the Equal Protection Clause requires only that the classification rationally further a legitimate state interest." *Nordlinger* v. *Hahn*, 112 S. Ct. 2326, 2331–2332 (1992).

How this rational-basis test is to be applied is also well-settled. As Justice Blackmun reiterated in NORDLINGER (for an 8-Justice majority), "the Equal Protection Clause is satisfied so long as there is a plausible policy reason for the classification, the legislative facts on which the classification is apparently based rationally may have been considered to be true by the government decisionmaker, and the relationship of the classification to its goal is not so attenuated as to render the distinction arbitrary or irrational." *Nordlinger* v. *Hahn*, 112 S. Ct. 2326, 2332 (1992) (citations omitted).

The Supreme Court, citing cases going back to 1970, reiterated these basic principles earlier this year in another 8-Justice opinion (written by Justice Thomas):

"[E]qual protection is not a license for courts to judge the wisdom, fairness, or logic of legislative choices. In areas of social and economic policy, a statutory classification that neither proceeds along suspect lines nor infringes fundamental constitutional rights must be upheld against equal protection challenge if there is a reasonably conceivable state of facts that could provide a rational basis for the classification. . . . *This standard of review is a paradigm of judicial restraint*. . . . On rational basis-review, a classification in a statute . . . comes to us bearing a strong presumption of the legislative classification have the burden 'to negative every conceivable basis which might support it.'"

FCC v. *Beach Communications*, 113 S. Ct. 2096, 2101–2102 (1993) (emphasis in italic) (case citations omitted).

Examination of Justice Barkett's cases calls into serious question whether she has been faithful to this "paradigm of judicial restraint." In the case of *University of Miami* v. *Echarte*, 618 So. 2d 189 (Fla. 1993), the Florida Supreme Court ruled that a statutory monetary cap on noneconomic damages in medical malpractice cases did not violate Equal Protection. The court cited at length the legislature's concern over the "financial crisis in the medical liability insurance industry"; its concern that providers of medical care would "be unable to purchase liability insurance, and many injured persons [would] therefore be unable to recover damages"; its recognition that the size and increasing frequency of very large claims was a cause of these problems; and its concern that damages for noneconomic losses were being awarded arbitrarily and irrationally.

In dissent, Justice Barkett (among other grounds) her view that the statutory caps "violate[ ] . . . the equal protection clauses of the Florida and *United States Constitutions*." (Emphasis in italic.) In her view, the caps could not survive even minimal rational-basis scrutiny. Her application of the rational basis test appears to differ fundamentally from the settled test set forth by the U.S. Supreme Court. Justice Barkett does not cite any federal precedent. Instead, she makes a startling assertion: "I fail to see how singling out the most seriously injured medical malpractice victims for less than full recovery bears any rational relationship to the Legislature's stated goal of alleviating the financial crisis in the medical liability insurance industry." In fact, the rational relationship between the means and the goal appears self-evident and was clearly spelled out by the legislature. Thus, it is difficult to avoid the conclusion that instead of giving the legislation the "strong presumption of validity" to which it is entitled, Justice Barkett is substituting her own policy preferences in place of those of the legislature through the purported application of rational-basis review.

The point here is not the merits, or lack of merits, of caps on noneconomic damages as a matter of policy. The point, rather, is that under clear Supreme Court precedent issues like this are left broadly to the legislatures. It is a cause of great concern that Justice Barkett, first, would rely on the federal Equal Protection Clause (since state law grounds, under her view, sufficed to reach the same result), and, second, would fail to follow clear and longstanding Supreme Court precedent in applying that clause. More generally, one must be very concerned that a judge who would so casually invoke the federal Equal Protection Clause to invalidate legislative action in this area is very ready to continue to misuse the federal Equal Protection Clause—a very powerful tool if so misused—to impose her policy preferences instead of applying the law.

This concern has very broad ramifications. For example, Congress might well enact damage caps as part of product liability reform or as part of medical liability reform under a health care bill. Because the U.S. Supreme Court has held that the equal protection principle applies to the federal government under the Fifth Amendment's due process clause, the logic of Justice Barkett's position would seem almost certainly to lead to these caps being struck down.

At her hearing Justice Barkett said that Echarte was "primarily" a case implicating the state constitutional right of access to the courts. [47:9–48:3] "I grant you that I used the term 'Federal Constitution,' but . . . the analysis is totally using Florida cases under a Florida system." [48:12–15] She ultimately conceded that she should not have invoked the federal equal protection clause: "The only reaching out was including the phrase 'Federal Constitution,' I should not have done that." [50:12–14]

Justice Barkett's response heightens the concern that she invokes the federal Constitution in a cavalier and clearly erroneous manner. The fact that she cited only Florida cases emphasizes, rather than assuages, this concern.

Another Equal Protection case that raises similar concerns is *Shriners Hospitals* v. *Zrillic*, 563 So.2d 64 (Fla. 1990). There, Justice Barkett wrote the opinion for the court striking down, on numerous bases, a Florida statute that permitted a direct heir to cancel a gift to charity made in a will when that will was executed less than six months before the testator's death. The purpose of the statute was to guard against undue influence on charitable gift givers. One of the bases on which she struck down the statute was the federal Equal Protection Clause.

Again, the concern here is not with the wisdom, or lack of wisdom, of the statute, but rather with the reasoning by which she used the federal Equal Protection clause to invalidate it. In that case, she stated,

"Equal protection analysis requires that classifications be neither too narrow nor too

broad to achieve the desired end. Such underinclusive or overinclusive classifications fail to meet even the minimal standards of the rational basis test."

Her opinion proceeds to hold that the statute is underinclusive because it protects against only one type of undue influence exerted on testators (that exerted by charities), and that it is overinclusive because it would render voidable many intentional bequests not tainted by undue influence. Her opinion further states that the six-month period set forth in the statute is irrational; in her words; "[t]here is no rational distinction to automatically void a devise upon request when the testator survives the execution of a will by five months and twenty-eight days, but not when the testator survives a few days longer."

Justice Barkett's opinion cites no federal authority for the proposition that the rational basis test for the federal equal protection clause forbids both underinclusive and overinclusive classifications. Nor could she, for this proposition appears plainly incorrect: the U.S. Supreme Court has long held that a classification does not violate Equal Protection simply because it "is to some extent underinclusive and overinclusive." *Vince* v. *Bradley*, 440 U.S. 93, 108 (1979). As Justice Douglas stated in an opinion for the Court more than 40 years ago, "It is no requirement of equal protection that all evils of the same genus be eradicated or none at all." *Railway Express Agency* v. *New York*, 336 U.S. 106, 110 (1949). The Court restated this basic principle just last year: "[T]he legislature must be allowed leeway to approach a perceived problem incrementally. . . . '[It] may take one step at a time, addressing itself to the phase of the problem which seems most acute to the legislative mind. The legislature may select one phase of one field and apply a remedy there, neglecting the others.'" *FCC* v. *Beach Communications*, 113 S. Ct., at 2102 (quoting *Williamson* v. *Less Optical*, 348 U.S. 483 (1955)).

Justice Barkett's ruling that the six-month period is irrational simply because it produces different results when the testator survives 5 months and 28 days versus 6 months and 1 day is also deeply troubling. A similar objection could be voiced against every time limit in the law. But in such matters the legislature "ha[s] to draw the line somewhere," *Beach Communications*, 113 S. Ct., at 2102, and when it does so, the "restraints on judicial review have added force, "*id.*—restraints ignored by Justice Barkett in her opinion in this case.

Again, this case goes very far towards transforming rational-basis scrutiny into strict scrutiny. Indeed, if applied consistently, there are few laws that could survive the test that Justice Barkett sets forth. (For example, a law that terminates welfare benefits after two years would be clearly susceptible to invalidation under Justice Barkett's equal protection analysis.) Of equal concern is the prospect that the test would not be applied consistently, but would be used arbitrarily and selectively to strike down particular laws that one considers unsound.

As with Echarte, Justice Barkett asserted that "the thrust of that [Zrillic] opinion again was grounded in the Florida Constitution." [53:19–20] "[E]qual protection . . . is really not at all the focus which concerned me in Zrillic." [123:3–6] [Even though she specifically invoked the federal equal protection clause, she said that "when I am thinking equal protection, generally I am thinking in terms of the prior case law of my own court in my own State." [53:25–54:2] Why, then, did she invoke the federal equal protection clause? Again, her response reflects an alarmingly cavalier attitude towards constitutional interpretation.

Indeed, her use of the federal Equal Protection Clause in Echarte and Zrillic is all the more striking in light of her partial dissent in *Foster* v. *State* (discussed more fully below and in other memoranda). There, Justice Barkett recognized that the U.S. Supreme Court decision in *McCleskey* v. *Kemp* foreclosed her from using the federal Equal Protection Clause as the basis for a statistical attack on the death penalty, so she instead relied solely on the Florida constitution's counterpart.

It must be noted that the fact that Justice Barkett had available sufficient state law grounds makes all the more troubling her invocation of federal equal protection: not only is she making bad federal constitutional law (which activist judges in other courts might later rely on), but she is also, in effect, immunizing her ruling from U.S. Supreme Court review (since the existence of sufficient state law grounds deprives that Court of Jurisdiction).

The danger of unprincipled, result-oriented decisionmaking that results from this misstatement of Equal Protection principles can perhaps be illustrated by comparing Justice Barkett's opinion in this Zrillic case to her dissent in *LeCroy* v. *State*, 533 So.2d 750 (Fla. 1988). In LeCroy, the six other Justices voted to affirm the death sentence for a murderer who was 17 years and 10 months old at the time that he committed two brutal first-degree murders. In her lone dissent, Justice Barkett took the position that the Eighth Amendment prohibits the execution of a person who was under 18 at the time of his offense. In short, she took the view that the Constitution imposed a bright-line age minimum of 18 for offenses that can result in the death penalty. (The U.S. Supreme Court subsequently rejected the position that she took.)

For present purposes, it is revealing to apply the methodology of her Shriners opinion to the position that she took in LeCroy. Applying that Shriners methodology, one would say that a bright-line age minimum of 18 is both underinclusive and overinclusive. It is underinclusive because it fails to protect from capital punishment those persons over 18 who (in the language of her LeCroy dissent) "have not fully developed the ability to judge or consider the consequence of their behavior." It is overinclusive because it does protect those under 18 who have in fact fully developed their deliberative faculties. Moreover, her Shriners methodology would appear to dictate the conclusion that the 18-year bright line is simply irrational, since it would exempt from the death penalty a heinous murderer who was 17 years, 11 months, and 28 days at the time of his offense, but would not exempt someone who was a few days older. In short, her Shriners methodology leads to the conclusion that what she thought in LeCroy to be constitutionally mandated under the Eighth Amendment is instead constitutionally impermissible under the Equal Protection clause.

In sum, Justice Barkett's serious misapplication of rational-basis review under the Equal Protection Clause allows a judge to substitute his or her own policy preferences for the legislature's legitimate enactments.

II. SUBSTANTIVE DUE PROCESS

The manner in which Justice Barkett has invoked "substantive due process"—even where no fundamental right is at stake and rational-basis review is therefore in order—also raises serious concerns. In *State* v. *Saiez*, 489 So.2d 1125 (Fla. 1986), for example, she wrote an opinion holding that a state law criminalizing the possession of embossing machines capable of counterfeiting credit cards "violate[d] substantive due process under the fourteenth amendment to the United States Constitution" (as well as under Florida's constitution). Specifically, she stated that the law was "not reasonably related to achieving [the] legitimate legislative purpose" of curtailing credit card fraud. In her words, "It is unreasonable to criminalize the mere possession of embossing machines when such a prohibition clearly interferes with the legitimate personal and property rights of a number of individuals who use embossing machines in their businesses and for other non-criminal activities." Justice Barkett cited no federal authority in support of this proposition.

The principle set forth in Saiez, if taken seriously, would have far-reaching consequences. A broad range of criminally proscribed items also have legitimate uses. Switchblades can be used to slice apples. Marijuana can be prescribed as medicine. Drug paraphernalia can be used for tobacco. Explosive devices can be used to build tunnels. It is extraordinary to conclude that "substantive due process" or any other principle of law disables society from determining that the harmful effects of some or all of these so outweigh the beneficial effects that possession should be criminalized. Again, the real danger is that this overbroad and unsound principle can be applied selectively in an unprincipled manner.

Justice Barkett acknowledged that she had relied on the federal due process clause, but again thought such reliance mitigated by the fact that she had discussed only cases construing the state constitutional counterpart: "if you go on to look at the language that is used from other cases, they are all Florida cases which have utilized the same phrase, but interpreted it in a different way." [126:12–15] When asked why she didn't apply just the State due process clause, she responded: "I think in essence I did, Senator, and all I can—I mean, I can certainly accept that in a body of law there are going to be occasions when you are going to be careless." [129:6–9]

III. LOITERING AND THE FIRST AMENDMENT

In her plurality opinion (over a vigorous 3-justice dissent) in *Wyche* v. *State*, 619 S.2d 231 (Fla. 1993), Justice Barkett struck down as facially unconstitutional an ordinance that prohibited loitering for the purpose of prostitution. In companion cases decided the same day as Wyche—*E.L.* v. *State*, 619 S.2d 252 (Fla. 1993), and *Holliday* v. *City of Tampa*, 619 So.2d 244 (Fla. 1993)—she likewise struck down as facially unconstitutional ordinances prohibiting loitering for the purpose of engaging in drug-related activity.

Her first holding in Wyche was that the ordinance did not require proof of intent to engage in unlawful acts of prostitution. This holding is puzzling. The language of the ordinance—criminalizing loitering "in a manner and under circumstances manifesting the purpose of inducing, enticing, soliciting, or procuring another to commit an act of prostitution"—appears plainly amenable to a reading that the purpose that must be manifested actually exist. In addition, the ordinance specifically provided, "No arrest shall be made for a violation of this subsection unless the arresting officer first affords such person the opportunity to explain this conduct, and no one shall be convicted of violat-

ing this subsection if it appears at trial that the explanation given was true and disclosed a lawful purpose." Especially in the criminal law, where such mens rea requirements are routinely implied, it seems quite a stretch to construe the ordinance otherwise.

Justice Barkett offered the view that to construe the ordinance to have a specific intent requirement would be to "legislate" from the bench. But it seems that it would have been more consistent with the judicial role to invoke a tenet that is basic to our separation-of-powers system and that was clearly recognized in Florida case law: namely, that courts "have a duty to avoid a holding of unconstitutionality if a fair construction of the legislation will so allow." *State* v. *Ecker*, 311 So.2d 104, 109 (Fla. 1975).

Justice Barkett's second holding in Wyche was that, even if the ordinance were construed to require specific intent to engage in unlawful acts of prostitution, it "still would be subject to unconstitutional application" and therefore would chill protected speech in violation of the First Amendment. But virtually every law could hypothetically be applied in an unconstitutional manner that could chill First Amendment speech. Under First Amendment doctrine, a person challenging a law as facially overbroad must show that it would reach a substantial amount of constitutionally protected activity. It is difficult to see how the ordinance, if construed to require specific intent, would reach any constitutionally protected activity, much less a substantial amount.

The one federal case that Justice Barkett cites in support of her holding, *Board of Airport Commissioners* v. *Jews for Jesus, Inc.*, 482 U.S. 569 (1987), is plainly inapposite. The Supreme Court in Jews for Jesus simply stated that the regulation in that case—which banned all First Amendment activities at an airport—could not be permitted to be remedied by case-by-case adjudication. To compare the absolutist ban on First Amendment speech in that case to the hypothetical and purely incidental effect on speech arguably resulting from the ordinance in Wyche is strained in the extreme.

Another serious problem with Justice Barkett's opinion in Wyche is that it is at serious odds with—indeed, appears irreconcilable with—the Florida Supreme Court's 1975 ruling in *State* v. *Ecker*, 311 So.2d 104 (Fla. 1975), which held that a general anti-loitering statute was constitutional. Indeed, Wyche appears to overrule Ecker without even citing it or otherwise acknowledging it. This is not a proper way to deal with precedent.

Asked about Wyche, Justice Barkett repeatedly claimed that all members of her court agreed that the statute was defective but that the dissent was ready to remedy it. [186:10–11, 186:25–187:1, 187:8–9] In fact, however, the dissent stated that the statute was facially constitutional (i.e., was not defective).

The net effect of Wyche, E.L., and Holliday is to hamper severely the ability of communities to combat the scourges of prostitution and drugs.

IV. OBSCENITY

In *Stall* v. *State* [570 So.2d 257 (Fla. 1990)], the Florida Supreme Court ruled—as it had several times before—that Florida's laws against obscenity were constitutional. In a brief 4-paragraph dissent, Justice Barkett took the position that all criminal obscenity laws violate due process. (She also joined another dissent that held that obscenity laws violate the state right of privacy.) In her words:

"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 procedure runs counter to every principle of notice and due process in our society."

Arguably, Justice Barkett might intend that her due process holding rest only on the state constitution, though she invokes "every principle of notice and due process in our society." In any event, she does not even cite, much less discuss, U.S. Supreme Court precedent, such as *Miller* v. *California*, 413 U.S. 15 (1973), that contradicts her position. Miller held that material that, judged by contemporary community standards, appeals to the prurient interest, that depicts or describes, in a patently offensive way, specifically defined sexual conduct, and that lacks serious literary, artistic, political, or scientific value can be outlawed as obscene.

Indeed, it appears that Justice Barkett misreads or mischaracterizes the law that she would strike down. The Florida law incorporated Miller's focus on contemporary community standards as the benchmark of whether material is obscene. Thus, the role of jurors would not be to make their own "subjective definition" of what is obscene (as Justice Barkett suggests), but rather to discern and apply the existing community standards.

Further, the premise of Justice Barkett's position—namely, that obscenity laws are somehow unique—is dubious. There are any number of criminal laws whose definition or application is not any more "objective" than obscenity laws. Take, for example, criminal negligence or child neglect. Indeed, the difference between justifiable self-defense and unjustified homicide can equally be said to turn "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." These features are an inherent part of our criminal justice system. So it seems that her basic premise cannot be maintained and that no special solicitude for obscenity is warranted.

At her hearing, Justice Barkett stated that the statute in Stall "had language in it which, in my judgment, was very ambiguous." [105:8–10] But since the language of the Stall statute was the Miller standard, this suggests that Justice Barkett is not content with the Miller standard. Given Justice Barkett's treatment of other Supreme Court precedents mentioned in this and other memoranda, there is reason to worry that her apparent disagreement with this standard would lead her to apply it too narrowly.

Justice Barkett also claimed at length that her opinion in Stall needs to be read together with her vote in *Schmitt* v. *State*, 590 So.2d 404 (Fla. 1991), where she joined the per curiam opinion upholding a conviction under Florida's child pornography statute. Justice Barkett repeatedly claimed that the two cases involved "the very same statute" [106:25]: "in both those cases, the same statute was being decided, the same statute was being considered". [106:16–17] In fact, however, Stall involved the definition of obscenity under Fla. Stat. 847.001, whereas Schmitt involved the definition of child pornography under Fla. Stat. 827.071. Justice Barkett's apparent claim that the court's decision in Schmitt somehow vindicated her position in Stall [see 107:15–22] cannot be sustained. (She may also be claiming that her dissent in Stall was confined to her disagreement with the definition of "sexual conduct" in subsection 847.001(11), which is identical to the definition of "sexual conduct" in the child pornography law. But: (a) nothing in her dissent remotely supports such a limited reading, and (b) the separate requirement in the obscenity law of "appeal to the prurient interest"—a requirement not present in the child pornography statute—eliminates any overbreadth and makes such a claim untenable.)

V. QUOTAS

Justice Barkett's views on quotas are of serious concern. According to newspaper reports, Justice Barkett was a member of the Florida Commission on the Status of Women, which issued a report in February 1993 that recommended passage of state legislation requiring that all of Florida's decisionmaking boards, councils, and commissions be half male and half female by 1998. Justice Barkett defended the Commission against charges that its report advocated a quota system, by saying:

"It is not in the context of a quota system. It is simply an acknowledgment that women make up one-half of the population of this state." (St. Petersburg Times, 2/23/93.)

If a rigid requirement that positions be filled according to population is not a quota, then it is difficult to imagine what would be. (Florida Governor Lawton Chiles stated that he opposed the Commission proposal because it would create a quota system. Orlando Sentinel Tribune, 2/23/93.) This issue is not merely semantic: it may directly affect the breadth of the remedial authority that Justice Barkett would believe that she would have as a federal judge in cases of alleged discrimination. The Supreme Court has ruled that the use of preferential remedies and voluntary preferences is generally disfavored, although it has upheld them in narrow circumstances. If Justice Barkett cannot recognize a quota for what it is, how can one have confidence that she will properly construe Supreme Court precedents governing quotas and other preferences and respect the limits that the Supreme Court has placed on their use?

Told that her views appeared to lead to pervasive race and sex quotas, Justice Barkett did not dispute this. Indeed, she appeared to embrace it (in the euphemism of "representation"): "The goal of every women's group, Senator, that I am aware of and the goal of every minority group is that there be representation in policy-making bodies that are going to affect their lives, whether it is in the private sector or in the public sector. And I think that that is a goal that is laudable. There are many different ways of trying to achieve it, but I do not think that there is any question that it should be achieved, and I am committed to that." [184:3–11]

Of course diversity in private and public employment and in policymaking bodies is welcome. The critical question, however, is whether it is to be pursued by nondiscriminatory means or by the use of quotas and preferences. Justice Barkett's statement appears to treat this fundamental distinction as though it were insignificant.

Even more disturbing is Justice Barkett's dissent in *Foster* v. *State*, No. 76,639 (Fla. Apr. 1, 1993). In that case, Foster, two young women, and another man, Lanier, drove to a deserted area where one of the women was to make some money by having sex with Lanier. As Lanier, who was very drunk, was disrobing, Foster suddenly began hitting him

and then held a knife to Lanier's throat and sliced his neck. Foster and the women then dragged the still-breathing Lanier into the bushes and covered him with branches and leaves. Foster then took a knife and cut Lanier's spine. Foster and the women then split the money found in Lanier's wallet.

Foster was convicted of murder and sentenced to death in 1975. On resentencing, the trial court, finding three aggravating circumstances, again imposed the death penalty. The Florida Supreme Court, by a 4-3 vote, rejected Foster's claim that his death sentence was a product of racial discrimination against black victims. (The court did remand for resentencing on other grounds.)

Justice Barkett, dissenting from this racial discrimination ruling, would not accept the majority's determination that Foster's statistical evidence purporting to show that white-victim defendants in Bay County were more likely to get the death penalty than black-victim defendants failed to establish a constitutional violation. (Lanier, evidently, was white; Foster, according to newspaper accounts, was also white.) Justice Barkett would have relied on the Florida Constitution's Equal Protection Clause to reach a result rejected by the U.S. Supreme Court in *McCleskey* v. *Kemp*, 481 U.S. 279 (1987), under the federal Equal Protection Clause. In McCleskey, the Court ruled that a capital defendant claiming a violation of the federal Equal Protection Clause must show the existence of purposeful discrimination and a discriminatory effect on him. According to Justice Barkett:

(1) The McCleskey standard fails to address the problem of "unconscious discrimination."

(2) Statistical evidence of discriminatory impact in capital sentencing that "cannot be traced to blatant or overt discrimination" should establish a violation of Florida's Equal Protection Clause.

(3) This statistical evidence should be construed broadly to include not only analysis of the disposition of first-degree murder cases, "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, and *the general conduct of a state attorney's office, including hiring practices and the use of racial epithets and jokes.*" (Emphasis in italics.)

(4) The defendant should have the initial burden of showing the strong likelihood that discrimination influenced the decision 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 initial burden has been met, "the burden then shifts to the State to show that the practices in question are not racially motivated."

The paralyzing effect that Justice Barkett's proposed standard would have on the death penalty—and, indeed, if taken to its logical conclusion, on the criminal justice system generally—will be addressed in another memorandum. For present purposes, what must be emphasized are the broad-ranging implications that Justice Barkett's disparate impact analysis could have on the issue of quotas generally. Her focus on "unconscious discrimination" shows that she rejects, for purposes of Florida's Constitution, the basic principle under the federal Constitution that discriminatory intent is an essential element of an Equal Protection violation. Her opinion also raises a legitimate concern that she might adopt a view of statistical disparities under federal statutes like the recently amended Title VII that effectively mandates pervasive adoption of race and sex quotas.

VII. CONCERNS ABOUT IMPARTIALITY

In *In re Constitutionality of Senate Joint Resolution 2G*, 601 So.2d 543 (Fla. 1992), the Florida Supreme Court selected from among six different modifications to a state legislative redistricting plan. Writing "dubitante," Barkett wrote that she was "loath to agree to any of the convoluted plans submitted under these hurried circumstances. . . . If I had to choose only among those presented, however, *I would choose the plan submitted by the NAACP simply because this is the organization that had traditionally represented and promoted the position that advances all minority interests.*" (Emphasis in italics.)

Justice Barkett's frank admission that she would give special weight to a position based on who offered it rather than on its intrinsic merits is very disturbing and appears clearly at odds with the obligation of judicial impartiality.

Justice Barkett claimed that her words were "concededly very inartful[]" [174:15] and that what she "was attempting to say . . . was in rebuttal to a claim that the NAACP did not adequately represent the interests of African Americans." [175:1-4; see also 177:9-13] "I can understand in this case why you would read it the way you would read it. It is inartful, and I wish that I had the opportunity to edit that more than anything else that we have been talking about." [175:12-14]

Concern about Justice Barkett's impartiality also arose at her hearing over her involvement with a trial lawyer's group, the Academy of Florida Trial Lawyers, while the case of *University of Miami* v. *Echarte* was pending. Specifically:

(1) The Academy of Florida Trial Lawyers submitted an amicus brief in this case in October 1991. The Trial Lawyers brief (like other briefs submitted on behalf of one party) argued that the cap on non-economic damages in medical malpractice cases was unconstitutional.

(2) In 1992, this same organization of trial lawyers created an annual award named after her, the Rosemary Barkett Award, to be given each year to a person who, in the view of the trial lawyers, has made outstanding contributions to the law. In November 1992, she agreed to present the first annual award at the trial lawyers' annual convention, which took place one week after her successful retention election.

(3) In May 1993, she, in dissent, accepted the argument that the cap on non-economic damages was unconstitutional.

It does not seem at all consistent with her obligation to maintain both the fact and the appearance of impartiality for her to decide a case in which an organization that had named an award after her had filed a brief. Indeed, her actions would seem to have violated the ABA Code of Judicial Conduct. Canon 2, subpart B states that a judge "shall not lend the prestige of judicial office to advance the private interests of others; nor shall a judge convey or permit others to convey the impression that they are in a special position to influence the judge. . . ." Canon 3, subpart E(1) states that a judge should disqualify herself in a proceeding in which her impartiality might reasonably be questioned.

Justice Barkett stated that she understood the trial lawyers' award to reflect the group's commitment to "equal justice under the law" [179:20-21] and not to have anything to do with its "private interests" [181:7]. In any event, the trial lawyers' amicus brief in Echarte clearly advanced their private interests, and her participation in that case would seem to give rise to an appearance of lack of impartiality.

PRESIDENT MARY ROBINSON OF IRELAND ON THE FUTURE OF THE WORLD COMMUNITY

Mr. KENNEDY. Mr. President, during her visit to Boston earlier this month, Ireland's President, Mary Robinson, delivered a major address at Harvard on the future of the world community and the need for more effective international cooperation to deal with the challenges we face.

In her address on March 11, she emphasized the opening words of the preamble of the U.N. Charter—"We the peoples of the United Nations, determined to save succeeding generations from the scourge of war." She urged the western industrial nations of the world to renew and update that commitment today, by dealing more effectively with the opportunities and responsibilities of being part of the larger global community. She reminded us all of the importance of this aspect of our leadership. As she stated,

> We need a vision of the whole * * * that does not protect some of us from an acceptance of crisis simply because we are fortunate enough to be exempt from its immediate consequences.

She urged nations to learn to respect one another's diversity, so that we can draw strength and not weakness from our differences. She urged us to explore and share new approaches to economic development, alleviation of poverty, and protection of the environment.

I believe that President Robinson's thoughtful and stimulating address will be of interest to all of us concerned with these issues and with the future of relations among nations, and I ask unanimous consent that it may be printed in the RECORD.

There being no objection, the address was ordered to be printed in the Record, as follows:

[Irish Times/Harvard Colloquium, John F. Kennedy School of Government, Boston, Mar. 11, 1994]

ADDRESS BY THE PRESIDENT OF IRELAND MARY ROBINSON

WE THE PEOPLES OF THE UNITED NATIONS * * *—RENEWING THAT DETERMINATION

The preamble to the United Nations Charter, written in 1945, is an eloquent statement of its fundamental aims. It begins with these words: "We the peoples of the United Nations, determined to save succeeding generations from the scourge of war." And it then sets out those aims. I want to reflect on that preamble today, but with an emphasis on its opening words. Even as I prepare to do so, I am fully aware that I cannot claim a specialist wisdom on the United Nations. On the other hand, I am also aware that I have the true privilege of holding an elected office which is removed from day-to-day policy issues. This in turn has allowed me the advantage and responsibility of a different time-

scale, with all the opportunities for reflection that brings.

The phrase "We the peoples" was so powerful in its time because it made an assertion about common human purpose following on an episode of terrible human suffering. It looked boldly to the future. Now that future is our past. As we look back to it today, we can see more clearly the exceptional dangers of that past. We can also see clearly those times in this century when the sense of crisis—widely felt and widely shared—was sufficient to generate analysis and institutions to avert further danger. I want to ask today—in the light of those exceptional and powerful words—whether we can find our way again, as a community who shares a planet, to a sense of crisis which is sufficient to the present danger.

Fifty years ago today the world was at war. Millions had died; millions had yet to die. As well as the tragegy of death and suffering, there was an additional and terrible spectacle: Some of the most creative aspects of human intelligence—including its outcome in technology—had been mobilized for the purposes of human destruction. Against that background, and even while the outcome was still uncertain, plans were already under way for a better world. The U.S., British, Soviet and Chinese governments had agreed that they would seek to establish "a general international organization, based on the principle of the sovereign equality of peace-loving states." So began the process of discussion which culminated with the signature of the Charter of the United Nations, by fifty-one nations, at San Francisco in June 1945.

Now, half a century later, the United Nations has grown and developed. Its membership has more than trebled. We are preparing to celebrate its 50th anniversary. I know that Governments are already at work, in New York and elsewhere, debating possible change and reform in the institutions and structures of the United Nations so that it can better achieve its stated aim—the maintenance of international peace and security. I do not propose here to enter that debate, but I wish it every success. In fact I do not intend to put forward proposals here as such, but to evoke possibilities. Our world has changed; our institutions have changed. In fifty years we have come a long way and brought those institutions with us. And yet as Dag Hammarskjold says in Markings: "The longest journey is the journey inwards." It is that inward journey, of reflection and questioning and re-evaluation, which concerns me this evening.

But even an inward journey is affected by outward events. There are three such events which seem to me to have shaped our century and our world. The first was the cataclysm of the First World War.

The shift of consciousness wrought by that war was enormous. You only have to look at a poet like Francis Ledwidge, who came from County Meath in my own country to see an instance of its sheer waste. In one of his summer poems he writes "soon the swallows will be flying south". He had hardly finished that poem before he died in France, at the front, still in his twenties.

Ledwidge is just one example. The loss of a whole generation of young Europeans in that war had a huge effect. The effect to restructure the world after that war—an effort led by Woodrow Wilson—saw two ideas begin to find general acceptance in international life. One was a concept noted in the American Declaration of Independence—that peoples everywhere should be free to determine their own future, to form independent States if they so wished—in the general recognition of the principle of self-determination. This in turn brought to an end the world of Empire and colony, and led to the emergence everywhere of the independent, sovereign, territorial state as the unit of social and political organization. We now live in a world of such states, and it seems humanity is likely to organize itself that way for some time to come.

But the second idea which followed on that first one is also important: the idea that a new order of independent states needed to generate an institutional structure, so as to avoid conflict and promote cooperation. For this purpose, the League of Nations was set up. It was open to all States and was based on a covenant, which for the first time in history, set out a written constitution or code for relations between States. But its flawed and weak structures were finally swept away in the Second World War.

The ferocity and scope of this war exceeded any other. Much of the land surface of the planet, of its industrial power, and of its technology was mobilized for the purposes of destruction. Nazism, which had grown like a malignity out of Western civilization, created a system more uniquely and objectively evil than any seen before.

The extent of human cruelty and degradation involved in the concentration camps, and the process of revelation followed by a horrified international realisation of what had happened, marks the second defining event of our century. When Immanuel Kant described the imperative of treating each human being as an end and not a means, he proposed a standard of humanity which was reversed in the terrible logic of the death camps, which reduced each victim of the system to the status and powerlessness of an object and a means.

The camps forced new understandings on the world. Above all, they showed the need for an accepted and internationally validated code of human rights which all States subscribed to, and which would set limits on what any State may do internally.

There was some symmetry to what happened after the First and Second World Wars. Once again international society was reconstituted, once again the family of more specialised international organizations was grouped around it. The new system, like the League of Nations, was based on the sovereignty and equality of States—though the Charter did accord a special role and responsibility to the five permanent members of the Security Council. Indeed the Charter contained an explicit provision precluding the organisation from intervening in matters which were essentially within the domestic jurisdiction of a State. It was a document with careful provisions towards a balance between independence and responsibility.

I have put before you so far two of the major developments which have affected the organization of international life in this century. One is the adoption worldwide of the sovereign territorial State, based on the principle of self-determination of peoples. The other is the growing acceptance, following the horror of genocide, that State sovereignty cannot be an absolute.

These shifts of consciousness are hard to pinpoint, yet deeply formative. I now come to another one which I can best summarise in two conflicting pictures which most of us hold in our minds and our memory. One of these pictures is of the mushroom cloud—that terrible potential image of human destruction which so many of us grew up with. The other is of the marvellous and poignant picture of the planet earth, photographed by the astronauts who landed on the moon—an image saying as much about human creativity as the other said about the human capacity for self-destruction.

That first picture, of a cloud of death, became a symbol of the Cold War. That time of competition—with its policy of mutually assured destruction—is now over. But the risks are still there and may be greater than before. The big powers who held those weapons and were ready to destroy each other were at least disciplined in the holding of their arsenals. Now as they dismantle those arsenals other dangers present themselves, the more ominous for being more diffuse. If this century tells us anything it is that knowledge once acquired cannot be suppressed. More and more nations have laid their hands on the secrets of death. And a world where small- and medium-sized nuclear powers multiply will be exceptionally dangerous.

And dangerous, it must be said, not just to us, but to that other image: of a globe, enamelled with blue oceans and suspended in a black sky above its moon, a globe which is hostage to our vision and our greed. While the photograph itself may be an image of beauty and fragility, it is also a warning to us of the limitations of our own environment, and the vulnerability of our planet Earth. But emotive reactions are not enough. We need a careful and painstaking consciousness to suit the intense need this planet has for our care and caution.

Almost everything I have been speaking about so far reaches back into the events of the past and yet is relevant too, to the resources of the present—whether those resources are the physical ones of the planet, or the attitudes with which we meet the moment we find ourselves in. We look back through the century, whether through the photographs of the astronauts, or the pages of a history book, and we recognize our world. The millennium lies ahead. What world will our children look back on, and their children? Some patterns have already been established, but it is our response to them and the agenda we set which will determine our children's prospects.

To start with, there is a world population at present of 5½ billion. It took thousands of years, until the 19th century, for there to be one billion. Then the process accelerated. Even at the lowest projections it will have increased to 7½ billion by about the year 2025. The world will then have five times as many people as at the beginning of this century.

When you consider that 95 percent of that growth in the next thirty years will take place in developing countries, and that it will increasingly be an urban population, you can see the effect of this on one of the other shaping factors of our world which is its economy.

It has become possible now to talk about a global economy because the world's individual economies are increasingly linked. The linkages are not just economic. With the growth of information technology has come the phenomenon of financial and stock markets operating in a unified fashion around the world on a 24-hour basis. When New York closes, Tokyo is already opening with all of the complex and delicate reactions of one market to another. And with this extraordinary theatre of action and information has come the sobering fact that governments can no longer withstand—even in concert—the collective force of individual investors.

This increase in information is mirrored in the revolution in communications. We live

in a world where perceptions are powerfully affected by television images and sometimes disturbingly distanced by them. Satellite has made us all one: it is a pitiless light showing us both our disasters and our self-protection from them at one and the same time. But the truth is that to make a complex present visible requires an increase, not a decrease in our attention, however difficult this is: I may say that in Ireland one of the ways we pay attention is by our own strong and loyal memories of images from our past: whether of our own Frederick Boland at the UN breaking his gavel, or Frank Aiken urging the non-proliferation of nuclear weapons, long before that was an easy argument to make, or by the sight of the difficult and courageous contribution that Irish soldiers make to peacekeeping.

These factors—of population and economy and the images which bring them to us—lead directly to a point which I think is central: of how the world's resources—greater now than ever before—are to be shared. As President of Ireland, a country with rich agricultural land, and at the same time an historic memory of famine, I stood in the camps in Somalia and saw the real effect of poverty. And yet Somalia is a local crisis which focuses on an even more dreadful truth: that 1½ billion people—the same population which inhabited the planet at the turn of the century—now live in that absolute poverty. If there is one emphasis more than any other I want to place in this speech it is this: that if we, as human beings, accept—whether by non-engagement or indifference or an evasion of information—the situation of those people, then in my view we fail in our responsibility to our humanity in a way which cannot be justified or redeemed by any other action.

Finally all these questions—of population, of economy and of distribution—lead to the question of the planet itself. That beautiful image, seen from space, is a more flawed and ambiguous one if you look closely. And we should look closely. We are losing our forests, our topsoil, our animals, our habitats. We have polluted our air, our oceans, our rivers. We have run through an ecological fortune even in a single generation, and like many profligate heirs we hardly know what we have spent and what we have left. But we can be sure that one of the things we are squandering is our children's futures.

All the factors I have put before you lead to a single question. How are we to manage this new world? The question may be urgent and fresh to this generation. But it is in effect the same question which in 1945, as the Second World War was ending, confronted the leaders of the victorious countries. They understood the dangers which another conflict between States would present. Their answer to that question was a new and better international organization of States—the United Nations—which has now become universal, and which needs to be strengthened and developed further.

I am now right back to where I began tonight with those opening words of the U.N. charter: "We the peoples of the United Nations, determined to save succeeding generations from the scourge of war." The choice of words, with its implication that it was peoples rather than governments which drafted the charter, was hardly more than a rhetorical device at the time. I think it is vital that we take that phrase now and refresh its meaning and give it a new vitality if we are to answer that question about managing our world.

Those two ideas of self-determination and individual responsibility which were highlighted in the aftermath of two world conflicts are once again undergoing a process of change. Humanity may continue to organize itself into sovereign states, but the factors I mentioned—including limited resources and ever growing population—mean that sovereignty is being increasingly eroded by global developments. The complex inter-relationship of the world structure demands that people everywhere are brought increasingly into participation in decision-making.

I want to suggest four ideas which I see as fundamental to the way we should now organize and structure our relations in this changing world. I can summarize them as follows: connectedness, listening, sharing and participation.

First connectedness: I put it to you that we need to see this world as a single whole. We need to understand the connectedness of its fate and our actions. Can we find a way to achieve what has come to be called "sustainable development" so that the larger human population of the next century may be able to achieve a decent human life in ways that are in harmony with the Earth, and which respect and rely on its marvelous capacity for renewal? If we are to do that, we need a vision of the whole that does not divide the science of ecology from the social consequences of famine; that does not protect some of us from an acceptance of crisis simply because we are fortunate enough to be exempt from its immediate consequences. The development of a sense of connectedness is an intellectual responsibility which requires that we understand the relationship of political, social and environmental factors.

The second fundamental idea is the ability to listen, and it is a more complex task than it sounds. A distinguished political scientist, Samuel Huntington, wrote recently of the possibility that "a clash of civilizations" could be a basis for future wars. We cannot allow this to happen. We need to listen to the narrative of each other's diversities, so that we can draw strength and not weakness from our differences.

But respect for diversity should not make us abandon the ideas that there are universal values which ought to be upheld as part of what it is to be human. We must hold on to what has been achieved in human rights over the last fifty years. We must continue to insist that certain rights, which are grounded in human nature, as it has developed and grown through history, are of universal validity.

At the same time, only by listening to each other's diversities, can we be sure that what we call universal is not in fact culture-bound. Our listening to the different stories which emphasize our diversity is the surest way to inform and strengthen our view of what is universal.

The third fundamental idea which I put to you is that of sharing. Abraham Lincoln asked if the Government of the American nation could survive "half slave and half free". Our world cannot and will not survive without conflict if one fifth is prosperous and four-fifths subsists in various degrees of misery.

It may be that the idea of sharing is too simple. It suggests an old model of development aid, given in benevolence from one part of the world to the other, less prosperous, part. It may not adequately reflect the fact that there is a need for radical re-thinking leading to fundamental structural change.

In your part of the world and in mine—in Europe, North America and parts of the Asia Pacific—we have developed consumer societies which are more prosperous than any in human history. And more wasteful. Are the developing countries to take this as a model? It is estimated that by the year 2000 half the growth in the world's gross product will come from East Asia and half the world's population will live there. As things stand, these countries cannot deny their peoples a share in the consumption for which we have been the chief role model. Why should they? But if they take our way of life as exemplary, how is our planet to sustain the consequences?

The answer to this question can only come with a fundamental and unswerving re-thinking of the society which we have been creating, with its increasing transformation of raw material into luxuries rather than necessities, its heedless output of waste, its profligate use of resources.

Another re-think may be imposed on developed societies such as yours and mine in regard to the nature of work. Since the industrial revolution work in our societies has been a basis for income distribution and self-esteem. Now, however, it seems societies such as ours face chronic unemployment—or at the least a casualisation of work—as industry becomes more automated and technology advances. At the same time there is a growing tendency for industry to be highly mobile—to move from West to East, North to South, in pursuit of lower wages.

How do our societies handle these developments without being disfigured by them? Must we resign ourselves to a growing restlessness as social benefits in the West are steadily cut and social protections are removed in an ultimately futile effort to compete with lower wage rates elsewhere? Or can we meet the challenge of re-thinking the nature of work itself, and the role it plays in a developed society where production is increasingly automated?

In the world of the 21st century information, more than ever, will be power. The setting up of information super-highways marks a new Industrial Revolution. I put it to you strongly that the idea of sharing has a particular meaning in this context. In the new information revolution education, capital, technology and knowledge are powerful partners. These resources, once linked together, will have an enormous impact on how we live. But what of the developing world? Now is the moment to make sure that the information highway does not stretch laterally around the world from North America to Europe and Japan but with no junction route to the South. This is where the connectedness of our vision, as I suggested earlier, comes into its own. This is where the idea of listening becomes real. We must ensure that the developing world does not watch at the window, envious of what it can see, but unable to benefit from the communications revolution.

The fourth idea is fundamental to the way we live. It is that of participation. The concept of doing things to and for people is no longer a viable one.

As you can appreciate, I have a particular interest in this idea, because it opens the whole question of women in society. I have just come from addressing a Woman's Forum and speaking to the Commission on the Status of Women at the UN in New York. I consider myself a witness to this matter, because as President of Ireland I have seen the powerful effect of women's groups and the dimension which women can bring to the social and political life around them. In many ways, these groups are the best text I know of the benefits of developing a parity of participation by men and women

The broader arena for participation is, of course, democracy and political freedom. Over the past decade there has been a remarkable growth in the process of democratization around the world. This process must continue so that people are drawn more and more to participate in, and make their voices heard, in the systems of government. The model will not everywhere be the same.

Indeed it would be wrong to think a certain kind of Western democracy is always the most suitable model. But it is important that the trend towards participation by people everywhere in the system of government under which they live should be encouraged.

There is another way in which participation can thrive. There has been a remarkable growth in recent years in non-governmental associations and groups, both within countries and internationally. And even more remarkable are the links and networking between such organizations. This is a welcome development which has paralleled the development of the UN itself. Forty-one NGOs participated in the San Francisco Conference. Now there are nearly a thousand with consultative status. The importance of these organizations lies in their ability to speak for individual concerns. I think we see this clearly in major international conferences. What is so interesting—apart from the main agenda of these conferences—is the vivid and persuasive role played in them by these non-governmental organizations. Even where their advice may not be accepted, their voices are heard. The Rio Conference on the environment in 1992, the Vienna Conference on Human Rights in 1993, and the Cairo conference on population which will happen this Autumn and the Conference on Women in Beijing in 1995 offer a rare theatre, with a world wide audience, for the exchange of views. And the non-governmental organizations have made full use of that stage.

But we need to move from spectacle to action. So far our main focus has been on the very fact that these conferences have occurred and are occurring; that the arguments have been made; that the coverage has happened. But neither the conferences, nor the arguments, nor the coverage are enough in themselves. They need to be taken into the very heart of the decision-making processes of all those international organizations which are part of the UN family. Once they are and only then—can the consequences of so much discussion and debate be felt. Finally this concept of participation in decision-making has little meaning unless it can reach into one of the most vital areas of all—where the resources of a developing country can be almost crippled by the burden of debt. And so there is a real need for the organizations of financial governance such as the World Bank and the International Monetary Fund to be true partners in these processes of consultation and revision.

I am aware—in everything I have said tonight—of how fragile are the words we speak compared with the meanings we want to convey. I particularly feel this in that gap which opens up between information and urgency whenever the subject is our future and the future of this planet. I want to convey a sense of crisis; and yet to do that—and I am like many others in this—I have to provide those statistics, those arguments, those rational paragraphs which can actually defer our sense of danger and immediacy. But there is a crisis. I feel it. We need to feel it.

Perhaps the real question is how are we to catch the attention of this area of the world, which is still partly sheltered from the crisis? When I had small children—and I think many people in this room will have known the feeling—I remember exactly how I felt if one of them strayed near anything dangerous. I wanted to call out something which would make them turn their heads, walk back and avoid the danger. Thinking about this later it seems to me that no parent, in that situation, ever finds exactly the right words. But no parent ever fails to find the right tone. It is the tone—the right and exact tone which expresses danger—which we need now.

In 1945 the framers of the UN Charter found that tone. The world turned its head to those opening words. But at the time the sense of danger had been shared. The world had come through a major disaster and was determined it must not be allowed to happen again. Now we live in a time when so many methods of expression—even the images of disaster which come to us over television—encourage us not to pay attention. They allow us that crucial distance from our own sense of danger and engagement which may just be an inch too much for what is happening to our planet and our future and the futures of our children.

In a way, a great deal of what I have been speaking about today is language itself: its uses and its excuses, its inadequacy, as we have come to use it, in conveying a true picture of reality which will move us to action. We need a new, exact and agreed language if we are to continue the spirit of the 1945 charter, with its powerful address to feeling and intent. We need to listen to warnings so as to avoid the consequences of neglecting them. There is a beautiful warning, written by the poet, Robert Lowell, in his poem "Waking Early Sunday Morning"—a poet who is so associated with this city and this University. We need not accept the darkness of his elegy, nor the depth of his pessimism. But we must be deeply moved and stirred by the vision which he evokes.

Pity the planet, all joy gone
From this sweet volcanic cone;
Peace to our children when they fall
In small war on the heels of small
War—until the end of time
To Police the earth, a ghost
Orbiting forever lost
In our monotonous sublime.

With the tone of that warning in our ears, let us turn our heads once again and re-dedicate ourselves:

"We the peoples of the United Nations, determined to take responsibility for our world * * *"

ST. PATRICK'S DAY STATEMENT BY THE FRIENDS OF IRELAND

Mr. KENNEDY. Mr. President, recent months have seen far-reaching developments which have raised hope for peace and reconciliation in Northern Ireland.

The Friends of Ireland is a bipartisan group of Senators and Representatives opposed to violence and terrorism in Northern Ireland and dedicated to maintaining a United States policy that promotes a just, lasting, and peaceful settlement of the conflict that has cost more than 3,100 lives over the past quarter century.

Last week, the Friends of Ireland released its annual St. Patrick's Day statement. I believe it will be of interest to all of our colleagues who are concerned about this issue, and I ask unanimous consent that it may be printed in the RECORD.

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

STATEMENT BY THE FRIENDS OF IRELAND, ST. PATRICK'S DAY, 1994

The Friends of Ireland in the United States Congress join more than 44 million Irish Americans, and indeed Irish people everywhere, in celebrating our Irish heritage on this St. Patrick's Day. We welcome to Washington the Prime Minister of Ireland, An Taoiseach, Albert Reynolds. And we renew our commitment to a peaceful resolution of the conflict which has plagued Northern Ireland for the past quarter century.

One year ago, the Congressional Friends of Ireland joined "friends of Ireland everywhere in urging all parties to make special efforts this year to bring about peace and reconciliation in Northern Ireland." The last twelve months have indeed seen historic developments which have raised hopes that at long last the parties to the conflict in Northern Ireland may be ready to begin the hard task of reconciliation. It is truly a time of opportunity.

Most especially, we welcome the peace initiatives culminating in the December 15 Joint Declaration by Prime Minister Reynolds and British Prime Minister John Major. The Declaration has been widely acclaimed in Ireland and the United Kingdom and throughout the world, and President Clinton and Irish Americans have welcomed it as the most hopeful path toward peace and justice in Northern Ireland in many years. We fully support the Declaration, which provides a framework for continued dialogue aimed at achieving a peaceful and secure future throughout the island of Ireland. Building upon the Declaration, we urge continued dialogue between and among the two governments and all political parties which seek a constitutional way forward towards solving the problems of Ireland. We welcome the joint affirmation of the Irish and British governments on February 19 to such a process. Both the British and Irish governments have gone the extra mile for peace, and we commend their commitment to achieving the earliest possible end to the conflict.

The Friends of Ireland continue to support a united Ireland achieved through peaceful consent, and we welcome the statement by the British Government in the Declaration that "it is for the people of the island of Ireland alone, by agreement between the two parts respectively, to exercise their right of 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."

As the Irish Government stated in the Declaration, "the democratic right of self-determination by the people of Ireland as a whole must be achieved and exercised with and subject to the agreement and consent of a majority of the people of Northern Ireland."

The Declaration assures that no avenue is foreclosed with regard to the future status of Northern Ireland. It also assures that a predetermined outcome will not be forced on either community. Both communities in Northern Ireland should be reassured by these guarantees.

Most important, the Declaration is inclusive. It welcomes to the peace table all who oppose the violence that has achieved nothing and cost so much in the past 25 years.

The Friends of Ireland unequivocally condemn the violence which has claimed more

than 3,100 lives—the majority of whom have been civilians—in the 25 year history of the conflict.

We condemn the continuing violence of all paramilitary groups in Northern Ireland, both Republican and Loyalist. We note that since the Troubles began, more Catholic civilians have been killed by the IRA, than have been killed by British security forces. We also note that Loyalist paramilitary groups such as the UFF and UVF, which routinely and deliberately target civilians for assassination, have in recent years been responsible for an increasing number of deaths in Northern Ireland.

The Friends of Ireland condemn the recent upsurge of IRA bombing attacks in densely populated locations, such as Heathrow Airport, with the attendant risk of numerous casualities. We deplore the recent reciprocal paramilitary murders in Northern Ireland and hope that they will not increase. The Friends repeat that it is such indiscriminate bombings and killings that represent the worst abuse of human rights in the Northern Ireland context. We appeal to Sinn Fein and the IRA to accept the Declaration as a basis for further negotiation toward permanent peace and justice. We call for an end to all violence and the entering into of negotiations, so that Northern Ireland may be spared further destruction as the peace process continues.

The Friends of Ireland commend the high attention that President Clinton has given the situation in Northern Ireland. The President has frequently reaffirmed his commitment and willingness to have the United States contribute to the efforts to bring lasting peace to Northern Ireland. The President has also, in both budgets he has sent to the Congress, requested funding for the International Fund for Ireland.

The Friends of Ireland also continue to be concerned about human rights abuses in Northern Ireland, and we view recent reports by the U.S. Department of State and internationally recognized human rights organizations with concern.

Since 1969, more than 340 people have been killed by the police and Army in Northern Ireland, a large number in disputed circumstances. Yet 1993 marked the first year since 1969 that no one in Northern Ireland was killed by a member of the British security forces. We welcome this development and hope that it reflects a trend toward stricter control and greater restraint. However, prosecutions of members of the security forces for earlier uses of lethal force have been rare, and convictions have been even rarer. We share the concern of the nationalist community over the need for accountability by members of the security forces. The Friends of Ireland urge the British Government to deal effectively with these concerns by adopting stricter rules to prevent abuses in the use of lethal force.

We continue to be concerned about the lack of other safeguards in the system of justice in Northern Ireland, which differs in many ways from the system of justice in Great Britain.

We urge the British Government to take steps to end human rights abuses in Northern Ireland and to address the recommendations made in reports by the Committee on the Administration of Justice in Northern Ireland and other internationally recognized human rights organizations.

The Friends of Ireland continue to support the work of the International Fund for Ireland, which was established in 1986 to promote economic and social development in Northern Ireland and to facilitate and encourage contact and reconciliation between the two communities.

Since its creation, the Fund has provided assistance to 3,000 projects. In 1993, it contributed to 400 new projects, creating 2,600 full-time permanent jobs. Seventy-five percent of the Fund's resources are targeted to the most disadvantaged areas in Northern Ireland and border counties of the Republic of Ireland.

We also remain concerned about employment discrimination in Northern Ireland. The Fair Employment Act of 1989 was passed by the British Government to address the disparities between Catholic and Protestant unemployment in Northern Ireland, and we commend the positive steps taken under the Act to end discrimination. Nevertheless, the level of Catholic male unemployment remains twice as great as that of Protestants. As Bob Cooper, Chairman of the Fair Employment Commission, characterized the situation, "while the pendulum is swinging slowly towards the center, there is still some considerable distance to go before it gets there. * * *"

The Friends of Ireland await the completion in 1995 of the review of employment equality which the British Government is undertaking. This review should examine all ways, including stronger legislation, in which more effective progress can be made to eliminate job discrimination and achieve fair participation by both communities in the workforce.

Finally, we welcome and firmly endorse the recent call for fair employment and greater investment in Northern Ireland by the leaders of the Catholic, Presbyterian, Anglican and Methodist churches in Ireland. As they noted: "Investment can contribute to the prosperity of both communities in Northern Ireland, an end to disparities in unemployment, and a reduction in violence."

As Friends of Ireland, our hope on this St. Patrick's Day is that 1994 will be the year in which the violence ends and the courageous people of Northern Ireland—Catholic and Protestant—begin at last to live together in peace and prosperity. Important steps have been taken. This opportunity for peace and reconciliation should be embraced. That is our wish for the coming year.

Friends of Ireland Executive Committee:

Senate: Edward M. Kennedy, Daniel Patrick Moynihan, Claiborne Pell, and Christopher J. Dodd.

House of Representatives: Thomas S. Foley, Robert H. Michel, Frank McCloskey, Pat Williams, Joseph M. McDade, Barbara Kennelly, Henry J. Hyde, John P. Murtha, William F. Clinger, Jr., William J. Coyne, James T. Walsh, Richard E. Neal, and Jack Quinn.

HAPPY BIRTHDAY NO. 200 TO TOWN OF CHAPEL HILL

Mr. HELMS. Mr. President, for sometime now, residents of Chapel Hill, NC, have been singing happy birthday to this remarkable and historic home of the University of North Carolina.

This is its bicentennial, the 200th anniversary of the founding of a community which, until fairly recent times, was just a pleasant village. It may yet be pleasant but it is no longer a village. It is instead a center for many activities that regularly capture nationwide attention including—from time to time, but not this year—the Nation's No. 1 NCAA basketball championship.

I was asked some time ago to pen a few comments in recognition of this Chapel Hill milestone. I don't normally do this, but in the instance of Chapel Hill's bicentennial, I do ask unanimous consent that my salute to Chapel Hill and its leaders be printed in the RECORD at the conclusion of my remarks.

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

SALUTE TO CHAPEL HILL

A number of North Carolina communities have been around longer than Chapel Hill, which this year celebrates its 200th anniversary, and there are many other North Carolina communities that possess great attractiveness and charm. But there are few, if any, communities with which so many have fallen in love as quickly and as deeply as with the Town of Chapel Hill.

Well after my life span began, more than seven decades ago, Chapel Hill was still little more than a village consisting of Franklin Street and a few flanking lanes. When I was at Wake Forest College, not many miles away in northern Wake County, the University of North Carolina with its 3,000 students of Chapel Hill was a gigantic institution.

Today, beginning its 201st year, this once-peaceful academic hamlet has becomes a vibrant city whose borders, population and economic activity have expanded manyfold. The distinguished university which the city encloses now enrolls more than 20,000 students and has spread far beyond the original boundaries of Old East, the Old Well and Davie Poplar.

All progress has its price. Chapel Hill's progress has seen a once-leisurely gait become a quickstep. The once-prevalent atmosphere of calm timelessness has given way in some degree to urgency and haste.

Nevertheless, Chapel Hill, more than most municipalities in these times, has saved and insulated what was priceless from the past. Whether or not blue is its predominant color, Chapel Hill is entitled to its often proclaimed billing as a significant slice of paradise.

So Dot Helms and I congratulate the Town of Chapel Hill—its government, its leaders, its institutions, its burgeoning businesses, its citizens. Congratulations upon reaching the age of 200.

And best wishes for the third century that is just now beginning.

BUDGET SCOREKEEPING REPORT

Mr. SASSER. Mr. President, I hereby submit to the Senate the Budget Scorekeeping Report prepared by the Congressional Budget Office under section 308(b) and in aid of section 311 of the Congressional Budget Act of 1974, as amended. This report meets the requirements for Senate scorekeeping of section 5 of Senate Concurrent Resolution 32, the first concurrent resolution on the budget for 1986.

This report shows the effects of congressional action on the budget through March 18, 1994. The estimates of budget authority, outlays, and revenues, which are consistent with the technical and economic assumptions of

the concurrent resolution on the budget (H. Con. Res. 287), show that current level spending is below the budget resolution by $4.4 billion in budget authority and $0.7 billion in outlays. Current level is $0.1 billion above the revenue floor in 1994 and below by $30.3 billion over the 5 years, 1994–98. The current estimate of the deficit for purposes of calculating the maximum deficit amount is $312.1 billion, $0.7 billion below the maximum deficit amount for 1994 of $312.8 billion.

There has been no action that affects the current level of budget authority, outlays, or revenues since the last report, dated March 17, 1994.

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

U.S. CONGRESS,
CONGRESSIONAL BUDGET OFFICE,
Washington, DC, March 21, 1994.

Hon. JIM SASSER,
Chairman, Committee on the Budget, U.S. Senate, Washington, DC.

DEAR MR. CHAIRMAN: The attached report shows the effects of Congressional action on the 1994 budget and is current through March 18, 1994. The estimates of budget authority, outlays, and revenues are consistent with the technical and economic assumptions of the Concurrent Resolution on the Budget (H. Con. Res. 64). This report is submitted under Section 308(b) and in aid of Section 311 of the Congressional Budget Act, as amended, and meets the requirements for Senate scorekeeping of Section 5 of S. Con. Res. 32, the 1986 First Concurrent Resolution on the Budget.

Since my last report, dated March 15, 1994, there has been no action that affects the current level of budget authority, outlays, or revenues.

Sincerely,

ROBERT D. REISCHAUER,
Director.

Enclosure.

THE CURRENT LEVEL REPORT FOR THE U.S. SENATE, FISCAL YEAR 1994, 103D CONGRESS, 2D SESSION, AS OF CLOSE OF BUSINESS MARCH 18, 1994

[In billions of dollars]

	Budget resolution (H. Con. Res. 64)[1]	Current level[2]	Current level over/under resolution
ON-BUDGET			
Budget authority	1,223.2	1,218.9	−4.4
Outlays	1,218.1	1,217.5	−0.7
Revenues:			
1994	905.3	905.4	0.1
1994–98	5,153.1	5,122.8	−30.3
Maximum deficit amount	312.8	312.1	−0.7
Debt subject to limit	4,731.9	4,462.6	−269.3
OFF-BUDGET			
Social Security outlays:			
1994	274.8	274.8	(3)
1994–98	1,486.5	1,486.5	(3)
Social Security Revenues:			
1994	336.3	335.2	−1.1
1994–98	1,872.0	1,871.4	−0.6

[1] Reflects revised allocation under section 9(g) of H. Con. Res. 64 for the Deficit-Neutral Reserve fund.

[2] Current level represents the estimated revenue and direct spending effects of all legislation that Congress has enacted or sent to the President for his approval. In addition, full-year funding estimates under current law are included for entitlement and mandatory programs requiring annual appropriations even if the appropriations have not been made. The current level of debt subject to limit reflects the latest U.S. Treasury information on public debt transactions.

[3] Less than $50 million.

Note.—Detail may not add due to rounding.

THE ON-BUDGET CURRENT LEVEL REPORT FOR THE U.S. SENATE, 103D CONGRESS, 2D SESSION, SENATE SUPPORTING DETAIL FOR FISCAL YEAR 1994 AS OF CLOSE OF BUSINESS MARCH 18, 1994

[In millions of dollars]

	Budget authority	Outlays	Revenues
ENACTED IN PREVIOUS SESSIONS			
Revenues			905,429
Permanents and other spending legislation[1]	721,182	694,713	
Appropriation legislation	742,749	758,885	
Offsetting receipts	(237,226)	(237,226)	
Total previously enacted	1,226,705	1,216,372	905,429
ENACTED THIS SESSION			
Emergency supplemental appropriations, fiscal year 1994 (P.L. 103–211)	(2,286)	(248)	
ENTITLEMENTS AND MANDATORIES			
Budget resolution baseline estimates of appropriated entitlements and other mandatory programs not yet enacted[2]	(5,562)	1,326	
Total current level[3 4]	1,218,857	1,217,451	905,429
Total budget resolution	1,223,249	1,218,149	905,349
Amount remaining:			
Under budget resolution	4,392	698	
Over budget resolution			80

[1] Includes budget committee estimate of $2.4 billion in outlay savings for FCC spectrum license fees.

[2] Includes changes to baseline estimates of appropriated mandatories due to enactment of Public Law 103–66.

[3] In accordance with the Budget Enforcement Act, the total does not include $13,608 million in budget authority and $8,896 million in outlays in emergency funding.

[4] At the request of committee staff, current level does not include scoring of section 601 of Public Law 102–391.

Notes.—Numbers in parentheses are negative. Detail may not add due to rounding.

SECRETARY OF STATE WARREN CHRISTOPHER'S VISIT TO CHINA

Mr. PELL. Mr. President, the recent trip by Secretary of State Warren Christopher to the People's Republic of China [PRC], despite criticisms to the contrary, was a necessary one for it underscored to a Chinese audience too used to the accolades of businessmen the importance of human rights to American foreign policy. His visit also accomplished more than is given public credit. Secretary Christopher followed the correct course in going to China and engaging with the Chinese. I applaud him.

Thus, for the last few months journalists and interested parties in the international business community have been portraying the country as divided on the issue of human rights and most-favored-nation status. The Chinese have, of course, been trying to encourage the perception of such divisions. The Chinese should harbor no doubt, however, of the President's determination to see significant progress achieved.

As the Secretary noted in a press conference after his discussions with the Chinese leadership, he found that differences between China and the United States are narrowing and that it is clear that the Chinese are open to discussion and dialog.

The Secretary made progress on several major issues:

First, the United States and China signed a joint declaration fully implementing the prison labor agreement. Chinese prison labor facilities will be inspected. This is one of the two mandatory issues that the President set out in his Executive order last year concerning renewal of China's most-favored-nation trading status. It is significant.

Second, the Chinese made a commitment to work with the United States to resolve the outstanding emigration cases that remain—another key aspect of the President's Executive order.

Third, the Chinese confirmed their support for the Universal Declaration of Human Rights. In so doing, the Chinese have acknowledged the legitimacy of our discussions with them on their compliance with its provisions.

Fourth, the Chinese said they would permit International Committee of the Red Cross delegates to visit prisons and individual prisoners. This has been an important concern among human rights advocates. Establishing ICRC access to Chinese prisons acknowledges again that concern about China's treatment of prisoners is of international interest—not just an American issue. In a related matter, the Secretary received a detailed accounting of a list of 235 prisoners and he was told that an additional accounting of 106 Tibetan prisoners would be provided. As the Secretary noted, this is a step, but not a conclusive step in the right direction.

Finally, the Chinese indicated that they would review information about their jamming of Voice of America broadcasts. What does this mean? I believe that it is a clear signal that the Chinese will stop interfering with VOA transmissions. Shortly the Congress will have before it the conference report for the State Department authorization bill which contains authority for establishing a Radio Free Asia. Unjamming VOA is a first step in making certain Radio Free Asia is also heard.

The Secretary was also able to raise at the highest levels our concern over continued efforts by the Chinese to proliferate weapons of mass destruction in violation of their international commitments and of our interest in the Chinese having a serious discussion with the Dalai Lama about cultural and religious matters in Tibet.

Was the Secretary's visit a breakthrough?

No; it was not. And no one could expect that given the difficult nature of the issues that divide China and the United States. As an experienced and skilled negotiator, the Secretary understood this challenge before embarking on his mission. He wanted to deepen a dialog with China's leaders. The success of his trip should not be judged solely in terms of what agreements were achieved, but also on how clearly the Chinese heard the determination in his voice. Given the strong reaction by the Chinese Foreign Minister who criti-

cized the Secretary after his visit for not showing enough sincerity, it is clear that the Chinese heard Secretary Christopher.

I know. I visited China and Tibet in late 1992. As with many recent visitors, I was impressed by the economic transformation of China. The hustle and bustle of open markets is apparent everywhere. It is a sound that none of us want to dim. Not extending most-favored nation status would certainly mute those noises.

Unfortunately, discordant sounds now seem to dominate our bilateral relations following the Secretary's visit. That was not his intent, nor was it the appropriate action by the Chinese. Secretary Christopher is a wise and composed, but persistent, diplomat whose objective is not to isolate China but to integrate it more completely into the community of nations. That is a goal all of us share.

Over the coming months, I believe that wise policymakers on both sides will defuse the current sense of confrontation and replace it with a recognition that more can be achieved through calm and rational dialog than through threats and confrontation.

BRADY BILL

Mr. CRAIG. Mr. President, I just want to bring to the attention of the Members of the Senate an article that appeared in the Washington Times this morning. It is as a result of a memo to Attorney General Janet Reno from an Assistant Attorney General Walter Dellinger. It came on Saturday. The Washington Post covered it and the Washington Times covered it this morning.

The memorandum explained that the Federal Government had no ability to enforce a background check requirement on the new Brady bill.

Let me repeat that. It was a statement I had made on the floor during the heat of the debate on the Brady bill, that the Government had no authority to enforce it; that if State law enforcement officers chose not to use this law, that they could walk away from it. And that is exactly what is going on in the Justice Department today.

What did our friends on the other side who were using the political placebo of the Brady bill tell us year after year? "This is not a slippery slope toward gun control. It works because it requires law enforcement to do a background check on handgun purchases. It has teeth. It will stop crime."

Let me repeat, a memorandum from Assistant Attorney General Walter Dellinger to Janet Reno saying we have no authority, Mr. President, to enforce the Brady bill. I think it is important that the record show that, as we begin another extensive debate on the false illusion that somehow if we take the rights of law-abiding citizens away from them in their ability to own guns that we will make the streets of America safe. That is false politics, and anybody who engages in it on this floor must now go tell their Attorney General: Can you enforce a phony piece of legislation, or is it merely a political cover during an election year process?

I yield back the floor

Mr. HATCH. 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. SASSER. 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. SASSER. Mr. President, what is the pending business?

CONGRESSIONAL BUDGET CONCURRENT RESOLUTION

The PRESIDING OFFICER. Under the previous order, the Senate will now proceed to the consideration of Senate Concurrent Resolution 63, which the clerk will report.

The legislative clerk read as follows:

A concurrent resolution (S. Con. Res. 63) setting forth the congressional budget for the United States Government for the fiscal years 1995, 1996, 1997, 1998, and 1999.

The Senate proceeded to consider the concurrent resolution.

Mr. SASSER. Mr. President, I have some initial housekeeping unanimous-consent requests to take up prior to beginning debate on the resolution. Each of these has been cleared, I might say, with the Republican manager.

First, section 305(b)(3) of the Congressional Budget Act provides, and I quote:

Following the presentation of opening statements on the concurrent resolution on the budget for a fiscal year by the chairman and ranking minority member of the Committee on the Budget of the Senate, there shall be a period of up to 4 hours for debate on economic goals and policy.

UNANIMOUS-CONSENT AGREEMENT

Mr. SASSER. Mr. President, I ask unanimous consent that there be debate only on Senate Concurrent Resolution 63, the concurrent budget resolution, until the Senate resumes consideration of the concurrent resolution following disposition of S. 208, the park concessions bill.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

PRIVILEGE OF THE FLOOR

Mr. SASSER. Mr. President, I ask unanimous consent that the staff of the Committee on the Budget and its members be allowed to remain on the floor during consideration of Senate Concurrent Resolution 63. I send to the desk a list of the staff.

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

CORRECTION IN TYPOGRAPHICAL ERRORS IN REPORT ACCOMPANYING THE RESOLUTION

Mr. SASSER. Mr. President, there are minor typographical errors in the report to accompany the resolution. I send to the desk an errata sheet and ask unanimous consent that it be printed in the RECORD.

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

ERRATA

On page 18, under "Function 550: HEALTH," change the last word in the second paragraph from "unfunded" to "underfunded."

On page 19, move the fourth full paragraph (regarding Head Start) to page 18, immediately before "Function 550: HEALTH" (so that it may properly appear under the preceding function, "Function 500: EDUCATION, TRAINING, EMPLOYMENT AND SOCIAL SERVICES").

Mr. SASSER. Mr. President, for the information of Senators, let me just take a moment to review the program for the next few hours under the unanimous-consent agreement just reached.

The ranking Republican member of the Budget Committee and I will give our opening statements, to be followed by debate on economic goals and policies. The Senate will recess, under the previous order, for the party conferences between the hours of 12:30 and 2:30 p.m. At 2:30 p.m., the Senate will proceed to vote on final passage of S. 208, the national park concessions bill. Amendments to the budget resolution will be in order after 2:50 p.m. this afternoon.

Mr. President, when we met last year to consider the budget for the 1994 fiscal year, the 1994 budget resolution, we faced a very formidable task. The deficit was spinning out of control, out of control in both the short term and the long term. This was an unfortunate legacy of many years of neglect and many years of evasion.

At that time, deficits were projected to reach historic levels. The 1995 deficit estimated at $305 billion was estimated to swell to $388 billion by 1998, and then to nearly double by the year 2003.

To recapitulate, the 1995 deficit in April 1993 was estimated to be $305 billion. And this deficit was to grow in 1995 from $305 billion to $388 billion by 1998. And then, shockingly, it was to nearly double by the year 2003. That is what we were faced with last year at this time.

The larger economy was both a culprit in driving up the deficits and it was also a victim of the deficits. The Nation was vexed by lackluster economic growth and poor job creation. The weak economy was fueling larger deficits, and the uncontrolled deficits were undermining the confidence of consumers and also the financial markets.

The President insisted that we break this financial downward spiral. And al-

though there was apprehension as to whether we could withstand the fiscal contraction needed to reduce the deficit, we took the necessary step at the necessary time.

Now, many of our colleagues, especially those on the minority side, did not believe the deficit reduction package would work, period. Not a single one of them voted for it. In my judgment, they were clinging to the wreckage of a failed economic philosophy. Instead of reduced deficits, instead of tax equity, instead of lower interest rates, instead of seeing a robust economy resulting from this lowering of the deficit, they saw the Four Horsemen of the Apocalypse coming over the horizon. The CONGRESSIONAL RECORD is full of their anxieties and prophecies of doom.

It does no good to repeat the comments that were made at that time. The important thing, Mr. President, is that the right step was taken. We passed the largest single deficit reduction package in the history of the United States of America. The plan reduced the deficit by $500 billion. It cut spending by $255 billion, allocated every new tax dollar to deficit reduction, restrained discretionary spending at a hard freeze level, and cut $90 billion out of entitlement spending.

Now, Mr. President, as I have said earlier, we have not broken the back of the deficit problem, but we have certainly administered a very sharp crack to its vertebrae. If we do not stray from the path that we are on, the 1998 deficit will be $200 billion less than it otherwise would have been. And that is just the beginning.

For the first time since Harry Truman was President of this country, we will have 3 years in a row of declining deficits. And bear in mind that Harry Truman was presiding over a budget and a country which was coming out of World War II. And the deficit as a percentage of gross domestic product, or national income, will reach 2.3 percent, the lowest level since 1979, before the deficits began to explode during the decade of the 1980's.

Now, in testimony before the Senate Budget Committee on January 27, 1994, the Congressional Budget Office Director, Dr. Robert Reischauer, said:

> The deficit picture is significantly brighter than it appeared 1 year ago when the Congressional Budget Office projected the budget deficit would soar above $350 billion by fiscal year 1998. CBO now predicts that the Federal deficit will fall from $223 billion in the current fiscal year to below $170 billion in fiscal year 1996.

Continuing, and quoting directly from Dr. Reischauer, he says:

> The dramatic improvement since last January is largely the result in August of a major package of tax increases and spending cuts—the Omnibus Budget Reconciliation Act of 1993.

Now, Mr. President, some of my colleagues have tried to attribute this unparalleled deficit reduction solely to the economy. I would submit that is a very distorted picture, indeed. As Dr. Reischauer observed, it gives short shrift to the discipline, unified and carefully constructed strategy that brought the deficit down. And over the next 5 years nearly 75 percent of the total 5-year decline in the deficit will result from the deficit reduction plan presented by the President and passed by this Senate.

The simple fact is that the improved deficit and economic picture represent a self-reinforcing knot. The improved economy bolsters the improved deficits and vice versa. And I think even our friends on the other side have to admit that that is infinitely better than a condition in which a weak economy drives us deeper into the deficit hole and vice versa.

It was, Mr. President, the credibility of long-term deficit reduction to which the financial markets responded so favorably. The Chairman of the Council of Economic Advisers, Laura Tyson, told the Senate Budget Committee last month, and I quote Dr. Tyson:

> The decline in long-term interest rates since January of 1993 has tracked very closely the fortunes of the administration's economic plan.

The Congressional Budget Office Director, Dr. Reischauer, further underscored the relationship between interest rates tumbling, coming to their lowest levels in over 20 years, and the largest multiyear deficit reduction package in history.

In testimony earlier this year before the Budget Committee, Dr. Reischauer said:

> I think certainly part of the reduction in interest rates that we have experienced relates to this successful deficit reduction effort.

Now, since we took the steps to bring down deficits, the drop in interest rates caused sectors of the economy that rely on long-term financing to expand very rapidly. Let us just talk about a few things that the drop in interest rates brought about.

First, housing starts, housing permits, housing sales all soared in the fourth quarter of 1993 at a more than 50-percent annual rate. In December, all three housing indicators stood at their best levels in the last 4½ years, and they are expected to rebound smartly after the return of normal weather in March.

Sales of domestically produced cars and light trucks—that is, cars and light trucks produced in the United States—jumped at a more than 50-percent annual rate over the last 5 months. They stood in February at their best level since 1986.

Current domestic production plans indicate that first quarter assembly of cars and light trucks will be close to the record levels of the 1970's. Mr. President, that is real economic progress creating tens of thousands of jobs for auto workers, for those who supply the auto industry, for those who service the auto industry.

What about other sectors of this economy? Real business investment spending advanced at a 22-percent rate in the fourth quarter of 1993 and today stands at an all-time high. New orders for business equipment which always precede future production of investment goods shot up at a 51-percent annual rate over the last 6 months. And each of these very pronounced improvements at the end of last year stands in marked contrast to the very modest gains that these interest sensitive sectors had shown over the past 4 years.

Their strengthening propelled the real gross domestic product of this Nation to grow in the fourth quarter of 1993 at a 7.3-percent annual rate, well ahead of the pace that came earlier in the recovery. As a consequence of strong growth toward the end of last year, economic performance during the first year of the Clinton administration surpassed by a wide margin that seen in the 4 preceding years.

Real gross domestic product—that is the gross domestic product corrected for inflation—grew more than 3 times as fast in the first year of the Clinton Presidency than it did during the preceding 4 years. A total of almost 2 million private sector jobs, 1.901 million, to be exact, have been created since President Clinton was inaugurated. That is far more than the 1 million jobs that were added during the previous 4 years. In other words, during the first year of the Clinton administration, we created almost twice as many private sector jobs as had been created in the previous 4 years. If they continue at that rate, President Clinton will have created almost eight times more jobs in his 4-year term than were created in the preceding 4-year term of his predecessor.

What is most heartening is living standards rose during the first year of the Clinton administration more than during the preceding 4 years. Living standards are measured by per capita income, real growth in per capita income, and real growth in per capita income in 1993 grew more than in the preceding 4 years put together.

Recent data indicate that this acceleration in economic growth will continue into 1994. The index of leading indicators rose for the sixth consecutive month in December, up at a 5.4-percent annual rate.

This is the best 6-month performance of this economic growth index in over a decade. In fact, the Office of Management and Budget, the Congressional Budget Office, and the Blue-Chip Economic Consensus forecast all predict that real GDP for 1994, as a whole, will increase at its best rate in 6 years. Let me repeat that. The consensus of private blue chip economists, the Congressional Budget Office, and the Office of

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Management and Budget all predict that the gross domestic product of the United States will increase in 1994 at its best rate in over 6 years.

Welcome as this pickup in current economic activity may be, the beneficial effect of last year's budget agreement on long-term economic performance is even more important. There is now a developing consensus that the economy's underlying rate of growth has accelerated.

In his testimony before the Joint Economic Committee on January 31 of this year, the Federal Reserve Board Chairman, Dr. Alan Greenspan, a conservative economist appointed during the Reagan administration, said, and I quote him directly:

> I don't recall as good an underlying base in the long-term economic outlook any time in the last two or three decades.

Dr. Greenspan is saying that he does not remember, or he has not seen, the economic outlook look as good on a long-term basis, based only the fundamentals of this economy, anytime in the last 20 or 30 years. Did you know that most economists share the optimistic outlook of the Chairman of the Federal Reserve Board?

The projections of the administration, the Congressional Budget Office, and the 50 private forecasters surveyed by blue-chip indicators are all very similar. They foresee solid real GDP growth of about 3 percent per year with hardly any rise in inflation.

So, Mr. President, the verdict is in. The deficit reduction package that we passed in 1993 despite the dire predictions that it would cause the economy to drop, that it was nothing but a tax bill, that it was going to cause widespread unemployment, that it was going to accelerate us into a recession—the verdict is in, and the verdict is that we have dramatically changed the economic direction of the United States of America for the better. This economy is on the path to renewal with rising output, increased employment, and falling deficits.

We might ask ourselves, and the question before the Senate now is, What action do we take at the present time? Mr. President, I would advise my colleagues that we simply stay the course that brought us to this point. It has served us well, and there is no reason to warrant a departure.

We are in an economy with deficits coming down, with economic growth continuing in a sustained noninflationary manner. Those who argue for deeper cuts in both discretionary spending and entitlements that we see in the present budget, I say to them, let us stay this course for 1 year, or perhaps 2. Let this deficit reduction package that we passed last year work its way through the full economy, and then come back and take another look to see if we should take further steps to reduce deficits. But unfortunately, the critics are once again not giving us credit for our cuts in spending and for our entitlement savings.

Discretionary spending next year will fall below last year's level. That has not happened since Neil Armstrong was setting foot on the Moon in 1969. And coincidentally, Mr. President, the last time this Nation had a balanced budget was in 1969 as President Lyndon Johnson was exiting the Presidency.

The President's budget called for the complete elimination of 115 programs, cutting below last year's nominal level in more than 300 programs. And discretionary spending, as a share of the economy, is lower than at any time since 1940. Let me repeat that. Discretionary spending, as a share of the overall economy, is lower than at any time since 1940 in this budget before us.

I think we have made some truly remarkable achievements. If someone had come to me in January or February 1993 and asked if we could have achieved the deficit reduction that we have achieved, with the corresponding economic growth that is accompanying it, I would have said: I do not think we can do it.

But we have done it, and it is a remarkable achievement indeed. But I expect we are going to hear a lot about the spending problem not having been solved. And we are going to hear a lot about deficits that will shoot upward again beginning in 1999 because of the alleged "uncontrolled growth in the entitlements." It is always amusing to me to see how our colleagues are so concerned about what is going to happen 4, 5, 6, or 7 years down the road. Somehow they cannot bring themselves to deal with problems that we have to deal with today and tomorrow.

Parenthetically, I observe that the people who are making the most noise about unrestrained deficits in the outyears, almost without exception voted against a deficit reduction package that cut the projected deficit in the year 2003 from $655 to $343 billion.

There is no denying that entitlements are a thorny issue. But I want to take just a moment to give credit where credit is due. I want to give credit to the distinguished ranking member of the Budget Committee, Senator DOMENICI, for his leadership some years ago in bringing about a budget process change, especially in the entitlement area. The paygo system he helped institute is working to control new entitlement growth, and I think it is a tribute to my good friend from New Mexico. In fact, we have legislated very little new entitlement growth since the paygo system was put in place. We certainly have not ignored entitlement programs when it comes to spending reductions—especially in health care.

In the old days when the cowboys would come into the saloon, many times they were required to check their guns at the door. Well, let us just check our rhetoric at the door as we look at this budget and see what has occurred to entitlement programs. In 10 of the last 13 years, we have passed bills reducing Medicare outlays. The aggregate since 1980 comes to a 20-percent cut. Just by looking at Congressional Budget Office scoring of each of these bills, we can see that we have cut $165 billion from Medicare since the paring back began in 1981.

Last year's reconciliation bill made substantial entitlement cuts—a net reduction of $88 billion over 5 years—and total entitlement program reductions were $102 billion.

Some of these savings were used to pay for an increase in the earned income tax credit. That is an effort, using the Tax Code, to try to encourage people to move from welfare to the work force. That is an effort to try to give all people who work for a living at least a modicum of a decent standard of living. The total of reductions were $13 billion more than had been achieved in the budget summit 3 years earlier and $26 billion more than had been proposed in the President's budget last year.

Last year's bill, which cut Medicare by $56 billion, also achieved major reforms in other entitlement programs and with major savings. Here are some of the top savers in the entitlement area: Medicaid was reduced by $7 billion; civil service and military retirement was reduced by $10.7 billion; the student loan program was reduced by $4.2 billion; the administration of Federal welfare programs cut by almost $4 billion; agricultural entitlement programs cut by $3.2 billion; veterans programs cut by $2.6 billion; and banking and housing program mandatory spending cut by $3.1 billion. Those are cuts in entitlement programs.

I am not trying to argue that we have done all that needs to be done. I am simply reminding my colleagues that it is inaccurate to contend that we never touched the entitlement programs. We have been going at them for a decade, going at them very frequently, in a bipartisan way.

The only accounts in this Federal budget that are growing faster than the gross domestic product of this country are in the area of health care. We have before us major reform proposals for both health care and welfare. As we stand on the cusp of major reforms in health care, I think it makes no sense to keep picking at the edges of Medicare and Medicaid. We already know that the past 13 years of tinkering with Medicare has helped contribute to the health insurance problems that we are now hoping to reform. And merely sprucing up health care, with a nip at Medicare here, and a tuck at Medicaid there, is no longer an option. We need a complete overhaul that will take into account the fundamental problems of coverage and cost containment in the overall system.

Some contend that reform of the health care system will end up costing more money. I am not so cynical about our prospects about coming up with a meaningful health reform bill. The distinguished majority leader, put it best the other day when he said: "No plan is perfect, but we cannot let the perfect be the enemy of the good."

So we will be working together to come up with the best approach to these reforms. I am confident that our tried and true paygo system, which has already undergone some real tests and has prevailed, will continue to serve us well.

I want to sketch out the committee's budget resolution as reported. With one major exception, it tracks very closely the President's fiscal year 1995 budget. This budget resolution is necessary to sustain the historic deficit reduction that we passed last year. Over the next 5 years, there will be in excess of $600 billion in reduced deficits, rather than the $500 billion for which we aimed. I want to repeat that so all of our colleagues will absorb this and understand it. We are now reducing the deficit, over the next 5 years, by $600 billion, rather than the $500 billion we anticipated last year.

This same path of deficit reduction will sustain a robust and surging economy that continues to perform beyond our expectations.

The 1995 budget resolution contains the following key components:

The baseline we worked from for 1995 accepts all of the President's program cuts and all of the President's program terminations. This translates to some 300 programs which are either cut or terminated.

(Mrs. MURRAY assumed the chair.)

Mr. SASSER. The resolution also closes a $3.1 billion gap that opened up on the discretionary side of the budget for fiscal year 1995 because of differences between OMB and CBO scoring. That required the committee to cut $3 billion more from the President's budget.

I would note that in the past we have not necessarily accepted the more conservative Congressional Budget Office scoring. I am reminded specifically of the budgets that were submitted by President Bush in fiscal year 1992 and fiscal year 1993 which used OMB's numbers for appropriations rather than CBO's numbers. But this year we will be totally scrupulous and we have filled the supposed gap to hit CBO's account targets.

In addition to the reductions contained in the chairman's mark, the committee adopted an amendment making further cuts in 602(a) allocations reported to the Senate Appropriations Committee.

For fiscal year 1995 budget authority would be reduced by $5.3 billion and outlays would be reduced by $1.6 billion. Over the next 5 years, budget authority for all discretionary spending, including defense, would be cut by $43.2 billion in budget authority and outlays of $26.1 billion. All savings would go to deficit reduction.

The 1995 budget resolution falls below the caps by $1.6 billion in 1995 and by more than $5 billion in each of the next 4 years. Over 5 years, the budget resolution is below the legal spending limits by $26 billion.

Madam President, I want to stress that while I support the budget resolution, I do not think that this amendment we passed in the committee is particularly well advised.

First, I think we already have exercised considerable fiscal restraint. But more important, we have administered the correct formula of fiscal contraction. The economy has been able to absorb the medicine and still grow at a very productive rate. There is a very delicate balance here and I do not want to upset it at this time.

I am not saying we solved the deficit problem. I know we have not. The deficit is still a very real and profound problem. All of us know that there will be another round of deficit reduction, and I hope when it comes in 1 year or 2 that it will be a bipartisan round of deficit reductions this time.

But I believe we need this interval to give the economy time to thoroughly digest last year's deficit reduction program before we embark on another course of cuts.

This is not a time to be headstrong. This is a time, I think, to be prudent, a time to be cautious, a time to continue down the deficit reduction path, a time to flourish and nurture this economic growth that we are presently experiencing.

We need to keep our priorities straight. We should cut those programs that do not produce and invest in those programs that perform well. I believe we can find bipartisan support to do exactly that. But that does not mean that we have to start hacking away at the good and the bad. It does not mean that we should squeeze additional deficit reduction from accounts that are already frozen.

This amendment brings back into focus a nagging problem that plagues this body's efforts to engage in serious and credible deficit reduction. The amendment that was passed in the Budget Committee calls for making cuts in nonspecific areas.

Interestingly enough during consideration of the budget resolution, the Budget Committee rejected 10 amendments, 10 amendments that made specific spending cuts. But when the vote came on this amendment that deals only in general amounts, a majority of the Budget Committee voted for it and what happens? We passed the buck on to the Appropriations Committee. And those who voted for it on the Budget Committee will say when the appropriators have to make these cuts, "Well, I did not vote for cuts; I did not want those cuts to be made. It is the appropriators that made those cuts. I was not for them. I was for something else being cut."

That is what you get into with these nonspecific reductions. We are just going to cut $1.6 billion in outlays next year. We do not say where they are going to come from. We just say we are going to cut it. That is not serious budgeting. That is budgeting by headline.

The action of many of my colleagues sustained something that the distinguished majority leader has long warned about. Senators are very fond of making cuts in general. They can go back home and tell the Rotary Club, and their constituents: "Oh, I voted for cuts. I voted for cuts and the reduced spending in general in the abstract." But they are very reluctant to vote for specific spending cuts.

The great writer Robert Louis Stevenson once said:

> Everybody, sooner or later sits down to a banquet of consequences.

And those who supported this amendment are going to sit down to a banquet table of their consequences if it is sustained, and they will be eating bitter fruit indeed.

Well, no matter what clever complex, and arcane machinery the mind of human kind can come up with—and I think we have seen about all of them by now here—dealing with the budgeting process, the process of reducing spending, and bringing down the deficit comes down to one thing, and one thing only: You must have the courage to vote for specific spending cuts. And we very rarely see that.

Last summer I was on the floor of this body trying to reduce spending, trying to phase out the space station. We failed. We tried to cut the superconducting super collider. Eureka, we succeeded in that, but not because we did it in this body, but because our colleagues in the House said we are just not going to spend any more money on it. And we fought desperately last year just to make a few cuts in the very expensive Star Wars Program.

Mark my word, I am going to be back when the appropriations bills hit the floor this year, and I am going to add Milstar to my list of proposed cuts. I hope that many of those same Senators who supported reducing the 602(a) allocation in this committee will join with me in voting to cut some of these specific wasteful programs.

I think one of the things that is going to be thrown overboard, whether we like it or not, if this amendment stands is the new nuclear aircraft carrier. It simply cannot be financed out the 602 allocation that is going to go to the Armed Services Committee.

Returning now to the overall content of this resolution, we deal with the

whole question of mandatory programs such as health care, welfare reform, GATT, and nutrition.

The budget resolution is completely agnostic when it comes to which health care plan or combination of plans will be ultimately passed.

The reserve clauses in this resolution are strictly enabling legislation and nothing more, which allows deficit neutral legislation to be considered on the floor.

We have added back to the President's budget in a few areas which merit an additional note.

The committee's resolution restores roughly 70 percent of the President's reduction in the Low Income Heating Assistance Program, so-called LIHEAP.

We also restored the administration's $202 million in cuts in mass transit operating grants.

The committee resolution as reported rejects the proposed $63 million reduction in various Rural Electrification Administration loan and loan guarantee programs.

And for Ryan White, we have added $182 million over last year's funding level.

We have offset those adds and filled the $3.1 billion gap with a group of adjustments to the President's discretionary totals. The committee's resolution, as reported, assumes the ceiling contained in the Federal Work Force Restructuring Act, which recently passed both Houses.

The resolution also assumes that requested funding for the acquisition of Federal buildings is reduced by $300 million. Budget authority still exceeds the 1994 funding level and the current services baseline.

In addition, the resolution, as reported, assumes roughly a 3-percent across-the-board cut in agency overhead expenses. The cut does not apply to the Department of Defense or the Social Security Administration and excludes obligations for R&D and GSA rent and minimizes the application to program-related obligations.

The cuts in overhead specifically affect purchases of land and equipment, supplies, transportation, consulting, and printing, and contracting-out services.

There will be no reconciliation instruction because there are no tax increases in this bill or reductions proposed in the budget.

On the mandatory side, the committee does not recommend any reductions for the simple reason that the major programs are all being scrutinized by the relevant committees, and major reforms are forthcoming.

Well, Madam President, in conclusion, I believe we have made remarkable progress in the past year. The measure of our journey is not in time, nor difficulty, but in what we have achieved. We have achieved falling deficits. We have achieved an expanding economy. We have achieved a higher standard of living for working men and working women. The challenge we face today is whether we have the courage to stay the course.

Madam President, I have here some graphic evidence of the progress which we have made during the past year.

In April 1993, the Office of Management and Budget was predicting a budget deficit for fiscal year 1994 of $305 billion. The current OMB estimate, after the passage of the Deficit Reduction Act, is $236 billion, and the current Congressional Budget Office estimate is $228 billion.

So, as a result of the Deficit Reduction Act we passed, and as a result of economic expansion, we now have seen the deficit reduced from $305 billion for 1994 to $228 billion.

In April 1993, we were predicting for fiscal year 1995 a deficit of $302 billion. We are now anticipating, because of the Deficit Reduction Act that we passed, a deficit of $177 billion by OMB estimates and $179 billion by CBO estimates, a very dramatic reduction.

In April 1993, we were predicting for 1996 a deficit of $298 billion. Because of the Deficit Reduction Act we passed and the expanding economy, that is now predicted to be between $178 billion and $180 billion, well over a $100-billion reduction; well over a one-third reduction in the so-called deficit. The same is true for 1997 and for 1998.

Look at 1998, Madam President. In April 1993, the Office of Management and Budget was predicting a deficit of $388 billion. The prediction now of both CBO and OMB for 1998 is a deficit of $187 billion. By our action on this Deficit Reduction Act that we passed last year, we will reduce the deficit in 1998 alone by over $200 billion.

And look what is happening in the economy. This is real business investment in billions of 1987 dollars. Look at that line, going almost straight up, as this economy recovers. This real business investment is the best evidence we have that we have a robust economy on our hands for the coming year and for the outyears.

Look, too, at this index of leading economic indicators. These are what the economists rely on to predict economic growth in the years ahead and to predict whether we are going to be in a recession, have moderate growth, or substantial growth.

Look at these leading economic indicators. Beginning in the fall of 1993, that line is going almost straight up. That is an indication of robust economic growth to come.

Well, what has happened to the deficit over the same period of time? These were the deficit projections in April of 1993. The deficit was predicted to be $310 billion in 1993, to stabilize; and then, in 1997, start going through the roof by the year 2003.

What this line indicated was the bankruptcy of the Government of the people of the United States. Look at what has happened since we passed the Deficit Reduction Act. Instead of $310 billion for fiscal year 1993, it is now $255 billion; coming down in 1995 to about $170 billion and staying flat until the outyears; and, of course, going up somewhat if nothing is done about health care costs.

The blue line represents discretionary spending from 1995 to 1999 with no cap on it. That is if we just let discretionary spending grow with inflation; in other words, no real increase in discretionary spending, but just let it go up with inflation so that you have the same purchasing power.

You see that it grows from something akin to $550 billion to up to about $610 billion. Well, we placed caps on discretionary spending in our 1993 economic package that we passed, our deficit reduction package. And, rather than discretionary spending going straight up during this 4-year period, we see it remaining relatively flat for the whole 4-year period. That is somewhere in the neighborhood of $540 billion to $550 billion.

The red mark represents the amendment that was passed in the Senate Budget Committee. This amendment, as I said, reduces, over that period, budget authority by $65 billion and outlays by $26 billion. In 1995, the amendment passed by the Senate Budget Committee will reduce budget authority by $12 billion and outlays by $1.6 billion relative to the caps over the next 5 years.

And you can see this is the red line which puts the domestic cap below the Budget Enforcement Act that we passed last year.

The distinguished ranking member has been waiting patiently for his turn to speak and make his opening statement this morning. I want to defer now to Senator DOMENICI for his comments.

I yield the floor.

The PRESIDING OFFICER. Who yields time?

Mr. DOMENICI. Madam President, I hope I did not cause my colleague to stop before he was ready?

Mr. SASSER. No.

Mr. DOMENICI. Madam President, the lack of interest in a budget resolution this year, it is fair to say, indicates that not very much is happening. I can assure my colleagues, the media was not very interested in the markup during the 2 days we were in session. Also, there is not a great deal of interest on the part of our fellow Senators because essentially the budget does nothing this year. In fact, it does precisely what we said it would do last year. I assume that, if this mode is continued, next year it will do exactly what it was told to do in the Budget Enforcement Act, passed in August of last year.

I would like to take a few minutes today and discuss why that is not good enough. In the meantime, in my own way, let me describe some of the very, very difficult situations we face in terms of the people understanding what we are doing. Rather than proceed to talk about why we are doing nothing and why doing nothing is very, very frightening to this Senator in terms of our children and the legacy of debt we are going to leave them, let me talk a minute about the idea of who is fiscally responsible and who is not, who is willing to vote for hard cuts and who is not.

My good friend, Chairman JIM SASSER whom I have grown to respect and admire—and it is a pleasure working with him. And right up front here I want to thank my excellent staff and indicate I observed his excellent staff worked very hard on this technical and difficult problem. I thank both sides, the Democratic staff and Republican staff.

But let me just use one of the Senator's examples since a lot of Americans wonder who is for cutting and who is not. The Senator said he came to the floor and recommended cutting the space station, that we should not have that as an American program. And he says to the people listening: The people who did not vote for that must be for bigger deficits or for not cutting spending.

Madam President, the truth of the matter is, whether the space station was cut or not made zero difference in terms of aggregate deficit numbers and how much we will spend each year as a nation. That is because we are now operating not on a program-by-program basis but by one overall expenditure cap that cannot be violated. I know this does not sound quite right to many Americans who do not believe we have a way of saying we will not spend any more than a given amount but we actually do have a way. This Senator does not think that those budget limits are low enough, but we do have a way.

Since 1990, we finally invented and enforced a way to see to it that if we say you are only going to spend $540 billion in the year 1995, you cannot spend more than $540 billion. That is written into law. The law says if you have appropriated more than $540 billion at the end of the year, there is an automatic cut across the board to bring it down to $540 billion. That was thought up in the 1990 summit when many of us were meeting over at Andrews Air Force Base. Many think we did not come up with a very good product. Some think there are some components that are very good. This is a component that is very good.

Consequently, if you cut the space station here on the floor in an appropriations bill, the real test of whether you wanted to cut the budget or not is not part of that vote. The important vote is the one that says, when you cut that money out of the budget, you reduce the spending cap by an equal amount. That occurred in the Senate, if I recall. Many voted to take the program out but said leave the cap right where it is.

What does that do to spending? It only means you chose the space program to cut and you want to spend the money somewhere else. Spending gets filled back up to the cap in the ensuing weeks because there is no other rule around. You spend the money on other programs that you would have spent on the space station.

So as a Senator who has understood this process since we started this budget process of mandatory binding caps that would be followed by an across-the-board cut if you exceed them—I do not think people ought to too quickly pass judgment on individual appropriation items as being a budget cutter unless the cutters are willing to lower the cap for total expenditures. Otherwise, the only thing the cut says is "Spend the money someplace else." I do not think anybody can deny what I just said. Every time we have removed a program, Congress has proceeded to spend right back up to the cap, which means we have not saved anything.

My last point is there are a lot of priorities that the Republican side might want and the Democrat side might not want, and vice versa. But if you just pick your priorities and vote on them, you are simply picking priorities. You are not cutting deficits, if you leave the total amount to be spent where it was to begin with. You have not saved anything.

It is also interesting that the budget process has evolved to a point where—with regard to the budgeteers and people who are going to come to this floor and talk about what they are going to cut—the budget resolution does not have any individual programs in it to cut. That might surprise some people. It is just a lot of numbers. You see a whole bunch of numbers.

So if somebody comes to the floor and says today I am offering an amendment that says I do not want to spend money for this program but I would like to spend it for this other program—if they leave the numbers in the budget resolution exactly where they were, that vote is nothing more than an expression of desire. They are in effect saying, "I would like the Congress to not spend money on this, and in turn spend it on that." When we are all finished with this, what controls what is really spent are, the dollar numbers we give to the Appropriations Committee. They divide it up, and they spend it and bring it to the floor in 13 separate bills.

So while we will have a lot of rhetoric—some of it will be great, some of it will make a very good point in terms of what ought to be and what people think they want to do, frankly, to simply move money around—unless you change the caps you have not changed the budget one bit.

Let me now refer to a couple of charts for a minute. I know the first discussions here are supposed to be about the economy, but I choose to weave the economy into the next 30 or 40 minutes and not separate it out. I want to make sure everybody who is looking at the American fiscal policy understands what we are leaving for our children as the legacy of indebtedness. Professor Tribe once expressed it this way: America is kind of a revolutionary country where we are opposed to taxation without representation. But the deficit and its enormous size is taxation of our youth and the next generation and the next generation, without any representation, because assuredly they will have to pay more taxes to pay it off. So in a very real sense the deficit is taxation of generations yet unborn without representation.

Here is the reality of the "stay the course," "do nothing in addition to what we did last year" approach to fiscal policy. In 1995, the deficit will be $178 billion. That will be the number if we stay the course.

The deficit does not come down anymore. It starts going up and in 1998—that is not very far from now—the fifth year of this budget, it rises further. And if those who look at budgets are right—and I believe they are—and if current policy is left unchanged, deficits will exceed $350 billion by the year 2004. I do not think anybody really thinks this Nation is going to have sustained recovery with this reality. And it is a reality, it is just not yet fixed in the minds of the American people and policymakers.

Let us look at where this deficit comes from, and maybe we will all understand why it is not enough to stay the course.

In 1990, the budget of the United States was made up of $184 billion in net interest and $185 billion in nondefense discretionary. That means what we spend on education, what we spend on housing, what we spend on highways and the like. Defense, $319 billion; and entitlements and mandatory expenditures, like the health care programs—Medicare, Medicaid, Social Security, and a lot of others, hundreds of them—the amount was $567 billion.

We go to 1995—the budget year we are going to vote on—the interest is now up to $212 billion; nondefense discretionary has gone up almost $70 billion, which many people would be shocked by because we are always telling them how much we cut. In fact defense is the only one that went down. It went from $319 billion to $291 billion. Next, the entitlements and mandatory programs of our land, go from $560 billion to $843 billion, almost a $300 billion increase.

Frankly, it is these entitlements and mandatories that nothing is being done about.

Then let us look at what the projections are for 1999. These are from the Congressional Budget Office. Lo and behold, stay the course. Do you think that after looking at these spending increases Americans would say: "Well, you told us we are cutting programs and that we are spending less at home and less on defense and less on foreign affairs, everything is just getting cut all over the place"?

Let us look at nondefense discretionary from 1995 to 1999. That is the one I explained a while ago—education and the like. It does not go down. It goes from $249 billion to $283 billion. If my quick arithmetic is right, practically a $50 billion increase. Not down, up.

Defense, again, comes down. It will then go to $280 billion. It was once $319 billion. But then consider what happens. Mandatories and entitlements, goes up to $1.099 trillion from $843 billion in 1995. Some quick arithmetic: $250 billion more in these next 5 years.

The point of this is very, very simple: When, how and where will we finally control this budget? When will we get these upward trends turned around?

Madam President, there are no cuts in this budget—no new cuts, to this increase of $250 billion.

Point No. 1, frankly, I do not believe we can sustain this trend for very long. Point No. 2, in my opinion, the best time to make real changes in domestic programs, both from the political standpoint and from the reality of economics is when the economy is growing. You will never change the spending habits of a nation in any permanent and significant way when the economy is coming down. It does not work. People are frightened. It does not make good sense from the standpoint of wanting to do things that are not adverse to economic growth. So, it seems to me, that now would be the time to take a serious look at some new and different ways to approach the mandatory and entitlement programs of this land.

A great deal has been said about the buoyant state of the American economy. Hopefully between now and 12:15 or so, and throughout the next 15 to 20 hours, we can speak some more about how the economy got to where it is. But I think it is important that as part of this debate we talk about something that is now getting a little worrisome and yet it is being held up as the most single positive phenomenon that should cause success to continue and the American economy to grow and prosper; and that is lower interest rates.

In August 1993, the Democrats in the Senate and House, led by President Clinton, passed a deficit reduction package. I am sure that many Americans will be shocked to learn that that was not the beginning of this recovery; that was not the beginning of the interest rate declines.

Before I go on with the rest of my thoughts, let me say the economy is doing splendidly, especially when you consider the rest of the world. I am very pleased. I am glad it is happening. If I were on the other side of the aisle, I would be bragging about it, too. I would be trying to say we did it; it is our economic recovery. But I think it is our job to be a little realistic and make sure we understand all that surrounds those kinds of statements.

The 10-year T-notes are very, very important for many reasons, partly because most of our debt is evidenced by 10-year T-notes. Three-month Treasury bills are an indication of how the short-term market on interest rates is going. They are very important, too, although not terribly relevant to the business community. Nevertheless, they indicate downward trends in interest.

In 1990, these 3-month bills started coming down. By 1992 they were below 3 percent. What has happened since then? Instead of coming down further, they have gone up. And today, as we speak, without any recent change in policy by the Federal Reserve, they are inching up so that now they are back to 3.5 percent.

That means that interest rates have been having a healthy effect on this economy for about 2½, almost 3 years, rates have been coming down during that period of time.

The 10-year notes follow the same pattern. I believe it is not just interest rates that are making the economy go but a lot of other things that came together midyear of last year and really buoyed the economy, which had been growing at a very slow pace.

The downward spiral in the trend of interest rates started about 3 months into 1990 and, with ups and downs, continued downward, and, believe it or not, during the Clinton administration they came down a little bit more. But for everyone it is obvious they are going back up again. In fact, they have gone up more than 1 full point, from a low of almost 5 to 6.5 percent today, a rather clear upward trend and a clear signal.

Now, that only means to me, if it is interest rates that concern us, we better be worried about all the trends coming back together at the wrong time moving in the wrong direction. When the markets and everyone else find out this deficit is on the way back up and not up just a little bit but substantially and significantly, that this deficit is moving up and the debt will grow rapidly, it would seem to me we will not add to the quality of things going on in the American economy that would cause interest rates to come down.

So I believe the time is now to do some major surgery on mandatory and entitlement programs, and later I will present, hopefully in behalf of most Republicans, an approach to doing that, to getting that $365 to $400 billion deficit down dramatically and reducing the deficit over the next 5 years substantially more than is proposed.

Having said that, let me talk a little bit about the successes we have had so far. And again I say to Senator SASSER, who has done a marvelous job, sometimes I appreciate very much how difficult it is for him to get all of his Democrats together on something and to make it move. I had to do that once for 6 years, and it is tough. I believe it is not as difficult this year because of what I have already explained. We are really just enforcing the caps that were imposed heretofore as part of a 5-year program.

But I think it is worth stating again that, if you look at July 1993 when the so-called big deficit package was passed, let us analyze two things.

First, I am not trying to deny the President or Democrats the joy of claiming great success, but I do think we ought to talk about a little realism. When the U.S. Government makes a major policy change which will affect the economy, I think it is general consensus among most economists, in fact, I would say almost everybody on the joint economic advisory group that advises the President would say it takes about 1 to 1½ years for the economy to react to major policy changes, be it tax cuts or be it investment tax credits of the Kennedy era. It just does not happen overnight.

Well, just think a minute. The largest quarter of GDP growth in the last 4½ to 5 years was the last quarter of 1993 when the GDP, gross domestic product, grew at 7.5 percent. That was 1 month after the passage of the package that was heralded as the reason for the pickup. Now, having said that, CBO reported in their economic and budget outlook fiscal years 1994–98, "Although monetary actions operate powerfully on the economy, they do so only indirectly and with an uncertain lag, perhaps more than a year."

The deficit in the year 1998 is projected still to be $201 billion and at the same time the 5-year program in the document before the Senate, assumes constant growth of over 2.7 percent, for the next 4 years, and assumes these interest rates do not go up but actually stay level or in some cases decline from current rates.

After 1998 deficits skyrocket, and I believe the question is: Should we do something about that this year or not? I think we should. It is not easy. In fact, it is very difficult to do that. But I would submit that at least we are going to try. We are going to offer, either today or early tomorrow, an alternative. It will get the deficit to $99 bil-

lion by 1998, and we will also be able to turn the tax tables so that they favor families with children and homemakers, part of a thrust to change the Tax Code to do a better job of recognizing how expensive and difficult it is to raise children these days, especially on the economic side when the Government has dramatically reduced the deduction that you can take for dependent children.

Madam President, currently our economy is growing, we are creating jobs for our people, and our businesses, by and large, are prospering. This is good news. The Federal deficit is declining from $255 billion last year to an estimated $225 billion this year. With continued growth the deficit will decline again in the coming fiscal year to about $180 billion.

President Clinton is fortunate to have come into office inheriting an economy in the recovery stage of the current business cycle expansion—the ninth expansion of the post-war era. It is this upswing in the business cycle that, more than anything else, has contributed to the recent decline in the deficit. However, the work of the Budget Committees over the past 4 years has also contributed—through establishing caps on discretionary spending first in 1990 and then extending them again last year.

But the job is far from done. And the resolution before us today leaves the job undone. Now is not the time for us to be taking a break or putting the budget process on automatic pilot.

THE PROBLEM

First, the low interest rates which began coming down 4 years ago and have stoked recent economic growth are creeping back up. Ten-year Treasury-note interest rates—representative of long-term rates—are now at 6.4 percent, down from 8.9 percent in September 1990. This 6.4 percent is approximately equal to the 6.6-percent level reached last January when President Clinton assumed office.

The administration has been quick to take credit for interest rate declines that occurred last year, but rates are not back to about the level when President Clinton took office. This increase has, according to economists, already had a dampening effect upon consumer activity.

Simply stated, economic growth is not a certainty. The average peacetime expansion has lasted but 14 quarters, only 11 if one removes the exceptional 1980's expansion, the longest peace-time expansion on record. The current expansion is in its 12th quarter. The administration and the Congress must now rely on more than just the momentum of the business cycle to keep the economy strong and vibrant. We must continue to structure policies that increase net national savings for investment and growth.

Second and related to the economics discussed above, is the deficit trend after 1996. It is not good. Because, as we all know, after fiscal 1996 the deficit begins turning upward again and embarks on a relentless upward spiral, driving past the $300 billion mark shortly after the turn of the century.

The resolution reported by the committee does not do anything to change this long-term trend. Even including the impact of the Exon-Grassley discretionary cut amendment adopted in committee, the deficit will still rise throughout the next 5 years growing back to $200 billion by 1999. These estimates assume 10 years of uninterrupted economic growth averaging over 2.5 percent annual real growth.

During last year's budget debate, we were repeatedly told by the White House and members of this committee that health care reform would bring down the deficit in the outyears. But CBO dashed that myth. The secret is out—there is no deficit reduction in the Clinton health care reform plan.

More importantly, the Senate-reported resolution at best would only reduce spending $36 billion over the next 5 years, $20 billion of that $36 billion occurring in 1999—in other words "back-in loaded". And all of these reductions would come from that area of the budget known as discretionary programs, annually appropriated. The real culprit of spending growth—mandatory spending—is left untouched in this resolution.

What is more interesting, the resolution before us today does not accept the President's spending cuts for LIHEAP, mass transit, REA, Impact Aid part B, Ryan White grants, and Head Start. While adding back real spending for these Presidential cuts, the resolution finds questionable real offsets in the form of delaying obligations for the Head Start Program, delaying obligations for the National Institutes of Health, delaying obligations for Federal building programs, assuming different outlay rates for housing programs, and cutting agency overhead rates by 3 percent.

I do not think anybody can argue that the resolution before us today, including the discretionary savings from the Exon-Grassley amendment, does anything to address the real spending problem of this country.

THE SOLUTION

We cannot fool people anymore. We cannot simply say we did the work last year—we're taking this year off. We cannot duck our responsibilities simply because it's an election year. It is clear that the President's budget and the House-passed budget resolution along with the one before us today are really designed to hold the course. They are do-nothing budgets.

But Republicans are not satisfied with the direction this course will take in the longer run. We have much more to do if we are to keep our economy moving forward.

Republicans are willing to work to make that happen. Contrary to the opinion of some, Republicans want this President to succeed. We particularly want this Nation to succeed. We want to bring our deficit down—cut it in half by the end of the President's term as he promised—to help create jobs, and to provide some security to our people. Republicans want to help the President meet his campaign goal of providing a middle-income tax cut to hard-working American families with children.

After many weeks of work and development, Republicans offered in committee a comprehensive Republican alternative to the Clinton budget as embodied in the chairman's remark. It was a principled budget.

It was a budget designed to provide real security to the American people. Moreover, the GOP alternative budget helped President Clinton achieve his two campaign promises—to cut the deficit in half and provide a middle-class tax cut.

And the Republican alternative would have provided real security to the American people. It would have enhanced their national security, their personal security, and their future security.

Our alternative began by providing for current and future security by achieving real deficit reduction. The Republican alternative budget would have reduced the deficit $318 billion over the next 5 years. This is $322 billion more in deficit reduction than the President proposes and $303 billion more in deficit reduction than the House-passed resolution contains and $280 billion more than the Senate-reported resolution.

It reduced the deficit to $99 billion in 1999. It cut the deficit in half that year compared to the Clinton policies. The $99 billion deficit in 1999 would be $106 billion less than the deficit projected under the Clinton budget.

The alternative budget then sought to enhance the personal security to middle-class families by providing promised tax relief to American families and small business.

Provided tax relief to middle-class families by providing a $500 tax credit for each child in the household. The provision grants needed tax relief to the families of 52 million American children. The tax credit would have provided a typical family of four $80 every month for family expenses and savings.

Restored deductibility for interest on student loans to assist our young people seeking to advance their education.

Indexed capital gains for inflation and allowed for capital loss on principal residence; and

Created new incentives for family savings and investments through new IRA proposals that would have allowed penalty free withdrawals for first-time homebuyers, educational and medical

expenses. It also would have created an IRA for homemakers.

Furthermore, we sought to help small business and spur job creation by extending the R&E tax credit for 1 year, providing for a 1-year exclusion of employer-provided educational assistance, and adjusting depreciation schedules for inflation.

The Republican alternative budget sought to ensure the personal security of Americans by fully funding the Senate crime bill trust fund—providing $22 billion for anticrime measures over the next 5 years. The Clinton budget does not. The House-passed budget does not.

Our alternative ensured our national security by increasing funding for President Clinton's defense request by the $20-billion shortfall acknowledged by the Pentagon. By rejecting the Republican amendment to restore the firewall between defense and nondefense spending, the committee-reported resolution as modified by the Exon-Grassley amendment to cut discretionary spending $43.2 billion in budget authority, can only be considered a further risk to national security funding in the future.

The alternative budget addressed the largest and fastest growing component of Federal spending—the non-Social Security mandatory spending programs. The alternative was willing to reduce the projected rate of growth in the Medicare Program from 10.6 percent annually to 7.8 percent annually over the next 5 years. The alternative was willing to reduce the rate of growth in the Medicaid Program from 12 percent annually to 8.1 percent annually over the next 5 years.

While the alternative budget was austere, Federal spending would still continue to grow. Total spending would increase from $1.48 trillion in fiscal year 1995 to more than $1.7 trillion in fiscal year 1999.

The GOP alternative budget did not paper over the problems confronting us. Rather, it responded to the fears and concerns of the American people. It gave workers a break, it gave families a break, and, most importantly, it would have given our children a break from having to pay our bills.

Unfortunately the alternative bright-line vision for America's future was rejected on a straight party line vote in the committee. I believe the full Senate will have an opportunity to vote on the Republican alternative before this debate ends.

The administration projects that the economic expansion currently underway will continue in coming years. I do not believe there is a person on either side of the aisle that doesn't hope that that's the case. In fact the administration's projections of benign deficits ahead crucially hinge on this assumption—and of course the assumption of significant savings from the administration's health care reform. Unfortunately this rosy scenario is based on a "Sun is shining now" attitude about the economy. Yes, we had strong growth in the fourth quarter of 1993, but we must put this in economic context.

President Clinton was fortunate to come into office inheriting an economy in the recovery stage of the ninth business cycle of the postwar era. Owing to underlying conditions that had been steadily improving for a number of years, the economy continued the expansion in 1993 that had begun a year and a half earlier in the spring of 1991.

Important components of this expansion include 3 years of improving household and business balance sheets, declining interest rates since 1990 and declining inflation that goes all the way back to the early 1980's when inflation peaked at 12 percent or so.

Low inflation and interest rates have set a solid foundation for economic growth, reflecting a determined and successful Federal Reserve—though I believe they have not been receiving the credit they deserve. Here are the facts:

Following a declining trend that began in 1990, interest rates reached their lowest levels since the 1960's. Three-month Treasury bill interest rates—representative of short-term rates—declined from 7.8 percent in April 1990 just before the recession began to 3.0 percent by the beginning of 1993. The 3-percent rate was reached before President Clinton came to office and short-term rates have done no better since then.

The 10-year Treasury note rates—representative of long-term rates—are now at 6.4 percent, down from 8.9 percent in September 1990. Almost all of that decline occurred before President Clinton took office. Rates declined further last year but have now risen nearly back to the 6.6 percent levels of early 1993.

Part of the interest rate reductions we have seen reflects expectations of lower inflation ahead than previously thought. Inflation averaged 12 percent in the late 1970's and in 1980, 4 percent during the mideighties, and 3 percent in 1992 and 1993. Inflation partly reflects the costs of production and growth in these costs has moderated because of large gains in worker productivity in recent years. During 1992, nonfarm business productivity, the best measure of economywide worker productivity, rose 3.6 percent. That's the biggest 1-year increase since the early 1960's. productivity growth in 1993 was a slower 1.9 percent.

Following a downward trend that started in 1990, household debt burdens have receded to levels last seen in the mid-1980's. Household debt service as a percent of disposable income declined from a high of 19 percent in late 1989 to nearly 16 percent by the end of 1993—about equal the level in 1985. Payment delinquencies on consumer loans fell sharply in 1992 and the trend continued in 1993. They are now at a level not seen in 6 years.

As a result of improving conditions, real GDP advanced at an average rate of 3.2 percent over the four quarters of 1993, higher than the 2.7 percent pace of the first seven quarters of the expansion and slower than the pace in 1992. Over the four quarters of 1992 real GDP rose a strong 3.9 percent, the fastest pace since 1987.

Partly owing to the strong GDP advance in 1992, disposable income per capita after adjusting for inflation rose 3.8 percent or an average of $527 per person during 1992—the largest 1-year rise since 1984. In 1993, income per person held to the high level achieved at the end of 1992.

While this administration was quick to take credit for interest rate declines that occurred during part of last year, rates have now risen back up to about the level when President Clinton took office. It appears now that they wish to have their economic plan take credit for the pickup in real GNP in the fourth quarter. Again, it is important that we understand what is going on in terms of the economic cycle and the recovery that began in 1991. Alan Binder, a member of President Clinton's Council of Economic Advisers has written:

> Rapid economic growth always follows on the heels of a steep recession. I call it the Joe Palooka effect, after those inflatable toys on which young boys worked out their aggressions a generation ago. Because Joe Palooka was weighted at the bottom, he always snapped back after being pummeled to the ground.

Herbert Stein, Chairman of Richard Nixon's Council of Economic Advisers has always said:

> The business cycle was more important than any President's acts.

Taking credit for the pickup in growth that began in October of last year, the administration has pointed to OBRA 1993, the Budget Reconciliation Act completed a little more than a month earlier in August. But, this is what economists have said about the delay between policy and the economy. Nobel Prize winner Lawrence Klein wrote in 1991 that a fiscal policy GNP "multiplier reaches a high * * * after four or five quarters." CBO reported in their "Economic and Budget Outlook: Fiscal Years 1994–1998":

> Although monetary actions operate powerfully on the economy, they do so only indirectly and with an uncertain lag, perhaps more than a year.

We should ask, is it likely that the substantial declines in interest rates between 1990 and 1992 stimulated real GNP in 1993? In my estimation, that lagged effect makes eminent sense. Could the August 1993 OBRA affect October 1993 growth? That just doesn't fly no matter how many times it is asserted.

Based on such flimsy support, we cannot rely on the speed up of growth in the fourth quarter to justify a sanguine view of our future economy. In fact, Democrats in Congress have joined the administration in carrying the logic of crediting President Clinton's economic plan for strengthening the fourth quarter a dangerous, yet erroneous, step further. They advocate a stay the course path to sustain healthy economic growth. It makes no sense to me. The Shadow Open Market Committee, a group of eminent academic and business sector economists, declared in their most recent public statement:

Although the administration takes credit for improved economic performance, recent growth mainly reflects past Federal Reserve policy.

Moreover, even lower interest and inflation rates, and the benefits they produce, may now have ended. Declines in interest rates that occurred in 1993 have all but disappeared. The economy is approaching capacity levels not seen since 1988 and this puts pressure on prices.

Unfortunately, economic growth during this expansion, or any other, is not a certainty—the average peace-time expansion lasts but 14 quarters, only 11 if you remove the exceptional 1980's expansion, the longest peace-time expansion on record. The current expansion is in its 12th quarter.

At this point, we must now rely on more than just the momentum of the business cycle to keep the economy strong and vibrant—we must rely on good policies. Assuming a "Sunny day" scenario because the Sun has been shining is not enough to bank our future economic growth and budget prospects on.

It is funny that I should say this, but candidate Clinton advocated what I thought was "good policy" during the campaign. He said he would cut the deficit in half in 4 years, and cut taxes for the middle class. That sounded like a pretty good goal then, and it is the goal we should aim for today.

Might I ask our chairman, I intend now to suggest to our Republicans, Mr. President, that anyone who has amendments at least get me familiar with them so we will begin to compare how many amendments we have because I gather most Senators would like to see us move expeditiously with this resolution, and I for one want to accommodate many who have said this on my side and I know the Senator wants to do the same.

So I am asking Republicans to give us their amendments so we begin to make some order on our side. Is that a fair way to proceed?

Mr. SASSER. I think that is an excellent course to pursue, and I wish to join with the distinguished Senator in asking that all Senators from the Democratic side who are contemplating offering amendments to bring those amendments to us, let us know what they are so that we can make arrangements to bring them up in an orderly way.

As all Senators know, we are operating under, I think, a 30-hour time agreement. So, if we are going to entertain amendments of everybody and give them adequate time, we need to get the amendments early. If we do not and all the amendments come in at the end of the day, then Senators ought to understand there will be little or no time for debate and there will not be a fair airing of their amendments.

So I urge all Senators on our side to bring their amendments to me in the Chamber or to our very able Budget Committee staff here and let us begin the orderly process of trying to align them for taking up.

I thank the Senator.

Mr. DOMENICI. Madam President, might I ask, is there anybody on our side who wants to speak before we go out for policy luncheons?

Would the Senator from Iowa like to speak?

Mr. GRASSLEY. Is it possible to speak for 20 minutes?

Mr. DOMENICI. I am going to take 5, and then I will yield.

Does the chairman have other time requirements?

Mr. SASSER. Yes. The distinguished Senator from Washington wishes to speak.

Mr. DOMENICI. How does the Senator want to do that?

How much time did the chairman use this morning and how much did I use?

The PRESIDING OFFICER. The Senator from New Mexico has used 28 minutes; the Senator from Tennessee has used approximately 56 minutes.

Mr. SASSER. Since we are ahead on time, perhaps we will yield and let Senator GRASSLEY go next.

Mr. DOMENICI. Can I use 5 additional minutes before I do that on my time?

The PRESIDING OFFICER. The Senator from New Mexico.

Mr. DOMENICI. Madam President, I ask unanimous consent to insert in the RECORD a statement that I would entitle "A Budget Process Concern."

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

A BUDGET PROCESS CONCERN

The Congressional Budget and Impoundment Act of 1974 celebrates its 20th anniversary this July. It is particularly ironic in this anniversary year that critical public policy issues with major fiscal policy consequences now before the Congress are being ignored by the Budget Committees. The most important public policy issue confronting the Congress this year—health care reform—an issue that affects one-seventh of our economy is delegated to a "reserve fund" in the committee-reported resolution.

In addition to health care reform, the reported resolution contains 10 other reserve funds for future legislation ranging from trade-related legislation to the "nanny" tax. The expanding use of reserve funds, many of which are for broadly defined purposes, erodes this committee's budgeting role and the importance of a budget resolution for setting fiscal policy.

The 1974 Budget Act requires Congress to write binding outlay, revenue, and deficit totals in the budget resolution. Section 2(2) of the Budget Act states in part "that it is essential to provide for the congressional determination each year of the appropriate levels of Federal revenues and expenditures".

A reserve fund provides for a procedure to adjust the aggregate spending and revenue levels in the budget resolution. With the eleven reserve funds in the budget resolution, we have no idea what the levels of outlays and revenues will be.

The first such reserve fund was established in the FY 1984 budget resolution. However, this reserve fund was for specific initiatives and was limited to specific amounts. Through FY 1991, reserve funds were used sparingly, usually limited to defined amounts, and specific in purpose. Beginning with the FY 1992 budget resolution, reserve funds have grown in number and have been broadened in scope.

Number of reserve funds

Budget resolution:	
Fiscal year:	
1984	1
1987	2
1988	4
1989	3
1990	2
1991	1
1992	5
1993	5
1994	7
1995	11

When the Budget Committee simply sets discretionary funding right at the statutory caps and provides open-ended reserve funds to cover every conceivable mandatory spending initiative that the Congress will face over the next year, then this committee has given up its budgeting role to a significant degree. We have become simply a deficit enforcement committee that takes no meaningful actions on fiscal policy.

One of the chief purposes of the 1974 Budget Act was to bring "backdoor" (or mandatory) spending under control. During the debate on the Budget Act, then Senator Bentsen gave an eloquent description of the purposes of the congressional budget process:

"Piecemeal reductions in Federal programs, which is more or less what the Congress presently does, fail to provide a permanent solution to the problem of regaining and retaining congressional control over Federal spending. Congress has to have a means for making an independent judgement on the amount of Government money to be spent each year and we need the machinery for insuring coordination among the various committees incurring obligations and making outlays."

Reserve funds erode our control of spending and revenue levels and put us back on the path of making piecemeal decisions. It is ironic that 20 years after the Budget Act became law, the budget resolution, which was intended to control mandatory spending, is being used to facilitate open-ended expansions of such spending.

Finally, we gained adoption of an amendment to the health care reserve fund in this resolution to make it applicable to amendments. For the other ten reserve funds, a deficit-neutral bill reported by a committee

will be exempt from Budget Act points of order pertaining to spending and revenue levels. However, a deficit-neutral amendment that changes the mix of revenues and outlays in the reported bill would be subject to a 60 vote Budget Act point of order.

If a budget resolution is going to contain this many reserve funds that are so broadly defined, it is unfair to put individual Senators at such a disadvantage relative to the committees in writing legislation.

Mr. DOMENICI. Madam President, we have 11 reserve funds in this budget resolution. I am concerned about the growing number of reserve funds, and I have a history of how that evolved from almost none to 11 in 1984, the first time we ever used a reserve fund, and it was very precise and specific.

I think to say that reserve funds are an adaptation of the pay-as-you-go, which was kind of invented and thought up in 1990, is probably a fair statement. But I do not think it means that everything is going to be all right so long as we have pay-go on new programs. So let me try to give an example to the Senate of why that concerns me.

If you look at this major component of the components of the budget, the real problem with this budget is that the entitlements and mandatory expenditures, which in 1995 would be $1,843.9 billion, and it will grow to $1 trillion in 1999 just 4 years later, the real problem with the way we are headed is something like this: The biggest component of that is Social Security. Let us set that aside for a minute. The next biggest component, without any question, is the health-care programs of the U.S. Government: big, growing precipitously, one might even say somewhat out of control.

If they are out of control and are growing at 2½ times inflation, then the President of the United States was right in his campaign. I was right, the Senator from New Mexico was right 6 or 7 years ago when the statement was made that without controlling health care costs you will never control the Federal deficit. That is pretty obvious. If you let things continue as they are, those two occur.

Since everybody has been saying you have to control health care to get the deficit under control, I am very concerned about starting a health care debate with language in a resolution that says it does not matter whether there is any reduction in the tremendous surge in costs of these programs. What really matters is that when you do the new program that you put enough taxes in, cut other programs someplace or another, but you do not have to really reduce the costs of the spiraling programs.

Let me put it another way.

If in fact we were supposed to get the deficit under control by getting health care costs down, then we do not get the deficit under control by leaving health care costs alone and spending all of the money we might save on new health-care programs. It just will not work. So we have gone from "without health care savings we cannot balance the budget" to saying "it is OK so long as we do not spend any more than what health care costs are today" That will never work.

The President was mistaken when he sent his package up here. He was trying to tell us he would get some deficit reduction along with new programs. Then the Congressional Budget Office said, "Wait a minute. That is not true. It may be true in 10 years. But for the time being, you are going to spend more, not less."

So to merely say about health care so long as it comes out deficit neutral it is all OK, it seems to me to acknowledge we are not going to reduce the costs and apply any of those savings to the deficit of the United States. I will have to conclude you will never get the deficit under control because you have given up the ingredients that were there to be used.

Having said that, I would also suggest that I very much would like to start the debate on health care with the budget on Medicare and Medicaid having assumed the position in a budget where there are already savings built in that are applied to the deficit. Then I think you have a realistic picture of where you are going to end up, not the kind of situation that I envision occurring now as I look at the spiraling costs of health care and the fact that we are not going to get any contribution to the deficit from health care costs to the U.S. Government.

Madam President, I yield the floor. I understand Senator GRASSLEY desires to speak. How late are we going to go, I ask the chairman? We have a policy lunch at 12:30 and a leadership meeting at 12:15.

Mr. SASSER. Madam President, 12:15 or 12:30. The chairman would be most accommodating to the distinguished ranking member. We can do either one.

Mr. DOMENICI. Thank you. I think we can go to 12:15. I have to go to another meeting. Senator GRASSLEY might be able to stay 10 minutes or so. We will ask him. If not, we will ask to recess at 12:15.

Mr. GRASSLEY. Madam President, I yield myself such time as I might consume. I am thinking in terms of roughly 20 minutes.

The PRESIDING OFFICER. The Senator from Iowa.

Mr. GRASSLEY. Madam President, I want to address the so-called $20 billion inflation problem. This deals with the outyears of the Department of Defense's future year defense plan [FYDP].

We have had a parade of witnesses before the Budget Committee in recent weeks, including Secretary of Defense Perry, and they all tell the same story. They tell us how inflation is a culprit. It is very difficult to predict what inflation is going to be, and, consequently, they cannot supply definite figures for the outyears for the future year defense plan.

I do not know why the Department of Defense cannot predict inflation for 5 years out and do it for budgetary purposes, because every other agency of the Federal Government must do that, and does do it. So I just do not buy the excuse that it is very difficult and impossible to predict for 5 years out.

We are just starting our analysis of the fiscal year 1995 future year defense plan. So I cannot make final judgments today about the problem's cause, and I cannot about its true size. However, I do have some preliminary conclusions based on available information.

First, the mere existence of a $20 billion future year defense plan budget disconnect constitutes a violation of section 221, title X of the United States Code. This law was passed by Congress in 1987. Under section 221, the Department of Defense must submit a future year defense plan to the Congress, and they must do it each and every year, and they must do it so that it is fully consistent with the President's budget.

The purpose of this law is simple. It forces the Department of Defense and the Secretary to make some very hard decisions to squeeze all of the programs into the President's budget. That means they would be forced to make tradeoffs, to make tradeoffs when it is very necessary to make tradeoffs, because decisions not made today mean spending lots of money and obligating lots of money down the road.

Of course, in the process of making the decisions, that means the Secretary of Defense must eliminate unaffordable programs. The question we must ask is: Does the fiscal year 1995 future year defense plan comply with that 1987 law?

I want to take a few moments to examine the facts as we know them.

This chart with the three lines of figures is the President's budget for Defense. The President's budget is the top line, totaling $1.2355 trillion for 5 years. This is what the President says the Department of Defense is allowed in fiscal years 1995 through 1999.

The second line shows the numbers in the fiscal year 1995, future years defense program at $1.2557 trillion.

The third line—the line that is the point of my remarks—shows the difference between the budget and the future years defense program: $20.2 billion.

DOD's future years defense program exceeds the President's allowance by $20.2 billion. The future years defense program is over budget, then, by that $20.2 billion. In other words, it is overprogrammed.

To hide the overprogramming and to make the books balance, as required by law, Pentagon bureaucrats inserted

negative funding wedges or plug figures. The use of such budget gimmicks is inconsistent with the spirit and intent of the 1987 law. The Department of Defense got caught with a $45 billion negative funding wedge in 1989. So Congress amended the law in 1989 to specifically outlaw such devices—devices like are being used here. The amendment allowed for management contingency accounts, like potential funding requirements, but only if such accounts are included in both the President's budget and in the future years defense program—meaning that these two lines should balance. Obviously, they do not.

Madam President, I ask unanimous consent to have printed in the RECORD sections from page 666 of the conference report on the fiscal year 1990 defense authorization bill of House report 101-331, because it explains the rule on negative funding wedges.

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

CONFERENCE REPORT ON AUTHORIZING APPROPRIATIONS FOR FISCAL YEAR 1990 FOR MILITARY ACTIVITIES OF THE DEPARTMENT OF DEFENSE, FOR MILITARY CONSTRUCTION, AND FOR DEFENSE ACTIVITIES OF THE DEPARTMENT OF ENERGY, TO PRESCRIBE PERSONNEL STRENGTHS FOR SUCH FISCAL YEAR FOR THE ARMED FORCES, AND FOR OTHER PURPOSES

Consistency in the budget presentations of the Department of Defense (sec. 1602)

The House bill contained a provision (sec. 1202) that would amend the existing provision of law (10 U.S.C. 114 (f) and (g)) that requires the submission of the Five Year Defense Program to Congress by April 1 of each year. The House bill would eliminate the provision of law that allows inconsistencies between the President's budget and the Five Year Defense Program if such inconsistencies are explained in detail. Under the House bill, no inconsistencies would be permitted. The House bill would also change the date for submission of the Five Year Defense Program from April 1 to be at or about the time that the President's budget is submitted to Congress.

The Senate amendment contained no similar provision.

The Senate recedes with an amendment that provides that the use of management contingency accounts is not precluded, provided such accounts are included in both the President's budget and the Five Year Defense Program. The conferees understand that the Department of Defense may not be able to submit the Five Year Defense Program in support of a new budget request at precisely the same time as the President's budget following years when the Congress has failed to provide full year authorizations and appropriations in a timely fashion for the previous fiscal year.

Mr. GRASSLEY. Secretary Perry's prepared testimony before the Budget Committee on March 9 tells us why the funding wedge was inserted in the future years defense program.

Late last year, he testified, after the Bottom-Up Review was completed, that DOD discovered that the future years defense program exceeded the President's budget authority by a very substantial margin—much more substantial than this, in fact. More money was needed, is what he said. So the President weighed in in December on a major policy decision, as far as this funding wedge is concerned.

President Clinton decided to provide extra money for pay raises over the future years defense program period, and that was all he was going to do—money for pay raises, period, nothing else. In fact, he said "no" on extra money for inflation. In other words, the President was not going to give any more money to the Defense Department because they had what they thought was a potential inflation problem that they had to deal with. I quote from Secretary Perry's testimony to the Budget Committee: "The President opted not to budget for the multiyear inflation bill."

Since the President opted not to budget for the multiyear inflation bill, why are those costs then presented in the Department of Defense future years defense program?

In other words, why is this figure here? Why has Secretary Perry failed to make hard decisions, then, to bring his top line down, as required by law? Twenty-billion dollars is less than 2 percent of the $1.2 trillion future years defense program. A good business executive like Secretary Perry should be able to solve such a modest problem in a flash. I am baffled by his failure to do it.

Secretary Perry and others say it is no big deal. The problem is, as they would want you to think, all in the outyears. They tell us, "Do not worry." They tell us that we can fix it tomorrow. At least, that is what I hear them saying.

I see this as an attempt to disguise the significance of the outyears. At the Pentagon, the outyears are the whole enchilada, and I think Secretary Perry knows that.

You know how it works. The military buys complex weapons and equipment that can take years to build and, consequently, years to pay for. There are frequently multiple buys for the same piece of equipment. These can extend over 5 or 10 different budgets.

The budget must be hooked up to the outyears, and the outyears and the budget should be in sync. You should not have $20 billion of overprogramming.

The $1.02 billion of advance procurement money in the 1995 budget, for example, is a direct link to the outyears. When we approve that in this budget, we are merely making a downpayment, and obligating money for outyears. But when there is overprogramming in those outyears, like now, advance procurement could be a downpayment on a dead horse. Advance procurement dollars could be hooked up to programs that must be axed down the road, with a concomitant waste of taxpayers' dollars that has been spent before that time. In fact, this is how the really big money gets wasted. This is how the military does not get what it needs.

That brings me to the second major point. I think it may be misleading and inaccurate to characterize this $20 billion in the future years defense program/budget mismatch as strictly an inflation problem. That is what the Secretary of Defense says it is—an inflation problem.

The $20 billion inflation problem, I fear, is a smoke screen for a much bigger problem out there, a problem that could be $50 billion or $100 billion—a real blivet. A blivet, of course, is 5 pounds of manure in a four-pound sack. Like on the chart here, you cannot quite get it in there. You try to push that $20 billion in there, and you just cannot get it in. The Department's handling of this whole problem makes me very suspicious.

This sack is not big enough for that $20 billion.

The first sign of trouble came with Mr. Ted Warner's testimony before the House Armed Services Committee on February 4 of this year. He is the Assistant Secretary for Strategy and Resources. He testified that amounts allocated in the future year defense program would exceed the President's budget authority by $20 billion.

Next we discovered a gaping hole in the President's budget: more, new defense budget blanks.

I want to show you those blanks are right here.

Madam President, these are the blanks that I was referring to in the President's budget for the outyears of the defense budget, the future year defense program. No figures here for that.

This is also in table 5.1 of the Budget of the U.S. Government, fiscal year 1995, Historical Tables on page 69.

There is no breakdown here of the DOD budget by a major appropriation account for fiscal years 1996 through 1999. No data whatsoever for military personnel; for operations and maintenance; for procurement; for research, development, test and evaluation; for military construction, for family housing; for allowances; and for all others. Where is that data?

After the fuss over the missing budget data, the Department of Defense Comptroller sent the committee two tables. Those two tables lay bare the plan for concealing the future year defense program/budget mismatch. Their integrity rests on the plug figures that I referred to moments ago.

Mr. Perry's inability to resolve the so-called $20 billion inflation problem tells me that the inflation problem is hooked up to a much bigger problem. In other words, this $20 billion is nothing more than the tip of an iceberg.

Sources in the Pentagon confirm that. They say there is at least another $20 to $30 billion in overprogramming,

and maybe much more. So we are really looking at perhaps even as much as a $50 billion problem—minimum. The Congressional Budget Office says it is a $50 billion problem.

The last future year defense program given to Congress was back in February 1991. So for 1992 and 1993, no future year defense program. And that one that we received in 1991 gives us a clue about the size of the blivet I have spoken about.

It assumed $172 billion in savings from the proposed program terminations, management efficiencies like the defense management review, and base closures.

Were those savings realized? Do you think so? I doubt it, I doubt it very much.

If these savings did not happen, then we are dealing with really a megablivet.

Madam President, I leave my colleagues with this question: How did the Department of Defense move from $172 billion overprogramming in 1991 to just $20 billion of overprogramming in the outyears for the period of time now through 1999? Did efficiency do it? Did the Department of Defense really save that much money?

Secretary of Defense Perry has promised to make the future year defense program honest. I hope that Secretary Perry is right; that he does that. But I think we are off to a bad start. The new plug figures given to the committee point to more future year defense program monkey business down the road.

Madam President, there is one person in the Defense Department I think who knows how to handle that problem, and that is a budget analyst by the name of Chuck Spinney. At the Perry hearing, I recommended that he be invited to brief the committee on the results of his latest analysis on future year defense program/budget mismatch. Senator DOMENICI suggested that we have side-by-side testimony from both Mr. Spinney and Mr. Perry. I think that that is very definitely an excellent idea. Between the two of them, we should get to the bottom of this problem.

So on March 11, I wrote to the chairman of the committee to formally request that such a hearing be scheduled. I asked that the hearing take place after the General Accounting Office completes its analysis of the new future year defense program. The GAO analysis should be done in May, provided GAO gets access to the data and provided our Pentagon bureaucrats do not conduct some stonewalling operation.

With the GAO assessment in hand, we should have a much better understanding of what this problem is, so that we get real numbers and we take care of this overprogramming problem that we have at the Defense Department. So that the 1987 law, as amended in 1989—so that we cannot have and do not have this mismatch which we have now, contrary to law—so that that law is abided by.

I hope that we can get directives from this Congress respected by the Department of Defense. The $230.4 billion plug figures that are inserted in this budget at the last minute do not meet the intent of Congress in that law.

I yield the floor.

The PRESIDING OFFICER (Mr. BREAUX). The Senator yields the floor.

Who yields time?

Mr. SASSER. Mr. President, I yield such time to the Senator from Washington as she may consume.

The PRESIDING OFFICER. The Senator from Washington is recognized.

Mrs. MURRAY. Thank you, Mr. President.

I have to say, I am delighted to be back in the Chamber today talking about the President's budget. These are good days to be a member of the Budget Committee. I am not an economist, but I know it has been a good year for all of us. It has been good for America, good for America's kids, and good for my home State of Washington.

During the next few days, we are going to see a lot of charts and hear a lot of statistics. I could add to the debate by telling you how my region leads the country in consumer confidence; how unemployment has decreased across the State of Washington, despite the layoffs by the Boeing Co.; how the construction industry and businesses associated with international trade each employed an additional 12,000 people during 1993; and how housing starts in our Tri-Cities and in Spokane were among the top five in the country.

But I do not want to talk about baselines and outyears and caps. I want to talk today about something average Americans understand about budgets. I want to talk about courage and tough choices.

I have not been here long, but I have learned a great deal in this body. I have seen how easy it is to score political points while holding up the Nation's business. I have learned how some of our colleagues demand more and more cuts because it sounds good.

Do not misunderstand. I agree with them. As long as we have a deficit, we need to keep cutting spending. But the method that I have seen used in this body is a sham and everyone knows it.

I have watched as some Senators offer amendments which call for massive unspecified cuts—or vague, across-the-board reductions. And then I am astounded as they vote against every amendment which calls for a specific cut.

I saw all that happen in the Budget Committee last year and again last week. And I am sure we will see it on the floor again in the next few days.

But the people of this country will not be fooled. They are demanding honesty and courage in the budget process, and that is what they deserve. I would remind those who criticize the President's plan, it contained over 300 specific budget cuts and it eliminates more than 100 specific programs.

The President was not afraid to name the names of the programs he thought were wasteful. He showed courage and he made tough choices. He went to the White House and I came to the Senate at a time when it is better to cut than receive.

Mr. President, you and I and our friends here voted for a tough budget, with real cuts, and the plan is working. And this year we are going to trim more.

We have changed our priorities and given our children hope. Every child, no matter who he or she is, or where they come from, must have the opportunity to succeed. I know that as well as anyone.

I come from a low-income family of nine. And because of education and the kinds of opportunities found in this budget before us today, I stand here as a U.S. Senator.

I know Government cannot do it all. I know spending does not solve every problem. Throughout my life I have had to make tough decisions on what to spend, what to buy, and what to invest in. As a school board president, I have voted to close schools. As a mother with limited resources, I have told my kids no more often than yes when they asked me to buy them something. And as an appropriator and a member of the Budget Committee I have told my friends and my neighbors, the Federal Government cannot fund every project that comes before us.

But I believe the Federal Government can create opportunities. And there is no group in this Nation more deserving than our children, all of our children: Children who need help learning through Head Start; children who need to escape the violence of our inner cities; children living with AIDS and other debilitating diseases; children whose future is darkened by poverty; children who need nutritional assistance through the WIC program; children who go to bed and dream of a home, and a job, and a better life. And this budget recognizes all of those children.

Our colleagues talk on this floor a lot about violence. I have spoken personally with young violent offenders, and they tell me over and over again, adults do not care about them. They learned that lesson when they were very young.

We need to give those kids not only the skills they never learned, but also hope for the future. That is why I support this budget. It invests in our kids and it takes people into account.

We cannot assume that our work ended last year. We have to keep on

target. Otherwise we will go back to the days of out-of-control spending and mortgaging our children's future. We will abandon a generation of youth to more crime, more violence, unskilled jobs, and no health care.

It is time for us as a nation to send a message to children that they are our top priority. This budget sends that message.

I thank the chairman of the Budget Committee, Senator SASSER, for his work and diligence on this budget and I look forward to working with him toward its passage.

The PRESIDING OFFICER. Who yields time?

Mr. SASSER. Mr. President, I yield myself such time as I may consume.

Mr. President, I thank the distinguished Senator from Washington [Mrs. MURRAY], for her very perceptive statement here on the floor of the U.S. Senate today. I might say, the Senator from Washington [Mrs. MURRAY], has become one of the most valuable members of our Senate Budget Committee in a relatively short period of time. She has developed and demonstrates a solid grasp of budget issues. And she has the courage of her convictions.

She will stand and vote for specific budget cuts to make savings in the overall budget, and she is quite correct. She has analyzed this thing, I think, appropriately, when she says some of our colleagues come here and vote for large, nonspecific spending cuts that they know are going to fail. But when it comes time to vote for the specific budget cuts, then they wither like summer soldiers when the frost comes—they are nowhere to be found.

But the distinguished Senator from Washington is always there. She has the courage of her convictions. She has been a stalwart on the Senate Budget Committee. Speaking as the chairman, she has been a very substantial asset. I am very pleased she serves on our committee and she does an outstanding job—not just for herself, but for her constituents in the State of Washington, and I think for all Americans who are concerned about a fair and equitable distribution of the Federal budget, and who are concerned about trying to get these deficits under control.

Mr. President, I see no other Senators who wish to speak. I suggest the Senate recess for the various conferences.

RECESS

The PRESIDING OFFICER. Without objection, and under the previous order, the Senate will stand in recess until the hour of 2:30 p.m.

Thereupon, at 12:16 p.m., the Senate recessed until 2:30 p.m.; whereupon, the Senate reassembled when called to order by the Presiding Officer (Mrs. FEINSTEIN).

NATIONAL PARK SERVICE CONCESSIONS POLICY REFORM ACT OF 1994

The PRESIDING OFFICER. Under the previous order, the Senate will proceed to a vote on S. 208, to reform the policies of the National Park Service, and for other purposes.

Mr. JOHNSTON. Madam President, I wish to again commend Senator BUMPERS' for his years of hard work on this important legislation. As the subcommittee chairman, he has drafted this legislation, conducted the hearings, and negotiated the compromise that we are passing today. In addition, I would like to again compliment the Senator from Utah [Mr. BENNETT] who has worked very closely with Senator BUMPERS and the rest of us on the Energy Committee in bringing this bill together. He brought a fresh, objective and business-oriented view of the concessions issue to the table and without his assistance, our road would have been much rougher.

Madam President, I would also like to acknowledge the contribution of a number of staff members who have been involved in this legislation—particularly, David Brooks, Tom Williams, Diane Balamoti, and Jason Dilg of the Energy Committee staff; Rich Glick and Tracy Crowley of Senator BUMPERS staff; and Chip Yost and Jim Barker of Senator BENNETT's staff. I thank each of them for their help and hard work.

Mr. SIMPSON. Madam President, I rise to join my colleague, the senior Senator from Wyoming, MALCOLM WALLOP, in opposition to this bill.

I share my colleagues strong concerns about the provisions that force concessionaires to forfeit their private property rights.

That, in my view, is an unconstitutional taking of private property. I do not believe for an instant that the rather convoluted formula for depreciation and purchase of the private property is just compensation as that phrase is used in the constitution.

Just means fair and equitable.

There is nothing just in accelerating a depreciation schedule over 10 years for some improvements that range in the millions of dollars.

If the Senate passes this legislation, we will be directing the Department of Interior to do nothing less than confiscate the private property of concessionaires who have done nothing wrong. Indeed, the concessionaires currently doing business in Wyoming National Parks are doing a fine job and providing a needed—and much appreciated—service to the public.

I am at a loss to understand why this provision is being supported by the administration. It is a puzzling thing.

I can very easily understand why the Park Service wants to get its hands on the revenues from concessionaires. It does not take a rocket scientist to understand why the Park Service wants to keep that money, rather than turn it over to the Treasury. I hunch that they would like to keep it "off budget" also. That invites abuse and we should vote against this bill because of that provision alone.

The National Park Service enjoys a billion dollar yearly budget. They are constantly saying they "need more" funding, and this is an attractive mechanism for that. But in terms of services, it is the concessionaires that provide the food, the lodging, and the recreational opportunities for the vast majority of the public that visit our national parks.

It is the Park Service personnel who enforce the laws and they employ many good people who do the "heavy lifting" in maintaining the roads and the attractions.

We can not, however, say that the Park Service collects the entrance fees, because our experience in Wyoming is that often, those collection booths are abandoned.

We have heard our able colleague, Senator BURNS of Montana, speak eloquently on that issue last year.

Instead of ensuring that entrance fees are collected, the administration now seems to prefer spending its energy thinking up creative ways to request additional revenues from another group of taxpayers—concessionaires. Concessionaires pay income, State, and local taxes and they pay a great deal.

This legislation targets those concessionaires—the last remaining revenue generating activity in our parks—for eventual extinction. When the concessionaires are forced out, who will provide the needed public services and amenities?

Certainly not the Park Service—they have not even been able to collect entrance fees on a regular basis.

We are very fortunate in Wyoming to have some of the finest park supervisors in the country. Bob Barbee of Yellowstone Park is one of the most able men I have come to know. He does it all. I admire him greatly. They are all good people who work cooperatively with the fine concessionaires that we are fortunate to have in our Wyoming Parks.

I do not believe this policy originated at the local park level. We need only look about a mile west of this building to find the source of this ill-advised and unjust policy.

There is only a single provision of this bill that has merit. That is the provision which grants preferential renewal rights to the "small" concessionaires: outfitters.

Outfitters deserve deference in our policy—they are excellent stewards and provide services to the general public and often assist Park Service personnel in maintenance and upkeep activities. These small businesses are entitled to respect for their contributions in the management policy of the parks.

It is most unfortunate that the respect shown the small outfitters in this bill did not extend to the administration's policy for all concessionaires. It is unfortunate, and it is unjust. I oppose this legislation and I encourage my colleagues to oppose it also.

Mr. WALLOP. Madam President, my opposition to S. 208 is very simple. Enactment of this legislation will:

First, seriously undermine a very successful system under which the private sector has financed and provided quality services to the public at reasonable rates;

Second, place increases pressures on an already overextended National Park Service budget;

Third, result in totally unnecessary Federal expenditures at the expense of not only the National Park Service, but all agencies which must compete for funds from the Interior and Related Agencies Appropriation account;

Fourth, reduce Federal revenues; and

Fifth, threaten National Park System resources.

Under the present system the Concession Policy Act of 1965, the private sector—not the Federal Government—provides visitor services. When Congress passed the Concession Policy Act in 1965, we intended to discourage the turnover of concession operations.

As a matter of Federal policy, we decided that the private sector should be encouraged to provide visitor services. They would be regulated and would be allowed to make a reasonable profit. In exchange, they, not the Federal Government and the taxpayers, would be required to raise the capital to construct and maintain facilities to standards set by the Federal Government. Continuity of good services at reasonable rates to our park visitors was judged to be more important than the collection of receipts. That was a time when our national parks were considered to be public treasures for the benefit of the public. Concessions were never intended to be cash cows for the Government, but rather an efficient cost effective means of providing visitor services. The Government has full authority to adjust the franchise fee to ensure a fair return to the Federal Government under the 1965 act, that it has not, speaks to Park Service management, not statutory weakness.

The present system works because concessioners are provided a preferential right of renewal if they perform adequately, which ensures continuity of service, and a possessory right in all improvements, which they can use as collateral for loans. Title to all facilities resides in the United States. The concessioner is entitled to the sound value of the possessory interest if the contract is not renewed.

S. 208 eliminates all future possessory interests unless the Secretary determines that the elimination of possessory interest will prevent the submission of satisfactory proposals, and requires that, as a condition of contract renewal, present concessioners agree to have their current possessory interest reduced in value over a period of years until it is eliminated. I submit that the analysis is simple.

An existing concessioner with a $5 million possessory interest facing renewal can either have his interest reduced to nothing or he can take the money. A competitor who might otherwise have bid on the contract would be faced with paying the $5 million without its value as collateral, since it will be reduced for him as well. What is likely to happen is that no one will want the contract until the Federal Government pays off the existing concessioner.

A partial survey of outstanding possessory interests indicate that the total exceeds $1 billion with interests ranging from as little as $100,000 to over $150 million. CBO estimates that 90 percent of the contracts will come under the provisions of the new law within the next 5 years. If that is correct and my concerns are correct, the Interior and related agencies appropriation accounts are facing somewhere between $150 million and $200 million of additional unavoidable costs each year. That is almost 20 percent of the entire budget for the National Park Service just to buy out the existing possessory interests. Those costs will come out of the limited funding available for all the programs within that subcommittee, and all for no purpose.

The costs, however, do not end there. Without the possessory interest and the right of renewal, there will be neither the collateral nor the incentive for concessioners to maintain or expand visitor facilities. Those expenses will fall on the National Park Service and the Federal taxpayer. If any of you have spent the past 2 months driving the Clara Barton memorial parking lot and pothole obstacle avoidance parkway, you will have some idea of what the capability of the Park Service is to maintain what they already have.

The claims of increased revenues will not happen. Concessioners will still be limited in the charges they can exact from the visitor, and will have to recapture the additional expenditures through lower, not higher, franchise fees. The Federal deficit will simply increase. Competition will not be enhanced, since smaller operations will not have access to sufficient collateral. Larger corporations may well now be able to force out the small family businesses which have provided services in some of our parks for generations. That is not a policy we should be encouraging.

Secretary Babbitt already has authority to gain increased franchise fees, to negotiate the relinquishment of possessory interests, and the obligation to provide quality services at reasonable rates to the public. This legislation simply dismantles a system which works, threatens park resources, raids the Treasury, jeopardizes the park experience for the public, and all so we can say we reformed a carefully crafted partnership which has provided Americans a National Park System second to none in the world.

I ask unanimous consent that a letter from the Babbitt Brothers Reading Co.—the Secretary's family business—be inserted in the RECORD at this point. The Senate should find this opposition to the Secretary's support more than a little interesting.

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

BABBITT BROS. TRADING CO.,
Flagstaff, AZ, March 11, 1994.

Mr. ROGER G. KENNEDY,
Director, National Park Service, U.S. Department of the Interior, Washington, DC.

DEAR DIRECTOR KENNEDY: I enjoyed your speech to the National Parks Hospitality Association last week. The challenges you face of downsizing and streamlining are the same challenges that many businesses throughout the United States have had to face.

Babbitts is no different. Over the past five years, we have closed eight unprofitable retail locations and dramatically cut our corporate overhead. Over the past five years, we have dropped from 700 employees to 500 employees.

With one major exception, our approach to ensuring the survival of a one-hundred-five-year-old company is similar to your approach. In 1987 our company was carrying $20,500,000 in bank borrowings (a debt to equity ratio of 9:1). Our survival plan included an aggressive approach to cutting costs and reducing debt. In order to reduce our debt to a manageable level, we had to sell and lease back some of our operating properties.

The Park Service seems to want to acquire properties at the expense of further increasing the national debt. There is no question that amortizing possessory interest over a period of time will result in lower concession fees and lower revenues to the federal government.

I won't bore you with any further discussion of Senate Bill 208. I'm sure you understand all the pros and cons and the concerns of the concessionaires. Many of those concerns were discussed at the El Tovar Symposium last fall. I respectfully request you consider suggesting two changes to the bill:

(1) grandfathering existing possessory interest thereby honoring commitments made by the Park Service when improvements were made in the parks; and,

(2) extending standards lengths of contracts to 15 years. Fifteen year contracts would lessen the administrative burden on the Park Service and would go a long way in ensuring that future National Park improvements would be provided by concessionaires.

As long as I am writing, I would like to bring to our attention my concerns regarding the General Management Plan at the Grand Canyon. I have enclosed copies of a letter I sent to Bob Chandler and a copy of a letter from Steve Carothers, president of the consulting firm, SWCA, regarding the GMP. I believe my proposals are a reasonable compromise and accomplish the parks objectives with minimal environmental impact.

Babbitts has had a presence on the south rim of the Grand Canyon since 1905. Our love

and appreciation for the park is deeply rooted in the family and our employees. I am concerned about how our Board of Directors and shareholders may view the proposed legislative changes. That coupled with the uncertainty of future contract renewals and impacts from the GMP may result in our company "cashing out" of the business.

We may be just one of many smaller concessionaires leaving the parks.

I hope you will see fit to intercede in the legislative process.

Sincerely,

W. DAVID CHAMBERS,
President & CEO.

Mr. LAUTENBERG. Madam President, I am pleased to rise in support of S. 208, a compromise sponsored by Senators BUMPERS, JOHNSTON, and BENNETT. S. 208 reforms the Federal Government's system of contracting with private concessions in national parks by bringing the management of the concessions in line with today's standard business practices and by eliminating the sweetheart deals with concessioners that have plagued the taxpayer and our national parks for years.

This reform is long overdue. In the almost three decades since Congress enacted the Concessions Policy Act of 1965, management of the concessions in national parks has continued without reform. But reform is needed now.

Madam President, since 1965, national parks have witnessed a dramatic incerase in visitors and popularity. As a result, the business climate for concessioners has improved. Concession incentives drafted in 1965—like ensuring that the concessioners hold monopoly status, a preferential right of renewal and possessory interest, and nominal franchise fees—are not needed in the world of 1994. Today, such incentives are enjoyed by few businesses in a free market; indeed, no concessioner outside the national park system enjoys these deals.

S. 208 reforms the way Government does business with national park concessioners and assures a fairer return on the taxpayer's dollar. In 1992, concessioners grossed $650 million and paid only $17.2 million in fees. That is 2.6 percent of their gross revenues. Concessioners outside the NPS system pay an average of 5 to 50 percent of gross.

This is no way to do business. For too long the Federal Government has leased the use of its resources for rockbottom fees. Be it grazing fees, logging on public lands, or hard rock mining claims, this method of business has got to go.

Madam President, we all know that the Federal deficit is a major concern. We continue to subsidize industries in ways that simply make no sense. It is time to stop, and this bill is a good start.

It is estimated that the competition ensured in this bill may result in increased franchise fees amounting to $40 million more dollars to the Government. The bill will also establish a special account into which the fees will be put that will go back to the parks, instead of the General Treasury.

I have heard that this bill will create a number of dire scenarios—that the national parks will fall in disarray and it will be the park visitor who will truly bear the brunt of the failure. It is curious to me that some of those who advocate the virtues of competition for Government contracts are against this bill. I do not understand why competition in general is good while competition in the national parks will result in lower standards. I do not believe this, but it is indicative of the gridlock that prevents reform.

This bill, a compromise bill, will result in fairer management of the system, which will give the taxpayers a better bang for their buck while enhancing the national parks that are one of our country's greatest treasures.

I am proud to be a cosponsor of this legislation, and I urge my colleagues to join me in supporting S. 208.

The PRESIDING OFFICER. The question is, Shall the bill, as amended, pass? The yeas and nays have been ordered. The clerk will call the roll.

The legislative clerk called the roll.

Mr. FORD. I announce that the Senator from Hawaii [Mr. INOUYE] is necessarily absent.

The PRESIDING OFFICER. Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 90, nays 9, as follows:

[Rollcall Vote No. 63 Leg.]

YEAS—90

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

NAYS—9

Faircloth	Murkowski	Stevens
Helms	Shelby	Thurmond
Hollings	Simpson	Wallop

NOT VOTING—1

Inouye

So the bill (S. 208), as amended, was passed, as follows:

S. 208

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

SECTION 1. SHORT TITLE.

This Act may be cited as the "National Park Service Concessions Policy Reform Act of 1994".

SEC. 2. FINDINGS AND POLICY.

(a) FINDINGS.—In furtherance of the Act of August 25, 1916 (39 Stat. 535), as amended (16 U.S.C. 1, 2-4), which directs the Secretary of the Interior to administer areas of the National Park System in accordance with the fundamental purpose of preserving their scenery, wildlife, natural and historic objects, and providing for their enjoyment in a manner that will leave them unimpaired for the enjoyment of future generations, the Congress finds that the preservation and conservation of park resources and values requires that such public accommodations, facilities, and services as the Secretary determines are necessary and appropriate in accordance with this Act—

(1) should be provided only under carefully controlled safeguards against unregulated and indiscriminate use so that visitation will not unduly impair these values; and

(2) should be limited to locations and designs consistent to the highest practicable degree with the preservation and conservation of park resources and values.

(b) POLICY.—It is the policy of the Congress that—

(1) development within a park shall be limited to those facilities and services that the Secretary determines are necessary and appropriate for public use and enjoyment of the park in which such facilities and services are located;

(2) development within a park should be consistent to the highest practicable degree with the preservation and conservation of the park's resources and values;

(3) such facilities and services should be provided by private persons, corporations, or other entities, except when no private interest is qualified and willing to provide such facilities and services;

(4) if the Secretary determines that development should be provided within a park, such development shall be designed, located, and operated in a manner that is consistent with the purposes for which such park was established;

(5) such facilities and services should be awarded to the person, corporation, or entity submitting the best proposal through a competitive selection process; and

(6) such facilities or services should be provided to the public at reasonable rates.

SEC. 3. DEFINITIONS.

As used in this Act, the term—

(1) "concessioner" means a person, corporation, or other entity to whom a concessions contract has been awarded;

(2) "concessions contract" means a contract, including permits, to provide facilities or services, or both, at a park;

(3) "facilities" means improvements to real property within parks used to provide accommodations, facilities, or services to park visitors;

(4) "park" means a unit of the National Park System;

(5) "proposal" means the complete proposal for a concessions contract offered by a potential or existing concessioner in response to the minimum requirements for the contract established by the Secretary; and

(6) "Secretary" means the Secretary of the Interior.

SEC. 4. REPEAL OF CONCESSIONS POLICY ACT OF 1965.

The Act of October 9, 1965, Public Law 89-249 (79 Stat. 969, 16 U.S.C. 20-20g), entitled "An Act relating to the establishment of

concession policies administered in the areas administered by the National Park Service and for other purposes", is hereby repealed. The repeal of such Act shall not affect the validity of any contract entered into under such Act, but the provisions of this Act shall apply to any such contract except to the extent such provisions are inconsistent with the express terms and conditions of the contract.

SEC. 5. CONCESSIONS POLICY.

Subject to the findings and policy stated in section 2 of this Act, and upon a determination by the Secretary that facilities or services are necessary and appropriate for the accommodation of visitors at a park, the Secretary shall, consistent with the provisions of this Act, laws relating generally to the administration and management of units of the National Park System, and the park's general management plan, concessions plan, or other applicable plans, authorize private persons, corporations, or other entities to provide and operate such facilities or services as the Secretary deems necessary and appropriate.

SEC. 6. COMPETITIVE SELECTION PROCESS.

(a) IN GENERAL.—(1) Except as provided in subsection (b), and consistent with the provisions of subsection (g), any concessions contract entered into pursuant to this Act shall be awarded to the person submitting the best proposal as determined by the Secretary, through a competitive selection process.

(2) Within 180 days after the date of enactment of this Act, the Secretary shall promulgate appropriate regulations establishing such process. The regulations shall include provisions for establishing a method or procedure for the resolution of disputes between the Secretary and a concessioner in those instances where the Secretary has been unable to meet conditions or requirements or provide such services, if any, as set forth in a prospectus pursuant to sections 6(c)(2) (D) and (E).

(b) TEMPORARY CONTRACT.—Notwithstanding the provisions of subsection (a), the Secretary may award a temporary concessions contract in order to avoid interruption of services to the public at a park except that the Secretary shall take all reasonable and appropriate steps to consider competing alternatives for such contract.

(c) PROSPECTUS.—(1) Prior to soliciting proposals for a concessions contract at a park, the Secretary shall publish a notice of availability for a prospectus soliciting proposals at least once in local or national newspapers or trade publications, as appropriate, and shall make such prospectus available upon request to all interested parties.

(2) The prospectus shall include, but need not be limited to, the following information:

(A) The minimum requirements for such contract, as set forth in subsection (d).

(B) The terms and conditions of the existing concessions contract awarded for such park, if any, including all fees and other forms of compensation provided to the United States by the concessioner.

(C) Other authorized facilities or services which may be provided in a proposal.

(D) Facilities and services to be provided by the Secretary to the concessioner, if any, including but not limited to, public access, utilities, and buildings.

(E) Minimum public services to be offered within a park by the Secretary, including but not limited to, interpretive programs, campsites, and visitor centers.

(F) Such other information related to the proposed concessions operation which is not privileged or otherwise exempt from disclosure under Federal law as the Secretary determines is necessary to allow for the submission of competitive proposals.

(d) MINIMUM PROPOSAL REQUIREMENTS.—(1) No proposal shall be considered which fails to meet the minimum requirements as determined by the Secretary. Such minimum requirements shall include, but need not be limited to, the minimum acceptable franchise fee, the duration of the contract, facilities, services, or capital investment required to be provided by the concessioner, and measures needed to ensure the protection and preservation of park resources.

(2) The Secretary may reject any proposal, notwithstanding the amount of franchise fee offered, if the Secretary determines that the person, corporation, or entity is not qualified, is likely to provide unsatisfactory service, or that the proposal is not responsive to the objectives of protecting and preserving park resources and of providing necessary and appropriate facilities or services to the public at reasonable rates.

(3) If all proposals submitted to the Secretary either fail to meet the minimum requirements or are rejected by the Secretary, the Secretary shall establish new minimum contract requirements and re-initiate the competitive selection process pursuant to this section.

(e) SELECTION OF BEST PROPOSAL.—(1) In selecting the best proposal, the Secretary shall consider the following principal factors:

(A) The responsiveness of the proposal to the objectives of protecting and preserving park resources and of providing necessary and appropriate facilities and services to the public at reasonable rates.

(B) The experience and related background of the person, corporation, or entity submitting the proposal, including but not limited to, the past performance and expertise of such person, corporation, or entity in providing the same or similar facilities or services.

(C) The financial capability of the person, corporation, or entity submitting the proposal.

(D) The proposed franchise fee: *Provided*, That consideration of revenue to the United States shall be subordinate to the objectives of protecting and preserving park resources and of providing necessary and appropriate facilities or services to the public at reasonable rates.

(2) The Secretary may also consider such secondary factors as the Secretary deems appropriate.

(f) CONGRESSIONAL NOTIFICATION.—(1) The Secretary shall submit any proposed concessions contract with anticipated annual gross receipts in excess of $5,000,000 (indexed to 1993 constant dollars) or a duration of ten or more years to the Committee on Energy and Natural Resources of the United States Senate and the Committee on Natural Resources of the United States House of Representatives.

(2) The Secretary shall not ratify any such proposed contract until at least 60 days subsequent to the notification of both Committees.

(g) NO PREFERENTIAL RIGHT OF RENEWAL.—(1) Except as provided in paragraph (2), the Secretary shall not grant a preferential right to a concessioner to renew a concessions contract executed pursuant to this Act.

(2)(A) Notwithstanding the provisions of paragraph (1), the Secretary shall grant a preferential right of renewal to a concessioner—

(i) for a concessions contract which—

(I) primarily authorizes a concessioner to provide outfitting, guide, river running, or other similar services within a park; and

(II) does not grant the concessioner any interest in any structure, fixture, or improvement pursuant to section 11 of this Act; or

(III) the Secretary estimates will have annual gross revenues of no more than $500,000; and

(ii) where the Secretary determines that the concessioner has operated satisfactorily during the term of the previous contract; and

(iii) where the Secretary determines that the concessioner submits a responsive proposal for the new contract which satisfies the minimum requirements established by the Secretary.

(B) For the purposes of paragraph (2), the term "preferential right of renewal" means that the Secretary shall allow a concessioner satisfying the requirements of subparagraph (A) the opportunity to match the terms and conditions of any competing proposal which the Secretary determines to be the best offer.

(h) NO PREFERENTIAL RIGHT TO ADDITIONAL SERVICES.—The Secretary shall not grant a preferential right to a concessioner to provide new or additional services at a park.

SEC. 7. FRANCHISE FEES.

(a) IN GENERAL.—Franchise fees, however, stated, shall not be less than the minimum fee established by the Secretary for each contract. The minimum fee shall be determined in a manner that will provide the concessioner with a reasonable opportunity to realize a profit on the operation as a whole, commensurate with the capital invested and the obligations assumed.

(b) MULTIPLE CONTRACTS WITHIN A PARK.—If multiple concessions contracts are awarded to authorize concessioners to provide the same or similar outfitting, guide, river running, or other similar services at the same approximate location or resource within a specific park, the Secretary shall establish an identical franchise fee for all such contracts. Such fee shall reflect fair market value, as determined by the Secretary.

SEC. 8. USE OF FRANCHISE FEES.

(a) SPECIAL ACCOUNT.—Except as provided in subsection (b), all receipts collected pursuant to this Act shall be covered into a special account established in the Treasury of the United States. Amounts covered into such account in a fiscal year shall be available for expenditure, subject to appropriation, solely as follows:

(1) 50 percent shall be allocated among the units of the National Park System in the same proportion as franchise fees collected from a specific unit bears to the total amount covered into the account for each fiscal year, to be used for resource management and protection, maintenance activities, interpretation, and research.

(2) 50 percent shall be allocated among the units of the National Park System on the basis of need, in a manner to be determined by the Secretary, to be used for resource management and protection, maintenance activities, interpretation, and research.

(b) PARK IMPROVEMENT FUND.—(1) In lieu of collecting all or a portion of the franchise fees that would otherwise be collected pursuant to the concessions contract, the Secretary shall, where the Secretary determines it to be practicable, require a concessioner to establish a Park Improvement Fund (hereinafter in this section referred to as the "fund"), in which the concessioner shall deposit the franchise fees that would otherwise be required by the contract.

(2) The fund shall be maintained by the concessioner in an interest bearing account in a Federally-insured financial institution.

The concessioner shall maintain the fund separately from any other funds or accounts and shall not co-mingle the monies in the fund with any other monies. The Secretary may establish such other terms, conditions, or requirements as the Secretary determines to be necessary to ensure the financial integrity of such fund.

(3) Monies from the fund, including interest, shall be expended by the concessioner solely as directed by the Secretary for activities and projects within the park which are consistent with the park's general management plan, concessions plan, and other applicable plans, and which the Secretary determines will enhance public use, safety, and enjoyment of the park, including but not limited to projects which directly or indirectly support concession facilities or services required by the concessions contract. Projects paid for from the fund shall not include routine, operational maintenance of facilities. A concessioner shall not be allowed to make any advances or credits to the fund.

(4) A concessioner shall not be granted any interest in improvements made from fund expenditures, including any interest granted pursuant to section 11 of this Act.

(5) Nothing in this subsection shall affect the obligation of a concessioner to insure, maintain, and repair any structure, fixture, or improvement assigned to such concessioner and to insure that such structure, fixture, or improvement fully complies with applicable safety and health laws and regulations.

(6) The concessioner shall maintain proper records for all expenditures made from the fund. Such records shall include, but not be limited to invoices, bank statements, canceled checks, and such other information as the Secretary determines to be necessary.

(7) The concessioner shall annually submit to the Secretary a statement reflecting total activity in the fund for the preceding financial year. The statement shall reflect monthly deposits, expenditures by project, interest earned, and such other information as the Secretary requires.

(8) Upon the termination of a concessions contract, or upon the sale or transfer of such contract, any remaining balance in the fund shall be transferred by the concessioner to the successor concessioner, to be used solely as set forth in this subsection. In the event there is not a successor concessioner, the fund balance shall be deposited into the special account established in subsection (a).

SEC. 9. DURATION OF CONTRACT.

(a) MAXIMUM TERM.—A concessions contract entered into pursuant to this Act shall be awarded for a term not to exceed ten years: *Provided, however,* That the Secretary may award a contract for a term not to exceed twenty years if the Secretary determines that the contract terms and conditions necessitate a longer term.

(b) TEMPORARY CONTRACT.—A temporary concessions contract awarded on a non-competitive basis pursuant to section 6(b) of this Act shall be for a term not to exceed two years.

SEC. 10. TRANSFER OF CONTRACT.

(a) IN GENERAL.—(1) No concessions contract may be transferred, assigned, sold, or otherwise conveyed by a concessioner without prior written notification to, and approval of the Secretary.

(2) The Secretary shall not approve the transfer of a concessions contract to any individual, corporation or other entity if the Secretary determines that—

(A) such individual, corporation or entity is, or is likely to be, unable to completely satisfy all of the requirements, terms, and conditions of the contract; or

(B) such transfer, assignment, sale or conveyance is not consistent with the objectives of protecting and preserving park resources, and of providing necessary and appropriate facilities or services to the public at reasonable rates: *Provided,* That such approval shall not be unreasonably withheld.

(b) CONGRESSIONAL NOTIFICATION.—Within thirty days after receiving a proposal to transfer, assign, sell, or otherwise convey a concessions contract, the Secretary shall notify the Committee on Energy and Natural Resources of the United States Senate and the Committee on Natural Resources of the United States House of Representatives of such proposal. Approval of such proposal, if granted by the Secretary, shall not take effect until sixty days after the date of notification of both Committees.

SEC. 11. PROTECTION OF CONCESSIONER INVESTMENT.

(a) EXISTING STRUCTURES.—(1) A concessioner who before the date of the enactment of this Act has acquired or constructed, or is required under an existing concessions contract to commence acquisition or construction of any structure, fixture, or improvement upon land owned by the United States within a park, pursuant to a concessions contract, shall have a possessory interest therein, to the extent provided by such contract.

(2) The provisions of this subsection shall not apply to a concessioner whose contract in effect on the date of enactment of this Act does not include recognition of a possessory interest.

"(3)(A) Except as provided in subparagraph (B), with respect to a concessions contract entered into on or after the date of enactment of this Act, the provisions of subsection (b) shall apply to any existing structure, fixture, or improvement as defined in paragraph (a)(1), except that the value of the possessory interest as of the termination date of the first contract expiring after the date of enactment of this Act shall be used as the basis for depreciation, in lieu of the actual original cost of such structure, fixture, or improvement.

"(B) If the Secretary determines during the competitive selection process that all proposals submitted either fail to meet the minimum requirements or are rejected (as provided in section 6), the Secretary may, solely with respect to a structure, fixture, or improvement covered under this paragraph, suspend the depreciation provisions of subsection (b)(1) for the duration of the contract: *Provided,* That the Secretary may suspend such depreciation provisions only if the Secretary determines that the establishment of other new minimum contract requirements is not likely to result in the submission of satisfactory proposals, and that the suspension of the depreciation provisions is likely to result in the submission of satisfactory proposals.

(b) NEW STRUCTURES.—(1) On or after the date of enactment of this Act, a concessioner who constructs or acquires a new, additional, or replacement structure, fixture, or improvement upon land owned by the United States within a park, pursuant to a concessions contract, shall have an interest in such structure, fixture, or improvement equivalent to the actual original cost of acquiring or constructing such structure, fixture, or improvement, less straight line depreciation over the estimated useful life of the asset according to Generally Accepted Accounting Principles: *Provided,* That in no event shall the estimated useful life of such asset exceed the depreciation period used for such asset for Federal income tax purposes.

(2) In the event that the contract expires or is terminated prior to the recovery of such costs, the concessioner shall be entitled to receive from the United States or the successor concessioner payment equal to the value of the concessioner's interest in such structure, fixture, or improvement. A successor concessioner may not revalue the interest in such structure, fixture, or improvement, the method of depreciation, or the estimated useful life of the asset.

(3) Title to any such structure, fixture, or improvement shall be vested in the United States.

(c) INSURANCE, MAINTENANCE AND REPAIR.—Nothing in this section shall affect the obligation of a concessioner to insure, maintain, and repair any structure, fixture, or improvement assigned to such concessioner and to insure that such structure, fixture, or improvement fully complies with applicable safety and health laws and regulations.

SEC. 12. RATES AND CHARGES TO PUBLIC.

The reasonableness of a concessioner's rates and charges to the public shall, unless otherwise provided in the bid specifications and contract, be judged primarily by comparison with those rates and charges for facilities and services of comparable character under similar conditions, with due consideration for length of season, seasonal variance, average percentage of occupancy, accessibility, availability and costs of labor and materials, type of patronage, and other factors deemed significant by the Secretary.

SEC. 13. CONCESSIONER PERFORMANCE EVALUATION.

(a) REGULATIONS.—Within one hundred and eighty days after the date of enactment of this Act, the Secretary shall publish, after an appropriate period for public comment, regulations establishing standards and criteria for evaluating the performance of concessions operating within parks.

(b) PERIODIC EVALUATION.—(1) The Secretary shall periodically conduct an evaluation of each concessioner operating under a concessions contract pursuant to this Act, as appropriate, to determine whether such concessioner has performed satisfactorily. In evaluating a concessioner's performance, the Secretary shall seek and consider applicable reports and comments from appropriate Federal, State, and local regulatory agencies, and shall seek and consider the applicable views of park visitors and concession customers. If the Secretary's performance evaluation results in an unsatisfactory rating of the concessioner's overall operation, the Secretary shall provide the concessioner with a list of the minimum requirements necessary for the operation to be rated satisfactory, and shall so notify the concessioner in writing.

(2) The Secretary may terminate a concessions contract if the concessioner fails to meet the minimum operational requirements identified by the Secretary within the time limitations established by the Secretary at the time notice of the unsatisfactory rating is provided to the concessioner.

(3) If the Secretary terminates a concessions contract pursuant to this section, the Secretary shall solicit proposals for a new contract consistent with the provisions of this Act.

(c) CONGRESSIONAL NOTIFICATION.—The Secretary shall notify the Committee on Energy and Natural Resources of the United States Senate and the Committee on Natural Resources of the United States House of Rep-

resentatives of each unsatisfactory rating and of each concessions contract terminated pursuant to this section.

SEC. 14. RECORDKEEPING REQUIREMENTS.

(a) IN GENERAL.—Each concessioner shall keep such records as the Secretary may prescribe to enable the Secretary to determine that all terms of the concessioner's contract have been, and are being faithfully performed, and the Secretary or any of the Secretary's duly authorized representatives shall, for the purpose of audit and examination, have access to such records and to other books, documents and papers of the concessioner pertinent to the contract and all the terms and conditions thereof as the Secretary deems necessary.

(b) GENERAL ACCOUNTING OFFICE REVIEW.—The Comptroller General of the United States or any of his or her duly authorized representatives shall, until the expiration of five calendar years after the close of the business year for each concessioner, have access to and the right to examine any pertinent books, documents, papers, and records of the concessioner related to the contracts or contracts involved.

SEC. 15. EXEMPTION FROM CERTAIN LEASE REQUIREMENTS.

The provisions of section 321 of the Act of June 30, 1932 (47 Stat. 412; 40 U.S.C. 303b), relating to the leasing of buildings and properties of the United States, shall not apply to contracts awarded by the Secretary pursuant to this Act.

SEC. 16. NO EFFECT ON ANILCA PROVISIONS.

Nothing in this Act shall be construed to amend, supersede, or otherwise affect any provision of the Alaska National Interest Lands Conservation Act (16 U.S.C. 3101 et seq.).

SEC. 17. IMPLEMENTATION.

Beginning on June 1, 1997 and bi-annually thereafter the Inspector General of the Department of the Interior shall submit a report to the Committee on Energy and Natural Resources of the United States Senate and the appropriate Committees of the House of Representatives on the implementation of this Act and the effect of such implementation on facilities operated pursuant to concession contracts and on visitor services. Each report shall—

(a) identify any concession contracts which have been renewed, renegotiated, terminated, or transferred during the year prior to the submission of the report and identify any significant changes in the terms of the new contract;

(b) state the amount of franchise fees the rates which would be charged for services, and the level of other services required to be provided by the concessioner in comparison to that required in the previous contract;

(c) assess the degree to which concession facilities are being maintained using the condition of such facilities on the date of enactment of this Act as a baseline;

(d) determine whether competition has been increased or decreased with respect to the awarding of each contract;

(e) set forth the amount of revenues received and financial obligations incurred or reduced by the Federal Government as a result of the comparison of the Act for the reporting period and in comparison with previous reporting periods and the baseline year of 1993, including the costs, if any, associated with the acquisition of possessory interests.

Mr. MITCHELL. Madam President, I move to reconsider the vote by which the bill, as amended, was passed.

Mr. BYRD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

TO ELECT MARTHA S. POPE SECRETARY OF THE SENATE

Mr. MITCHELL. Madam President, I send a resolution to the desk and ask that it be stated and considered immediately.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

A resolution (S. Res. 191) to elect as the Secretary of the Senate, Martha S. Pope.

The PRESIDING OFFICER. Is there objection to the immediate consideration of the resolution?

There being no objection, the Senate proceeded to consider the resolution.

Mr. MITCHELL. Madam President, Members of the Senate, the distinguished Secretary of the Senate, Walter J. Stewart, who served this institution with great integrity, dedication, and loyalty for many decades, has informed me of his intention to leave the Senate employ effective April 14 of this year.

I know of no person, other than Members of the Senate themselves, who has been so devoted, so loyal, and so knowledgeable about and committed to the Senate as an institution than has been our friend, Joe Stewart.

He has been a superb administrator, he has been a friend, adviser, and he has been a source of institutional memory that all Senators have had the opportunity to call upon whenever necessary. There was no time of day or night, no day of the year, when he was not available, and he will be sorely missed.

I will at an appropriate time present to my colleagues in the majority a resolution of commendation for Joe Stewart, and I know that these few words are inadequate to convey the sense of gratitude and loss which we all feel.

The resolution before us calls for Martha S. Pope, who currently serves as Sergeant at Arms, to replace Mr. Stewart as Secretary of the Senate effective April 15, 1994. The resolution has been cleared by the Republican colleagues, and I ask that it be considered as passed.

The PRESIDING OFFICER. Without objection, the question is on agreeing to the resolution.

The resolution (S. Res. 191) was agreed to.

Mr. MITCHELL. Madam President, I move to reconsider the vote by which the resolution was agreed to.

Mr. BYRD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The resolution is as follows:

S. RES. 191

Resolved, That Martha S. Pope be, and she is hereby, elected Secretary of the Senate, effective April 15, 1994.

TO ELECT SERGEANT AT ARMS AND DOORKEEPER OF THE SENATE, ROBERT LAURENT BENOIT

Mr. MITCHELL. Madam President, I send a resolution to the desk and ask that it be stated and immediately considered.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

A resolution (S. Res. 192) to elect Sergeant at Arms and Doorkeeper of the Senate, Robert Laurent Benoit.

The PRESIDING OFFICER. Is there objection to the immediate consideration of the resolution?

There being no objection, the Senate proceeded to consider the resolution.

Mr. MITCHELL. Madam President, as I previously stated, Martha Pope, who currently serves as Sergeant at Arms of the Senate, and who has served in that position with great distinction, will become Secretary of the Senate effective April 15. And under this resolution, Robert L. Benoit has been nominated to succeed her as Sergeant at Arms.

Mr. Benoit has been a longtime employee of the Senate, serving for the past 14 years as the field representative in charge of my offices in Maine, and prior to that, he served the Senate as an assistant to my predecessor, Senator Muskie. He is an extremely able, intelligent, and decisive person who will, I believe, serve effectively in the position of Sergeant at Arms, and will meet the high standards which Martha Pope has established as set for that office by her conduct.

I now, Madam President, urge adoption of the resolution.

The PRESIDING OFFICER. The question is on agreeing to the resolution.

The resolution (S. Res. 192) was agreed to.

Mr. MITCHELL. Madam President, I move to reconsider the vote by which the resolution was agreed to.

Mr. BYRD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The resolution is as follows:

S. RES. 192

Resolved, That Robert Laurent Benoit be, and he is hereby elected Sergeant at Arms and Doorkeeper of the Senate, effective April 15, 1994.

Mr. MITCHELL. Madam President, I thank my colleagues.

I yield the floor.

Mr. HARKIN. Madam President, first of all, I want to join the distinguished majority leader with regard to the two individuals named. Joe Stewart has been an exemplary Secretary of the Senate for many years, and has always been most helpful and considerate to this Senator. I know I speak for a lot of other Senators in saying he is going to be sorely missed. He has been a great help in making sure that this institu-

tion runs in an orderly and effective manner. We are going to miss him.

I congratulate Mr. Benoit on his elevation to the position of Sergeant at Arms and wish him well.

CONGRESSIONAL BUDGET CONCURRENT RESOLUTION

The Senate continued with the consideration of the concurrent resolution.

The PRESIDING OFFICER. Who yields time?

Mr. SASSER. I yield to the distinguished Senator from Iowa such time as he may consume.

The PRESIDING OFFICER. The Senator from Iowa is recognized.

Mr. HARKIN. Madam President, I will shortly offer an amendment on behalf of myself, Senators MURRAY, ROCKEFELLER, WOFFORD, DASCHLE, and FEINGOLD.

First of all, I want to congratulate the distinguished Senator from Tennessee for bringing a tough budget onto the floor. It is tough. But, overall, it is fair. Obviously, each of us could design one differently in regard to how we feel. But it has been a very tough assignment for the Senator from Tennessee.

He has done a superb job in putting it altogether and bringing a budget here that continues to cut the deficit and bring the deficit down.

The Senator from Tennessee deserves all of our thanks and our praise for making sure that we cut the deficit and bring the deficit down. I want to compliment him on that and recognize his efforts in continuing this effort to bring our budget deficit down.

Mr. SASSER. Madam President, I thank my friend from Iowa for his very kind comments. I would ask my friend from Iowa if he would be good enough to add me as a cosponsor of his amendment?

Mr. HARKIN. I will be honored to have the distinguished chairman as a cosponsor of this amendment and will so add his name.

Madam President, my amendment will transfer the proposed $513 million increase for Star Wars to a critical public safety program, the Edward Byrne Memorial State and Local Law Enforcement Assistance Program and again to cut more wasteful spending and reduce the deficit further.

If you were to ask a group of average Americans about their concerns for this country and what is uppermost in their minds, two words would be heard again and again. One is "crime" and the other is "deficit."

Madam President, we must take action to address these issues. I am proud to have supported the two most significant pieces of legislation addressing them in many years. First, the President's Budget Reconciliation Act, which has spurred the recent improvement in the economy and is bringing our deficit down day by day and week by week. I also supported the Senate crime bill, which addresses crime on a broad front.

Unfortunately, Madam President, the budget resolution before us would eliminate a vital formula grant program that has helped hundreds of communities nationwide to fight crime and drugs. The Drug Control and System Improvement Grant Program, which is the formula grant component of the Edward Byrne programs, is the primary source of Federal financial assistance for State and local drug law enforcement efforts. This year, some $358 million in block grants were distributed to State and local law enforcement agencies through this formula grant program.

On Monday, I announced the award of some $3.8 million in Byrne grant funds for my State of Iowa. But under the budget report, future funds under this program would be entirely eliminated. The reason this formula grant program is so important is that these funds are getting down to our local departments and really making a difference. Just last week, the Appanoose County sheriff in Iowa shut down one of the largest businesses in the county, an indoor marijuana-producing operation producing an estimated $15 million in street value of drugs was uncovered.

In Decatur County, a methamphetamine laboratory was recently shut down. Some of these drug dealers are coming in from big cities and other places in the country to rural areas, drawn to the open spaces where the nearest neighbor could be a one-half mile or more away.

Our State law enforcement agencies have reacted to this threat. In 1987, we had only two drug task forces in the State. Today, there are 23 drug task forces, and 58 of Iowa's 99 counties participate in one or more of the drug task forces. Many of these agencies are recipients of Federal funds through the Byrne Federal Formula Program.

Without the formula grant funding, many valuable antidrug efforts would be eliminated in my State and in many other States. Just last weekend, Madam President, I met on Saturday afternoon with 14 of Iowa's most prominent law enforcement officials. They told me what these Edward Byrne funds have meant to law enforcement efforts in Iowa.

For example, the Polk County sheriff's office receives about $200,000 per year from this program to fund its drug task force. Well, how has that money paid off? Well, Sheriff Bob Rice, an outstanding sheriff of Polk County, said that in the last 3 years, the task force has arrested over 500 persons, filed nearly 1,000 criminal charges, and seized over $2.5 million in assets.

Both Sheriff Rice and Police Chief Bill Moulder of the Des Moines police force pointed out to me how effective the Byrne funds were. There is a State match of 25 percent. Once the formula grant goes out, the State and local government has to match it by 25 percent. But as both Chief Moulder and Sheriff Rice told me, the Byrne money actually doubles in size in their areas. They have been able to use it on their drug task forces, which seize tainted assets, which they then turn around and sell. Really, it has afforded them the ability to double the amount of money that the Byrne formula grant would otherwise produce. So this program has had a major impact in Polk County, the county of the state capital, Des Moines. Without these funds, it would be very difficult to operate this program. In fact, Sheriff Rice told me that if the Byrne formula grant money was done away with, they would lose five drug enforcement officers this year and they would not be able to continue the type of programs that they have had.

(Mrs. BOXER assumed the chair.)

Mr. HARKIN. So, Madam President, restoring the Byrne funds is a top priority of law enforcement groups, who know the impact this program has had on crime and drugs—but not only just in arrests and convictions and seizures of assets; the Byrne money has also been used for prevention.

We all know how effective the DARE Program is in local law enforcement in our areas, because we know local law enforcement officers are part of the DARE Program. They go into our schools and work with high school students. By all accounts, I think the DARE Program has been very effective throughout this country.

Sheriff Bill Davis of Calhoun County, IA, who has jurisdiction over these DARE Programs in Iowa, told me on Saturday at this meeting how necessary the Byrne money is for the DARE Program. They have 35 local projects in Iowa. They are using this money, not just to arrest, but to go into high schools and use it very effectively for preventive measures. I was told that, overall, about 60 percent of the Byrne Program money goes to the uniformed police officers; about 40 percent goes to local jurisdictions, local agencies, for prevention, for corrections, and also for prosecutions.

Every one of the law enforcement officers I talked to on Saturday said that what the Byrne money allows is for them to be proactive, rather than just to react to drug crimes. It allows them to actually go out in a proactive manner, both in prevention and in sting operations, and in uncovering laboratories and things like that for methamphetamines. It allows them to act proactively.

I mentioned prosecution. In Iowa, we have nine prosecutors that are solely dedicated to the drug task enforcement project in Iowa. These nine prosecutors are funded out of the Byrne formula grant money that comes to Iowa. The

attorney general's office in Iowa said these nine prosecutors would be out in July if the funding was cut.

So, again, whether it is for the uniformed officers and police forces, whether it is for prevention in the DARE Programs, or whether it is for prosecutions, the Byrne formula grant money has been the underpinning of our efforts in drug enforcement in our country.

Almost all of the forces, police forces and others, in this country support this program. The National Association of Police Organizations and the National Sheriffs Association have both written to me supporting continuation of this program. The bipartisan leadership of the Senate Judiciary Committee also recognizes its importance. In the report of the Budget Committee on this bill, Senators BIDEN, THURMOND, SIMPSON and BROWN, all of the Judiciary Committee, express their support for the Byrne Formula Grant Program.

At the same time, Madam President, we are asked to cut the vital Byrne Program, the budget resolution incredibly provides an 18.7 percent increase in star wars. That is right. You may have thought star wars was dead and gone, but it is still around. Quite frankly, it amazes me that we are trying to put an 18-percent increase into star wars again this year. We do not call it that anymore; we call it BMD, ballistic missile defense. More than half of that BMD budget now goes to theater missile defenses. That is the defense against the real threat of the shorter-range missiles like the Scud missiles. But over $1.2 billion of the BMD budget still goes for the old star wars pipe dream: stopping a sudden long-range nuclear strike by the Soviet Union, or since that does not exist my longer, by whoever else might be out there.

In fact, this national BMD account has been increased in the fiscal 1995 budget request from $1.1 billion to $1.21 billion. I believe we ought to be putting some money into theater ballistic missile defenses for the short-range missiles. That is where we ought to be concentrating. But this old pipe dream of orbiting laboratories and laser beams and particle beams and x-ray lasers, and all these fancy things that are going to shoot down intercontinental ballistic missiles is a relic of the past. This program not only funds that, but it increases it from last year.

How can we justify funding for a missile shield against a nuclear attack by the Soviet Union, which does not exist any longer, when our people in this country are facing a very real crime threat on our streets every night, every week, every month of the year? Where are our priorities?

My amendment is actually very modest. It will cut star wars back to this year's level of $2.74 billion. In my judgment, I think we ought to cut it deeper, but we made a modest cut. Maybe we can reduce funding later on in the year. My amendment still leaves $2.74 billion for ballistic missile defense. The Pentagon can still spend the $2 billion it has requested for fiscal 1995 for theater missile defenses.

Again, I want to point out that my amendment will in no way cut into the Pentagon's request for theater missile defense programs. The Pentagon can take it out of the long-range missile defense program.

So what this would do is amount to about a $405 million increase for theater missile defense over last year, about a 25-percent increase. I wanted to make it clear that this amendment does not cut the theater missile defense programs. My amendment would transfer these funds from the old star wars kind of program to restore the discretionary portion of the Byrne Program to its fiscal 1994 level, with the remainder going to reduce spending.

So, Madam President, my amendment transfers $513 million out of star wars; of that, $358 million goes to the Byrne formula grant program and about $155 million goes for deficit reduction.

A few weeks ago, Madam President, many Members of this body, including myself, voted for proposed amendments to the Constitution to require a balanced budget. But the hard choices needed are choices like this. How do we want to spend the money we are going to spend next year? How do we want to set up our budget? Well, I know which one I think will contribute more to our Nation's long-term security.

By transferring these funds, we send a signal that we have our priorities straight.

I call my amendment star wars to street wars. We do not have star wars. We do not even see anywhere on the horizon that we are going to have this kind of long range ballistic missile attack coming in on the United States.

But I can tell you that tonight in Washington, DC, and in New York, and in our major cities and many of our smaller communities, people will be killed, drug transactions will take place, and young people will get hooked on drugs for the first time. This will happen tonight and it will happen tomorrow night and it will happen every night this week. That is the real threat to this country. And the Byrne formula grant program is a very effective part of dealing with that real threat to this country.

So, with this amendment, Star Wars to Street Wars, let us make our choices. What are our priorities?

Again, I want to point out that this amendment does not bind the appropriations process, but it sends a clear message of the intent of this body that I believe will have a real impact on final appropriations for this program.

If you want money to go into the Byrne formula grant program to fight crime and to fight drugs, this is a chance to say so right here. Otherwise, it is not going to happen; the money is going to go into star wars.

It is clear to me that the problem of drugs and the deficit far outweighs the need for increased funding for star wars. I hope that my colleagues will join me in supporting this amendment.

Madam President, I ask unanimous consent to also add the present occupant of the chair, Senator BOXER, as a cosponsor of the amendment.

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

Mr. HARKIN. Madam President, I ask unanimous consent that the time I used in my statement in which I explained my amendment be charged against my time on the amendment.

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

AMENDMENT NO. 1558

Mr. HARKIN. Madam President, I send the amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The bill clerk read as follows:.

The Senator from Iowa [Mr. HARKIN], for himself and Mrs. MURRAY, Mr. ROCKEFELLER, Mr. WOFFORD, Mr. DASCHLE, Mr. FEINGOLD, Mr. SASSER, and Mrs. BOXER, proposes an amendment numbered 1558.

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

The PRESIDING OFFICER. Without objection it is so ordered.

The amendment is as follows:

On page 5, line 1, decrease the amount by $155,000,000.

On page 5, line 11, decrease the amount by $155,000,000.

On page 5, line 22, decrease the amount by $158,000,000.

On page 5, line 23, decrease the amount by $59,000,000.

On page 5, line 24, increase the amount by $69,000,000.

On page 5, line 25, increase the amount by $8,000,000.

On page 6, line 1, decrease the amount by $10,000,000.

On page 6, line 7, decrease the amount by $158,000,000.

On page 6, line 8, decrease the amount by $59,000,000.

On page 6, line 9, increase the amount by $69,000,000.

On page 6, line 10, increase the amount by $8,000,000.

On page 6, line 11, decrease the amount by $10,000,000.

On page 6, line 17, decrease the amount by $158,000,000.

On page 6, line 18, decrease the amount by $59,000,000.

On page 6, line 19, increase the amount by $69,000,000.

On page 6, line 20, increase the amount by $8,000,000.

On page 6, line 21, decrease the amount by $10,000,000.

On page 7, line 1, decrease the amount by $158,000,000.

On page 7, line 2, decrease the amount by $59,000,000.

On page 7, line 3, increase the amount by $69,000,000.

On page 7, line 4, increase the amount by $8,000,000.

On page 7, line 5, decrease the amount by $10,000,000.

On page 7, line 8, decrease the amount by $158,000,000.

On page 7, line 9, decrease the amount by $217,000,000.

On page 7, line 10, decrease the amount by $148,000,000.

On page 7, line 11, decrease the amount by $140,000,000.

On page 7, line 12, decrease the amount by $150,000,000.

On page 8, line 7, decrease the amount by $158,000,000.

On page 8, line 8, decrease the amount by $59,000,000.

On page 8, line 9, increase the amount by $69,000,000.

On page 8, line 10, increase the amount by $8,000,000.

On page 8, line 11, decrease the amount by $10,000,000.

On page 10, line 3, decrease the amount by $513,000,000.

On page 10, line 4, decrease the amount by $236,000,000.

On page 10, line 11, decrease the amount by $195,000,000.

On page 10, line 18, decrease the amount by $56,000,000.

On page 10, line 25, decrease the amount by $10,000,000.

On page 11, line 7, decrease the amount by $10,000,000.

On page 35, line 8, increase the amount by $358,000,000.

On page 35, line 9, increase the amount by $78,000,000.

On page 35, line 16, increase the amount by $136,000,000.

On page 35, line 23, increase the amount by $125,000,000.

On page 36, line 6, increase the amount by $18,000,000.

Mr. HARKIN. I yield the floor.

Mr. SASSER addressed the Chair.

The PRESIDING OFFICER. The Senator from Tennessee.

Mr. SASSER. I thank the Chair.

Madam President, I rise this afternoon to support the amendment offered by the distinguished Senator from Iowa. With this amendment, Senator HARKIN, I believe, wisely directs resources toward the chronically underfunded domestic programs and away from a single, consistently overfunded military program.

What the Harkin amendment seeks to do, as he has explained, is increase funding for Federal grants to State and local governments for community policing and drug patrols, while reducing the planned funding increases for the ballistic missile defense programs.

The Senator from Iowa, I am sure, has been struck by the fact that we no longer call it star wars. They have changed the name now. It is no longer star wars or the strategic defense initiative. It is now the Ballistic Missile Defense Program.

But Senator HARKIN's amendment, unlike many of those we consider in this body, offers specific program cuts to pay for his proposed increases. I commend the Senator for taking that approach. It is always very easy to come up with a nonspecific spending reduction to pay for an add-on, but the Senator is taking the responsible approach, I think, in stating specifically what he would reduce to pay for the amendment that he is offering, therefore, making his amendment deficit neutral.

This country has already spent over $32 billion on ballistic missile defense research. I commend the administration for its efforts in scaling back the proposal that it inherited from the Bush administration. But the administration still plans to spend an additional $18 billion over the next 5 years for ballistic missile defense.

For 1995, the President's budget request includes some $3.3 billion for ballistic missile defense activities, an increase of $800 million over last year's level, increasing spending on ballistic missiles defense activities by $500 million over last year's level.

In testimony before the Budget Committee, the Department of Defense indicated that this increase of nearly 20 percent—when we are cutting 300 domestic discretionary programs—this increase of 20 percent makes ballistic missile defense one of the fastest growing programs in the Pentagon. Based on my knowledge of the President's request, this kind of increase would make it one of the fastest growing programs in the entire Federal budget. We hear a lot about the growth in entitlements, but this Ballistic Missile Defense Program is growing faster than any of the entitlement programs on which so much attention is focused.

Most of this half-billion-dollar increase is earmarked for theater missile defense programs. Nobody has any theater missiles that can strike the United States. These theater missile defense programs are of much greater benefit to our allies than they are to the United States. In fact, of the $18 billion the administration plans to spend on ballistic missile defense in the 5-year period from 1995 to 1999, over one-half of this total is intended for the theater missile defense programs.

The truth is that our allies, many of them, live daily under the threat of an attack by shorter-range theater missiles, and many more could come within range in the near future. But despite this immediate and direct threat, our allies are doing precious little about theater missile defense. And why should they? Let Uncle Sugar finance all the research and development on these theater missile defense systems.

If I were a German citizen or a German political leader, I would say why should I endanger any of my domestic programs? Why should I endanger the health programs to the German citizens? Why should I undermine the unemployment compensation system to the French citizens? Why should I take away from infrastructure development for Belgian citizens to develop ballistic missile defenses? There is no need to do that, let the Government of the United States pay for it. Let them cut the programs for their citizens to pay for this ballistic missile defense program that will largely go to defending us.

I do not blame them for doing that. I think that is smart on their part. I do not think it is very wise of us, however, to continue to shoulder the burden of doing this to the tune of raising our expenditures up to $3.3 billion—$500 million over last year.

This amendment offered by our friend from Iowa, which I am proud to cosponsor, is not going to damage the U.S. ballistic missile defense effort. The funding for ballistic missile defense would still total about $2.8 billion, and that is more than all our allies combined, even though, as I said earlier, their countries are at greater risk of ballistic missile attack. This would preserve, even with the Harkin spending reduction for ballistic missile defense, a very robust ballistic missile defense program. And the Harkin amendment would allow our Government to devote additional resources to address the problems encountered by millions of Americans each and every day: crime and drugs.

If you went down the streets of the major cities in this country, or if you went down the main streets of the small towns and municipalities in this country, and you asked any citizen you came in contact with, "What do you think is the greatest threat, a ballistic missile attack or being mugged by a criminal on the street?" We all know the answer to that. If you asked them what is the greatest threat—being hit by a missile, is that the greatest threat to our society? Or is it drugs and what they are doing to our young people? Without exception, I think they will tell you uniformly—not just 98 percent—100 percent would say a much greater threat to our safety and to our country is criminality, criminal conduct, drugs, the whole host, the whole constellation of antisocial conduct that surrounds drugs—that is a much greater threat to our society and to our country than ballistic missiles.

So I commend our friend from Iowa. I think he is leading an effort here to adjust our fiscal priorities. He is doing it without increasing the Federal budget deficit. What he is saying is yes, we are going to maintain a robust ballistic missile defense program, but we are not going to inflate that program to the point we are robbing other very important and very crucial domestic priorities such as police work, and doing something about the drugs in this country.

So I commend the Senator and I urge my colleagues to support the Harkin amendment.

Madam President, I ask unanimous consent that the time I used speaking in favor of the Harkin amendment be

charged against the proponents of the amendment.

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

The Senator from Iowa.

Mr. HARKIN. Madam President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

Mr. WOFFORD. Madam President, I rise to add my name as a cosponsor to Senator HARKIN's amendment. The Edward Byrne Memorial State and Local Law Enforcement Assistance Program has proven an essential element in Pennsylvania's fight against crime and drugs.

In Pennsylvania, the Byrne Program provides total support for the Commonwealth's Drug Control and System Improvement [DCSI] Program. DCSI has supported many important and effective law enforcement projects across the State including: local drug enforcement and prevention task forces, crime victim's service programs, alternative sentencing programs such as bootcamps, child abuse prosecution task forces, and other community-based crime prevention programs. In addition, the DCSI is currently funding projects statewide related to improving criminal history records information which are essential to fulfilling the background check requirements of the Brady law.

I have received numerous letters from legislators and criminal justice officials in Pennsylvania stressing the importance of maintaining funding of the Byrne Program. Police Chief Paul L. Wood of the borough of Wilkinsburg captured that sentiment in his letter from which I quote:

> Wilkinsburg desperately needs the help offered in [the Byrne Grant Program]. We are a distressed community and do not have the money to increase our staff, to operate local drug task forces, and to fight drug related activity. The last week in February, our officers confiscated over $4,000 worth of crack cocaine and a large amount of money from juveniles. Wilkinsburg has serious problems and we need the services this [Program] provides.

Quite simply, the Byrne Program works for Pennsylvania and works for the Nation. At a time when we are searching for successes in fighting crime and drugs, when we are exploring ways to best deploy our limited crime-fighting resources, we cannot do so at the expense of those programs that are proven successes.

Madam President, now is the time that we need to forge a new definition of our national security, one that looks to guaranteeing our citizens security in their towns, in their neighborhoods and in their homes. With this amendment Senator HARKIN has taken an important step in that direction and I am proud to be a cosponsor.

Madam President, I ask unanimous consent to insert in the RECORD letters that I have received from Pennsylvanians supporting continued funding for the Byrne Program.

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

COMMONWEALTH OF PENNSYLVANIA,
COUNTY OF YORK,
York, PA, March 9, 1994.

Hon. HARRIS L. WOFFORD, Jr.,
U.S. Senate, Russell Senate Office Building, Washington, DC.

DEAR SENATOR WOFFORD: I recently learned of the President's recommendation to terminate the Edward Byrne Memorial State and Local Law Enforcement Assistance Grant Program in the FY 1995 budget. This program is the mainstay of Pennsylvania's Drug Control and System Improvement Program which program has provided me with the capability to establish the York County Drug Task Force and a special child abuse prosecution unit. The impact of these programs has been unprecedented in York County.

YORK COUNTY DRUG TASK FORCE

The York County Drug Task Force is comprised of county, state, federal, and local law enforcement officers. The purpose of the task force is twofold: interdiction and education/demand reduction. Prior to its inception, coordination of investigations across jurisdictional lines was virtually non-existent. Since the establishment of the York County Drug Task Force, there has been a 152% increase in narcotics cases which are prosecuted by my office. The funds received by York County from the Byrne Grant have provided for the overtime pay of police officers assigned to the drug task force and the necessary equipment required therefor. The presence of our drug task force has facilitated the cooperation and exchange of information among all levels of law enforcement in this county. I cannot imagine returning to pre-task force methods of drug law enforcement.

In the area of education, a portion of the funds we receive is employed to put an officer into every 5th and 6th grade classroom in the county for a series of three classes. These classes focus on peer pressure, drug education, and self-awareness. This county has noticed a decrease in the number of juveniles being charged with possession of narcotics since the introduction of demand reduction education.

The number of law enforcement officers is not the only available weapon in combatting the escalating crime epidemic facing our nation. While additional officers can always be used, the task force concept is a force multiplier—one that we can ill afford to lose in the war against drugs.

YORK COUNTY CHILD ABUSE PROSECUTION UNIT

Unlike most other crimes, the investigation and prosecution of child abuse involves people and agencies other than law enforcement. Successful resolution of cases, therefore, requires coordination during the investigation among all those involved—the prosecutor, police, child protective services, the medical community, and mental health therapists.

The York County Child Abuse Unit was initiated in 1990 and consisted of a Child Abuse Prosecutor and a Unit Coordinator. Through monies from Pennsylvania's Drug Control and System Improvement Program, the unit was able to add an Investigator and a Paralegal in 1992. The unit was created to serve the special needs of child victims. It is designed to assist the child victim as his or her case proceeds through the criminal justice system.

In York County, we maintain a conviction rate of 96 percent with many of these cases being resolved with guilty pleas, a direct result of perpetrator confessions to our well-trained investigators. The success of our unit would not have been possible without money from the Drug Control and Systems Improvement Program.

I urge you to oppose the President's recommendation to terminate the Edward Byrne Memorial as the impact to our Child Abuse Unit as well as newly established units across Pennsylvania would suffer as would our abused children.

Sincerely yours,

H. STANLEY REBERT,
District Attorney.

HOUSE OF REPRESENTATIVES,
COMMONWEALTH OF PENNSYLVANIA,
Harrisburg, PA, March 7, 1994.

Re FY 1995 Budget/Byrne formula grants.

Hon. HARRIS L. WOFFORD, Jr.,
U.S. Senate, Russell Senate Office Building, Washington, DC.

DEAR SENATOR WOFFORD: As a member of the Pennsylvania Commission on Crime and Delinquency, I was recently advised that the President's budget recommendations for FY 1995 include a recommendation to terminate the Edward Byrne Memorial State and Local Law Enforcement Assistance Formula Grant Program. That program totally supports Pennsylvania's Drug Control and System Improvement (DCSI) Program. In 1994, Pennsylvania received $15,216,000 from the Byrne Formula Grants.

Over the past year, I have had the opportunity to review hundreds of proposals that depend upon DCSI funding throughout Pennsylvania. In addition, I have been fortunate to personally observe the benefits of these programs. I know the President wants to put 100,000 more police officers on the streets, but at what cost to existing programs?

Numerous state and local agencies have had the opportunity to experiment and be innovative in producing long-lasting criminal justice solutions. DCSI grants have funded a wide variety of projects, a few of which include the following:

Criminal Justice Training.
Local Drug Task Force Operations.
Combatting of Drug Gang Activities.
Motivational Boot Camps.
Intermediate Punishment.
Treatment Alternatives to Street Crime (TASC).
Juvenile/Organized Crime Drug Traffickers.
Dangerous Drug Offender Unit.
Community Policing.
School-Based Probation.

It is my opinion that these programs will do far more good than spreading 100,000 police officers around the country. I believe it is essential for Congress to preserve the present mechanism for delivery of federal funds to the state. I urge you to examine the impact on these programs closely when the budget comes up for consideration.

If you need any additional information, do not hesitate to contact me.

Sincerely yours,

ALBERT H. MASLAND.

THE CITY OF HARRISBURG,
BUREAU OF POLICE,
Harrisburg, PA, February 28, 1994.

Hon. HARRIS L. WOFFORD, Jr.,
U.S. Senate, Russell Senate Office Building, Washington, DC.

DEAR SENATOR WOFFORD: Allow me to bring to your attention a concern which has

been raised within my organization and within law enforcement agencies throughout the Commonwealth.

President Clinton's budget recommendation for FY 1995 includes a recommendation to terminate the Edward Byrne Memorial State and Local Law Enforcement Assistance Grant Program (DCSI).

As Chief of Police for a mid-sized municipal agency, I can verify that the DCSI Program provides police administrators with the fiscal means to develop and test various innovative approaches to preventing and controlling crime.

Recently, this Bureau submitted a grant application for the Neighborhood Dispute Settlement of Dauphin County. We intend to use the NDS to mediate disputes between neighbors rather than having the district officer issue criminal complaints and spend needless time in court. Through the use of mediation services it is likely serious crime between neighbors can and will be prevented and an added benefit will be the freeing up of officers to address the more serious crimes in our community.

This serves to illustrate only one example of how the DCSI Program can support and assist in developing these innovative approaches to addressing crime on a local level.

It is certainly my belief that state and municipal governments are in the best position to develop and evaluate programs to be used at the local level.

Congress needs to support this mechanism for the delivery of federal crime control funds to this level of government if we as municipal agencies are to continue to be innovative in our approach to addressing the many issues of crime in our society.

Your active support in this very important matter will be appreciated.

Sincerely,

RICHARD S. SHAFFER,
Chief of Police.

COMMONWEALTH OF PENNSYLVANIA,
THE PENNSYLVANIA COMMISSION ON SENTENCING,
State College, PA, February 28, 1994.

Hon. HARRIS L. WOFFORD, Jr.,
U.S. Senate, Russell Senate Office Building, Washington, DC.

DEAR SENATOR WOFFORD: I am writing to express my opposition to a recommendation that the Edward Byrne Memorial State and Local Law Enforcement Assistance Formula Grant Program be terminated. This program totally supports Pennsylvania's Drug Control and System Improvement Program. I have been personally involved in a number of projects supported through these programs grants.

These monies in Pennsylvania have supported a number of very effective and worthy projects including the development of computer information systems for law enforcement, county jails, district attorneys, victim service agencies, and adult probation. There are plans to develop an automated sentence/sentencing, guidelines application program. There are also a number of projects currently being funded related to improving criminal history records information which are crucial to fulfilling background checks under the Brady Bill.

Additionally, these monies are used for training and educational programs for those involved in the criminal justice field. This has been especially important in the area of developing and implementing safe, secure, and viable sentencing alternatives for nonviolent offenders. Numerous programs in Pennsylvania which were given "seed" money through these grants, are not either self-supporting or supported through local or state government. If not for the initial start-up monies [which are matched with local dollars], there is a very high probability that none of these programs would be in existence.

Congress needs to maintain this mechanism for supporting the state's criminal justice initiatives. Please do not allow a budget that removes this vital funding to be approved.

Thank you, in advance, for your continued support of the Edward Byrne Memorial State and Local Law Enforcement Assistance Formula Grant Program.

Sincerely,

IODEEN M. HOBBS,
Associate Director.

PENNSYLVANIA DEPARTMENT OF CORRECTIONS,
Camp Hill, PA, March 2, 1994.

Hon. HARRIS WOFFORD, Jr.,
U.S. Senate,
Federal Building, Harrisburg, PA.

DEAR SENATOR WOFFORD: I am writing to you concerning President Clinton's budget proposal which calls for the elimination of the Edward Byrne Memorial State and Local Law Enforcement Assistance Grant Program. I wanted to make you aware of how devastating it would be to Pennsylvania to lose this program and the accompanying $15,216,000 that it received in fiscal year 1994.

These funds, administered through the Pennsylvania Commission on Crime and Delinquency, support Pennsylvania's Drug Control and System Improvement Program (DCSI) which has given local jurisdictions an opportunity to enhance their crime prevention and victim assistance programs, develop model programs, test new ideas, and share information and experiences with others across the Commonwealth. The beauty of the program has been its incentive for creativity and its ability to assist in the development of community level initiatives to improve the justice system by encouraging cooperative efforts between agencies.

Prior to my employment with the Pennsylvania Department of Corrections, I worked for fourteen years in the Philadelphia District Attorney's Office. As Director of Victim Services for that agency, I was privileged to work with several community based programs that were funded through the DCSI program, which covered initiatives such as developing model programs designed to enhance security in the home for domestic violence victims and an anti-violence education program in the Philadelphia School System.

Many statewide initiatives enhancing victim services have also been funded, such as, the development of a Victim Service Agency's computer information system, multidisciplinary approaches to child abuse prosecution, and comprehensive victim services. These programs would never have gotten off the ground without the initial funding provided through the DCSI program. Without your continued support from this funding stream, no new initiatives will rise in Pennsylvania if the Edward Byrne Memorial State and Local Law Enforcement Assistance Formula Grant Program is eliminated.

I ask your careful review of this portion of the President's budget and the great impact it will have on community initiatives in Pennsylvania. I hope that you will support the continuation of this program.

Sincerely,

MARY ACHILLES,
Director, Victim Services.

HOUSE OF REPRESENTATIVES,
COMMONWEALTH OF PENNSYLVANIA,
Harrisburg, PA, March 4, 1994.

Senator HARRIS WOFFORD,
Russell Senate Building,
Washington, DC.

DEAR HARRIS: President Clinton's budget request for FFY 1995 recommended that the Edward Byrne Memorial State and Local Law Enforcement Assistance Formula Grant Program be terminated so that funds are available to put 100,000 more police officers on the street.

As a Commissioner on the Pennsylvania Crime and Delinquency Commission and as a member of the House Judiciary and Appropriations Committees, I call on you to oppose this recommendation.

Byrne Formula Grants completely support Pennsylvania's Drug Control and System Improvement (DCSI) Program. Among other things, DCSI monies have provided services to crime victims; funded community based crime prevention strategies; assisted drug intervention, treatment, and rehabilitation initiatives; helped criminal justice agencies share and develop information; supported boot camps and other intermediate sanction mechanisms; and assisted in child abuse prosecution.

Pennsylvania received $15,216,000 in FFY 1995 under this grant program.

Increasing the number of police in our communities may or may not be a laudable goal, but the DCSI Program is too valuable to sacrifice to it. Again I urge that the Byrne Grants be preserved.

Yours,

BABETTE JOSEPHS.

Mr. ROCKEFELLER. Mr. President, I am proud to be a cosponsor of Senator HARKIN's amendment to restore funding for the Edward Byrne Memorial State and Local Law Enforcement Assistance Program, because this program has been the bedrock for local justice systems to combat drugs and violent crime.

At a time when public alarm over drugs and violent crime is escalating, it seems to me to be a penny-wise but pound-foolish decision to cut funding for such an effective grassroots program for law enforcement. Personally, I believe that one of the real strengths of the Byrne Program is that it is a formula grant that States and local communities can rely on to use as a foundation to fight crime year in and year out. The program helps forge a local partnership because it requires matching funds which ensure that communities are involved.

This program fills a vital need, especially in rural areas, where community policing cannot be effective because of the nature of rural areas like West Virginia. All of our communities are concerned about violent crime, and all of them deserve Federal support and incentives.

But the people who are most convincing on this issue, are the law enforcement officials themselves who are on the front lines every day in the fight against crime. I want to share with my colleagues samples of letters from West Virginia law enforcement officials about this program, and ask for unani-

mous consent that copies of letters from Col. Thomas L. Kirk, superintendent of the West Virginia State Police, and the Honorable Virgil Miller be printed in the RECORD following my statement.

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

WEST VIRGINIA STATE POLICE,
South Charleston, WV, February 8, 1994.

Hon. JOHN D. ROCKEFELLER IV,
U.S. Senate, Hart Senate Office Building, Washington, DC.

DEAR SENATOR ROCKEFELLER: On Friday, February 4, 1994, the Washington Post printed an article outlining President Clinton's plans to terminate one hundred and fifteen federal programs. This plan includes the block grant portion of the Edward Byrne Memorial Grant program, which is administered by the Bureau of Justice Assistance.

I have corresponded with you and spoken with members of your staff in the recent past concerning reductions in this program. It appears that our worst fears are coming to pass since the President apparently intends to eliminate this most important program.

Every day, as police officers, we are urged to tailor our efforts to combat the ever rising violent crime rate. To work towards the accomplishment of this task requires broad based support, yet this support is now being threatened. The termination of this program would eliminate a resource which is critical to our efforts.

Our task forces are purposely designed to combat both drug trafficking and violent crime. This design was an obvious choice, since the two are so closely interrelated. The elimination of this funding would result in personnel reductions, shortages in investigative resources, and would, overall, seriously jeopardize the cooperative policing efforts which have been so successful to date.

There have been suggestions that funds from the block grant program may be shifted to a discretionary grant program, thereby providing for closer scrutiny of each request. If this happens and the present trend continues, West Virginia will most likely not receive necessary funding in support of its policing efforts. In the past this type of funding has routinely been awarded to larger metropolitan areas, despite the fact that they already had more law enforcement resources available, both in terms of their individual tax base and in terms of the existing Federal law enforcement presence. West Virginia has never fallen within this category and if final approval is received, the Firearms Task Force grant which we are currently applying for will be a first for our state. Based upon past experience, President Clinton's plan, if implemented, will be devastating to public safety in West Virginia.

I would also note that rural states in general, West Virginia included, have already been overlooked by the President's initiatives to increase the number of police officers on the street. My staff has reviewed the parameters of the Police Hiring Supplement Program in detail. By its very design it simply is not applicable to rural jurisdictions, nor does it appear to be applicable to any "state level" law enforcement entity. Although rural states such as ours received a smaller share, since the Byrne Memorial block grant program is population based, it was at least something we felt we could count on. It now appears that rural law enforcement may be completely cut off from support which is crucial to our efforts. The people of West Virginia pay Federal taxes like all other Americans; they are entitled to better treatment than this.

I urge you to strongly support the preservation of the state administered federal assistance delivery system currently in place under the United States Department of Justice administered Edward Byrne Memorial Grant Program.

We, in the West Virginia law enforcement community, are aware of the importance of controlling federal spending, however, there is no more critical need in this nation than to reduce crime and violence. The law enforcement community is grateful for the assistance you have rendered in the past and again we ask for your help in preserving the integrity of this vitally important program.

Sincerely,

COL. THOMAS L. KIRK,
Superintendent.

COURT HOUSE,
Buckhannon, WV, February 10, 1994.

Hon. JOHN D. ROCKEFELLER IV,
U.S. Senate, Hart Senate Office Building, Washington, DC.

DEAR SENATOR ROCKEFELLER: I am writing on behalf of the Upshur/Lewis/Harrison Drug Task Force, which also includes the cities of Clarksburg and Bridgeport working in conjunction with the W.Va State Police, DEA, FBI, and IRS to urge you to preserve the integrity of the State Administrated Federal Assistance Delivery systems currently in place under the U.S. Department of Justice—administered Edward Byrne Memorial State and Local Law Enforcement Assistance discretionary and formula grant programs and to employ that delivery system in the distribution of any future criminal justice grant-in-aid programs, including financial assistance specifically intended for local government.

The HLUCTF urges you to support the full funding for the Byrne Memorial grant program in the Fiscal Year 1995 Budget. When the Federal Office of Management & Budget submits its recommendations to Congress for spending for the federal agencies and programs, we are hopeful the recommendations covering the U.S. Department of Justice, Office of Justice Programs will include a sufficient allotment to preserve the viability of the Byrne Memorial grant program.

The Drug Control and Systems improvement/Byrne Memorial grant program (1998–present) have provided state and local governments with the impetus and financial means to develop and implement new and innovative approaches to preventing and controlling crime.

In the Fiscal Year 1994, the appropriation of the Byrne Memorial grant program was reduced by six percent from the previous funding level, after being sustained at $473 million each year for three fiscal years. However, the strength of these grant-in-aid programs has been in the inducement and flexibility that they have provided the state and the local governments to identify crime priorities and to experiment with new programs that address crime problems. This experimentation and innovation by state and local governments under the Safe Streets Acts Grant-In-Aid Program produces and continues to produce under the Byrne Memorial grant program, many significant and lasting criminal justice initiatives.

We applaud and support your efforts to increase federal aid to state and local governments and urge you to employ the Byrne Memorial grant funds delivery system in the distribution of any future criminal justice grant-in-aid program, including financial assistance specifically intended for local units of government and to support full funding of the Byrne Memorial grant program in the fiscal year 1995 budget.

Certainly, there is no more critical need in this nation that to reduce crime and violence. The public has every right to expect to be safe and secure at home and in the streets and turn to the government for the will and resources to meet this expectation. We look forward to working with you in this matter of mutual interest. With kindest and personal regards and sincere best wishes.

Sincerely yours,

VIRGIL D. MILLER,
Sheriff Upshur County.

The PRESIDING OFFICER. The Senator from Tennessee.

Mr. SASSER. Madam President, I suggest the absence of a quorum and ask unanimous consent the time be charged equally against both sides.

The PRESIDING OFFICER. Without objection, it is so ordered. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mrs. MURRAY. Madam President, I ask unanimous consent that the order for the quorum call be rescinded.

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

Mr. HARKIN. Madam President, I yield 5 minutes to the Senator from Washington.

The PRESIDING OFFICER. The Senator from Washington is recognized for 5 minutes.

Mrs. MURRAY. Madam President, I thank the Senator from Iowa.

I rise briefly today to speak in strong support of this amendment, and I am pleased to be an original cosponsor of it.

As the chairman knows, I spoke this morning regarding the need for responsible amendments that named specific cuts. The Senator from Iowa, [Mr. HARKIN] has once again shown the leadership we have come to expect from him by offering this amendment.

I always say that the budget needs more everyday common sense, and that is what this amendment is about that has been offered by the Senator from Iowa.

I recently held a series of violence forums around the State of Washington. I heard firsthand from many teenagers and violent offenders about what we need to do to keep our streets safe. I talked with law enforcement officials who told me how important programs like this are. The Byrne Formula Grant Program gets to the heart of the needs in our neighborhoods. It is an investment which will have a direct impact on our neighborhoods that each one of us will see.

My good friends, the Senator from Iowa and the Senator from Tennessee, our chairmen, have made a compelling case for this amendment.

I will not take any more time except to say I fully support this amendment. I thank them for their leadership. I am

convinced it will move to speedy adoption.

Thank you, Madam President. I suggest the absence of a quorum.

The PRESIDING OFFICER. Does the Senator yield back her time, or does she give it back to the Senator from Iowa?

Mrs. MURRAY. I yield my time back to the Senator from Iowa.

Mr. HARKIN. Madam President, I yield myself a couple minutes.

I again want to thank the Senator from Washington for her support for this amendment. I again thank her for all of her input and leadership on both the issue of getting our budget deficit down in a meaningful way to make sure that we do reduce that deficit and, second by making sure we have our spending priorities in order. I want to thank the Senator from Washington for her support.

Madam President, I suggest the absence of a quorum and ask unanimous consent that the time be charged equally against both sides.

The PRESIDING OFFICER. Without objection, it is so ordered. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

Mr. DOMENICI. Might I inquire, how much time does Senator HARKIN have remaining on the first-degree amendment?

The PRESIDING OFFICER. The Senator from Iowa has 27 minutes remaining.

Mr. DOMENICI. I assume since the chairman is in favor of the amendment that I have the hour in opposition to the amendment.

The PRESIDING OFFICER. The Senator is correct.

Mr. DOMENICI. Madam President, would the Senator from Washington, Senator GORTON, like 20 minutes, 15 minutes?

Mr. GORTON. Fifteen minutes.

Mr. DOMENICI. I yield 15 minutes of that time to Senator GORTON.

The PRESIDING OFFICER. The Senator has 57 minutes remaining, and he yields 15 minutes to the Senator from Washington.

Mr. GORTON. Madam President, Edward Byrne was a young New York City policeman killed in action by drug lords in the 1980's. You would think that in his tough talk on crime, the President would have remembered this heroic officer whose name has done more to take dope pushers off our streets than perhaps any other. But the President has proposed we eliminate funding for the Byrne grants. At a time when our families and neighborhoods need effective law enforcement more than ever, we cannot afford to forget this successful program.

The distinguished Senator from Iowa has proposed to restore this program to exactly the level at which it found itself last year. With that proposition, I agree in part with. The method by which he proposes to pay for it, I disagree profoundly.

So I intend to use this 15 minutes, first, to amplify on the remarks of the distinguished Senator from Iowa as to what this program means with respect to law enforcement, the field in which we agree completely, and then to suggest that when all time has been yielded back, that I will have a second-degree amendment to amendment of the Senator from Iowa which will do two things:

First, it will restore not just the amount of the Byrne grants which they have been in the current year, but the amount for which they were authorized and which they received up to the current year, which is some $423 million a year as against the $358 million, about which is the subject of this amendment.

And, second, to take that money not out of national defense, the single function which is and continues to lose more than any other function in our budget, but taking a leaf from the proposals of a more broad nature made by the distinguished Senator from New Mexico in the Budget Committee itself to take it from allowances with a specific reference to the amount of money that we, in the Federal Government, spend across the board on furniture and on furnishings.

With that introduction, I should like to go back and speak to the Byrne grants themselves for a particular period of time.

As the Senator from Iowa well knows, the National Governors Association, the National Criminal Justice Association, the National Sheriffs Association, the International Association of Chiefs of Police, and the Fraternal Order of Police all have expressed support for full restoration of the Byrne formula grants.

Madam President, I ask unanimous consent that their letters in support be printed in the RECORD.

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

NATIONAL SHERIFFS' ASSOCIATION,
Alexandria, VA, March 21, 1994.

Hon. SLADE GORTON,
U.S. Senate, Washington, DC.

DEAR SENATOR GORTON: On behalf of the 22,000 members of the National Sheriffs' Association, I am writing to thank you for your efforts to preserve the Edward Byrne Grant Program. Elimination of these funds will have the most devastating impact on law enforcement, especially on small and rural jurisdictions. This comes at a time when there is no more critical need in this nation than to reduce crime and violence. The sheriffs of this nation applaud your stand and commend you for your efforts. As always, NSA is prepared to support legislation in the best interest of law enforcement and the public.

I would be grateful if you would keep me informed of any progress regarding your amendment. Thank you for your endeavors.

Sincerely,

CHARLES "BUD" MEEKS,
Executive Director.

NATIONAL GOVERNORS' ASSOCIATION,
NATIONAL CRIMINAL JUSTICE ASSOCIATION,
March 21, 1994.

Hon. SLADE GORTON,
U.S. Senate, Washington, DC.

DEAR SENATOR GORTON: We are writing on behalf of the National Governors' Association and the National Criminal Justice Association to applaud your statement on the floor of the Senate on March 16, 1994, in support of preservation of the Edward Byrne Memorial State and Local Law Enforcement Assistance formula grant program.

The Byrne Memorial program, as you so aptly pointed out in your statement, is a vital source of financial assistance for states and local governments' efforts to halt the epidemic of violent crime in this country. Byrne Memorial funds have underwritten most of the major advances in the field of criminal justice; including community policing, boot camps, and multi-jurisdictional drug enforcement task forces, such as those in place under Byrne funding in your own state of Washington.

The Byrne Memorial program is as equitable, efficient, effective, and accountable a grant-in-aid initiative as any the federal government has to offer. The program's strength lies in the flexibility that it provides the states and local governments to identify crime priorities and to develop, test, and replicate new and innovative approaches to preventing and controlling crime.

Governors, state legislators, state and local police officials, and numerous other public policymakers and criminal justice officials are united in their commitment to continuation of the Byrne Memorial program and in their belief that President Clinton's proposal to eliminate the Byrne Memorial formula grant program in his fiscal year 1995 budget should not be allowed by the Congress to go forward.

We understand that you plan to offer an amendment during floor debate of the budget resolution in support of the Byrne Memorial grant program. We wholeheartedly support that action and hope that your colleagues in the Senate will lend their support to your amendment.

Thank you again for your commitment to preserving the Byrne Memorial program.

Sincerely,

NOLAN E. JONES,
Director of Justice and Public Safety, National Governors' Association.

GWEN A. HOLDEN,
Executive Vice President, National Criminal Justice Association.

INTERNATIONAL ASSOCIATION OF CHIEFS OF POLICE,
Alexandria, VA, March 22, 1994.

Hon. SLADE GORTON,
U.S. Senate, Washington, DC.

DEAR SENATOR GORTON: The International Association of Chiefs of Police (IACP) is in full support of all efforts to maintain and enhance funding for the Edward Byrne Memorial State and local Law Enforcement Assistance Programs and the Regional Information Sharing Program (RISS) in the FY 1995 Budget.

The IACP understands that several sources of funding are under consideration from re-

ducing consulting services to reducing funding for Star Wars projects. The Congress is in the best position to determine which programs can best be reduced. The IACP knows however that these grant monies are vital to law enforcement to fund multi-jurisdictional narcotics task force that are the main defense against drug traffickers at the local level. Without this support, a coordinated and cost effective law enforcement effort is impossible and leaves communities across America vulnerable to unchecked drug trafficking.

The IACP and its members urges continuation of the Byrne Formula Grant and RISS programs in the FY' 1995 Budget.

Sincerely,

SYLVESTER DAUGHTRY, Jr.,
President.

Mr. GORTON. Madam President, as we look at the various programs which are contained in this budget, one of the overwhelming demands of the American people is for effectiveness in the spending of Federal money. If every Federal program were as cost effective as the Byrne grants, we would have very little need for some of the more drastic changes in our budget which have been proposed here.

According to the Washington State Patrol which supervises the exercise of these grants in Washington State, for every program dollar, either from the Federal Government or by match, spent on multijurisdictional task forces within the Byrne grants, $8.40 worth of drugs are removed from the streets. Not only is the program cost effective, it is unusually successful.

In the State of Washington, the conviction rate for those prosecuted after being arrested by these drug task forces under Byrne grants is 90 percent. For arrests outside of these Byrne grant task forces, the conviction rate is 42 percent.

Let me go through just a few of the ways in which this program operates in the State of Washington, which I believe is typical of all of the States which utilize these Byrne grants.

In the State of Washington, there are 21 such programs occupying almost all of the counties and the great and overwhelming majority of the population of the State of Washington. As you can note from this map, many of them cross county lines; all of them cross various jurisdictional lines within counties. They are the primary source of drug interdiction in Washington State. Considering the millions of dollars in assets seized every year in the prevention of drug abuse, the Byrne Grant Program in Washington State is among the wisest investments of Federal taxpayer money.

Designed to provide State and local flexibility and control over law enforcement strategies, Byrne grant money is distributed directly to all States on a population-based formula.

Madam President, I ask unanimous consent that a summary of the amounts each State has received in fiscal year 1994 be printed in the RECORD.

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

Byrne Formula Grant Program

[Fiscal year 1994]

Allocation of funds	*Allocation*
Alabama	$5,827,000
Alaska	1,595,000
Arizona	5,465,000
Arkansas	3,756,000
California	37,704,000
Colorado	5,033,000
Connecticut	4,808,000
DC	1,597,000
Delaware	1,717,000
Florida	16,980,000
Georgia	8,946,000
Hawaii	2,278,000
Idaho	2,167,000
Illinois	14,765,000
Indiana	7,647,000
Iowa	4,248,000
Kansas	3,904,000
Kentucky	5,373,000
Louisiana	6,007,000
Maine	2,368,000
Maryland	6,748,000
Massachusetts	8,048,000
Michigan	12,149,000
Minnesota	6,237,000
Mississippi	4,012,000
Missouri	7,088,000
Montana	1,878,000
Nebraska	2,810,000
Nevada	2,477,000
New Hampshire	2,220,000
New Jersey	10,184,000
New Mexico	2,780,000
New York	22,502,000
North Carolina	9,055,000
North Dakota	1,653,000
Ohio	14,032,000
Oklahoma	4,725,000
Oregon	4,445,000
Pennsylvania	15,216,000
Rhode Island	2,093,000
South Carolina	5,192,000
South Dakota	1,743,000
Tennessee	6,886,000
Texas	21,950,000
Utah	3,057,000
Vermont	1,575,000
Virginia	8,500,000
Washington	7,020,000
West Virginia	3,056,000
Wisconsin	6,866,000
Wyoming	1,451,000

Mr. GORTON. Madam President, States and localities must match up to 25 percent of the cost of the program, and no more than 10 percent of the formula grant to a State can be used for administrative purposes. Most of it, in fact, gets through to the streets, to the law enforcement agencies which deal with drugs themselves.

Twenty different law enforcement activities are included within Byrne grants. Multijurisdictional task forces that integrate Federal, State and local law enforcement agencies and prosecutors, demand reduction education programs like the DARE Program, programs designed to target clandestine drug labs, community and neighborhood crime prevention programs and white collar crime and organized crime.

Of all the activities permitted under Byrne grants, the multijurisdictional task forces are among the most cost effective and productive in the fight against crime.

In the State of Washington, a total 21 multijurisdictional task forces, the drug prosecution assistance program, and several community policing programs were funded with Byrne grants during this current fiscal year for a total of $7 million.

More than half of that amount was dedicated toward the task forces, with the Washington State Patrol playing an important role as coordinator and supervisor. Uncommon cooperation among State and local law enforcement has made Washington State's task forces renowned for their efficiency and effectiveness.

Listen to some specific examples, Madam President. According to Capt. Hal Mahnke of the Cowlitz-Wahkiakum Narcotics Task Force, right here, in 1993 alone that task force arrested 442 suspected drug dealers, seized 21 automobiles from drug dealers and $57,000 in cash. Captain Mahnke told me that "most crimes that police officers investigate can be traced to drug activity. And we have plenty of drug activity. If we lose more drug investigative ability, we will see a definite increase in the crime rate in our area."

Comdr. Al Shelstad of the Snohomish County Regional Narcotics Task Force, which is here just north of Seattle, reports that since 1988 his task force has seized more than $19 million in narcotics, $367,000 in drug dealer vehicles, and $322,000 in cash.

Detective Sgt. Brent Pfundheller, supervisor of the Spokane Regional Drug Task Force, in the eastern part of the State, tells me in the fall of 1992 the Spokane Task Force ended one of the largest marijuana investigations in the State of Washington's history. More than 7,000 plants were seized with a street value of $7 to $10 million. Last year, the task force arrested more than 120 individuals for possession and/or trafficking in narcotics.

Detective Sgt. Dave Rekow of the South King County Task Force, in the metropolitan area of Seattle, reports that his group just last January seized more than 2 kilograms of cocaine in west Seattle. That seizure led to another one in Everett, WA resulting in 25 kilograms of cocaine, nearly half a million dollars in cash and several weapons. He told me, and I quote:

> Without the assistance of the Edward Byrne Memorial fund, we would, because of budgetary restraints, dissolve the South King County Task Force and reassign those officers to other enforcement efforts.

Sergeant Kennelly of the Tri-City Metro Drug Task Force reports that 241 individuals were arrested last year by the eight task force members for narcotics-related offenses. He adds that—

> Without the grant money, the Tri-City Metro Drug Task Force would not be able to operate. Each individual agency would then

be burdened with trying to cope with the volume of narcotics that are so prevalent in the Tri-City area. Without the manpower and resources available to each agency which the task force provides as a unit, it would be an impossible task for the agencies to effectively combat the drug program.

We have similar quotes from Grays Harbor County, from Clark and Skamania Counties' drug task force, from the Interagency Narcotics Task Force Team in Grant County, from the West Sound Narcotics Enforcement Team, from Bob Thurston of the Quad Cities Drug Task Force.

And finally, Lt. Jim Pryde, of the Thurston County Narcotics Task Force, reports that since 1990 more than $12 million in illegal drugs, 238 firearms and 522 felony arrests have been made. He says:

Loss of the drug grant funding would severely and negatively impact the quality of life we are fighting to maintain in Thurston County and the State of Washington.

This is what we face if this program is wiped out.

This second chart illustrates what the Washington State Patrol says would be the devastating impact of the loss of Byrne grants. On this two-colored map of the State of Washington, those in red are counties and areas in the State in which drug task forces are operating. Those in green are ones that have not participated. Some 90 percent of the people of the State of Washington live in areas supported by Byrne grants.

The Washington State Patrol says that—

The loss of interjurisdictional cooperation would be greatly impaired. Loss of the BJA funding would cause approximately 80 percent of the multijurisdictional task forces to disband. The effectiveness of the remaining 20 percent would be greatly reduced. Rural areas would suffer the most because they do not have funds to replace lost Federal dollars; and drug control strategy is adversely impacted if task forces fold. Traffickers will move into areas where there is lower law enforcement presence.

Madam President, law enforcement officials across the country shake their heads in disbelief as they hear about page 97 of the fiscal year 1995 budget summary for the Department of Justice as proposed by the President, which reads as follows:

The elimination of the Byrne formula grants is requested in order to support expansion of Juvenile Justice Program crime prevention activities and provide some of the funding necessary for the Department to maintain its primary Federal law enforcement responsibilities. Further, the administration believes that many new State and local assistance programs provisions, offered by the pending Crime Control and Law Enforcement Act, will more than offset the loss of the Byrne program formula grants. These new State and local programs, authorized in the crime bill, will include grants for community policing, criminal history records upgrades, boot camps, drug courts for youthful and nonviolent offenders and drug treatment in prisons and jails.

In other words, the administration is saying, "Don't worry; you are covered."

Law enforcement has a right to be skeptical.

First, few would argue with the need for more juvenile crime justice assistance programs. To think, however, that eliminating the main defense against drug trafficking will not erode our efforts on behalf of children is absurd. Juvenile justice programs and narcotics task forces are part of the same effort and cannot be traded off against one another.

Second, it is not clear what the administration means by "funding necessary for the Department to maintain its primary Federal law enforcement responsibilities." That could mean anything from ethics briefings for the White House to salaries and expenses of a special prosecutor. Since much of the Byrne money goes to multijurisdictional task forces that include Federal law enforcement and pursue interstate drug trafficking, it is hard to believe that these are not considered primary Federal law enforcement responsibilities.

Third, law enforcement personnel cannot reasonably rely on the administration's belief that the pending Crime Control and Law Enforcement Act will more than offset the loss of the formula grants. Considering the fact that there is a $16 billion difference between the Senate-passed crime bill and the bill currently being debated in the House of Representatives, few can know what, if anything, will emerge from the Senate-House conference comparable to the Byrne grants.

Fourth, the administration seems to neglect the substantial sum, nearly $2 billion according to some estimates, that these multijurisdictional task forces generate in seized assets.

Finally, the President's enthusiasm over hiring 50,000 new——

The PRESIDING OFFICER. The Senator's 15 minutes have expired.

Mr. GORTON. Will the Senator give me another 5 minutes?

Mr. DOMENICI. I yield the Senator 5 minutes.

Mr. GORTON. Finally, the President's enthusiasm over hiring 50,000 new officers perplexes many of those in and outside of law enforcement. In doing so, he suggests that eliminating experienced narcotics officers who are primarily responsible for drug interdiction before the drugs get to the cities can somehow be justified by hiring rookie cops in the big cities for a period of 3 years. We desperately need new police officers in our cities but not at the expense of law enforcement in rural areas. In taking from rural task forces to pay for new city police, the President is blatantly suggesting that we rob Peter to pay Paul when both are obviously needed.

Now, Madam President, it is because of the tremendous success of these programs that our view is that they should be restored to their roughly historic level, and that is why the amount of money that we would propose is slightly larger than that in the Harkin amendment. But more significant, Madam President, is the fact that in one very real sense, in spite of the statement of the distinguished chairman of the Budget Committee, none of these amendments are truly specific. The pattern of an amendment which I will set up will be identical to that of Senator HARKIN. They simply change numbers in particular lines on particular pages of the budget resolution.

Fundamentally, however, the Harkin amendment takes all of the money for the restoration of these grants out of function 050; that is to say, national defense. He advertises and argues that this will come out of a portion, not all, of our antiballistic missile defense force. Maybe so, maybe not. That will not be decided here on the floor of the U.S. Senate. It cannot be decided during the course of the budget resolution. It does, however, come out of our function for national defense, a function which has declined in real terms ever since 1985 and is declining in absolute terms during the course of this year in spite of the fact that the President has said that he wants no more cuts in national defense, and in spite of the fact that we already have a $20 billion to $40 billion asterisk in the defense funds because the amount of money in the function, admittedly by the Department of Defense, is insufficient to pay for the defense which the President of the United States himself thinks to be necessary.

So my alternative proposal will be to take it out of allowances and earmark it against the money that we are spending on furniture, and it would be my intention that it come equally out of all of the functions in which those expenditures come, which would include a very modest cut in the defense function but it would be one which is directly proportional to the size of the defense function as a part of the overall budget and not solely and completely out of the defense function, which is already very, very short.

So while I am absolutely convinced that the Senator from Iowa has done a great service in speaking about the Byrne grant, and I agree with him completely, I think we can do better on the Byrne grant. I think we can do better on the functions from which we pay for the Byrne grant. I think we can do better for the defense of the United States.

Mr. HARKIN. Madam President, I, on my time, if the Senator, my good friend from Washington, will engage in a colloquy with me on where we are getting the money—we both agree the Edward Byrne fund ought to be saved or increased a little bit, if at all possible. I think that is a general sentiment here.

I guess the question then comes down to where are we going to get the money? The Senator is right. I do take it out of 050. I have indicated to him in my remarks that it should come from the ballistic missile defense fund and that portion which is the star wars program, not the theater missile defense. That whole star wars program goes from $1.2 to $1.21 billion, and that is where I propose the money come from.

The Senator is right. Obviously, it has to be appropriated. Obviously, an amendment then would be in place on the appropriations bill when it comes to the floor.

So I made it clear where I would get my money. I am still a little uncertain as to where the Senator from Washington will get his money to put into the Edward Byrne program. I understand what he says; that he was going to get portions from every function; a little bit out of every function. Well, does that mean some of it will come from education? Will some come from health care? Will some come from the National Institutes for Health, which we are trying to fund to put money into basic medical research? Would some of this come from job training? Where would it come from? Will all of it come out of all of these? That is what I am asking the Senator from Washington. Would, under his proposal, a little bit come out of all of these programs that I mentioned?

Mr. GORTON. Madam President, I respond to the distinguished Senator that the amounts that will come out of each of the functions across the board under the alternative proposal of the Senator from Washington will be directly proportional to the amount in the allowance section, the small print, in the budget directed toward the purchase of furnishings for various Federal Government agencies. That, of course, is precisely specific, no more or no less specific than the amendment of the Senator from Iowa, which comes out of national defense. Of course, it would come out of any function of national defense, I suppose, if some of these agencies ended up preferring their own personal comforts for the work which they were designed to do that they might buy their plush furnishings in any event and shortchange their own activities.

It is not the intent of the Senator from Washington—the intent of the Senator from Washington is identical to that of the Senator from New Mexico, who had a similar but broader amendment during the course of the debate over the budget resolution in the Budget Committee itself.

In any event, it comes out of the allowances section, and the precise intent will be to reduce by 50 percent the amount of money all Federal agencies spend on furniture and furnishings.

Mr. HARKIN. I appreciate those remarks. I guess my point is, again, the Senator says that, but his amendment does not mean that. It could come out of anywhere, just as the Senator from Washington is saying about my amendment. Mine comes out of national defense. I have indicated it would come out of star wars. Obviously, the appropriators can take it out of anywhere. If we take the amendment of the Senator from Washington, it does not necessarily have to come out of furnishings. It can come out of something else across the board.

My amendment, then, will send a strong signal to the Appropriations Committee about where our priorities are. Again, I do not have any real case to make for furnishings. I do not know what the situation is with furnishings. I suppose if you run an office, you have to have office equipment. I do know about the National Institutes of Health, though. I do know that they need equipment. They need lab equipment. They need proper furnishings to conduct their research, as do our extramural grants that go out to other universities. I suppose that would be included in that, too. I do not know exactly what all is included in the furnishings.

But, again, my point is this: We have had a huge increase in the star wars budget this year. It has gone up by almost 30 percent over last year. Again, is that where our priorities are?

The Senator from Washington states that we have had all of these big cuts in the military spending. I think it is time to start pricking that balloon and that myth. The Senator did say that it has come down since 1986. He is right. We had a huge buildup under Ronald Reagan, and since 1986 it has come down.

But, Madam President, I have a chart that shows that since the cold war started—defining the cold war as starting after the Korean war—there have been 16 years during that cold war when we had the threat of the Soviet Union intercontinental ballistic missiles, nuclear warfare threatening us. In 16 of those years we spent less on defense than we are this year in constant dollars. At the height of the cold war, in 16 of those years, we spent less than we did this year. Most of the years in which we spent more were the Vietnam war years.

I would also point out that if you added up the military budgets of every country in the world who could be our potential enemy, Russia, Iraq, China, North Korea, Libya, Iran, Syria, and Cuba, add them all up, it comes to $52.6 billion.

This year we are spending $277 billion, five times more than all of our potential enemies all put together. Yet, the Senator from Washington says that is not enough. Five times more than all of our potential enemies all put together, and that is not enough. Well, I am sorry. I beg to differ. I think that is more than enough. And I think it is time for our allies to start picking up more of the burden and not our taxpayers. I think if the taxpayers are putting this money in, it ought to go back to fight our street wars, and put it into the Edward Byrne Program to fund it. That is why I called my amendment star wars to street wars. I guess the Senator from Washington would call his "Furniture to Street Wars." Maybe he has a name, I do not know. I think it is time to put our priorities in order and cut the Star Wars Program. How much time do I have left?

The PRESIDING OFFICER (Mr. ROBB). The Senator has 19 minutes remaining.

Mr. HARKIN. Mr. President, I yield the floor and reserve the remainder of my time.

Mr. DOMENICI. Mr. President, let me suggest that, as I understood the way we were going to do things, Senator HARKIN was first, and that was at the request of the majority. The Republicans would go second. I think Senator GORTON is waiting to go second, but we have additional time on the Harkin amendment. I am going to use a few minutes and yield a few more minutes to Senator GORTON.

The PRESIDING OFFICER. The Senator from New Mexico has 37 minutes and 14 seconds remaining.

Mr. DOMENICI. Let me see if I can put this matter into perspective as I see it. The Senate in this first amendment—and I assume throughout the debate on this budget resolution we are going to be talking about areas about where Senators from both sides of the aisle think the President of the United States made a mistake in his budget. This is a big one. This is a very big mistake in the President's budget.

Frankly, I do not think the Senate is going to let this mistake get by without a lot of debate. There are three or four others in the area of criminal justice that are not going to get by without a big debate. This is a big one because not too many years ago we established a grant program for our States, and we named it after a very, very big police hero from New York City, as I recall. I think Senator D'AMATO brought him over because his father came to witness the ceremony of honoring this marvelous son who was a policeman and was just blown up by somebody who decided to kill him. We named this after that person. It is a tremendous fund, because it goes to our sovereign States in a manner that is reasonably related to the problems they have in terms of dollars. And then they get to use it for a myriad of things that they think are important. Believe you me, they are using it for tremendous law enforcement advances in our sovereign States. Senator GORTON alluded to some of them a while ago.

What the President did, I believe, in an effort to reach a certain level of ex-

penditures and no more in terms of the caps, is tell America he was going to invest a lot of money into law enforcement. But the big new item for law enforcement was community-based policemen. So a very large new program was put in under criminal justice.

My recollection is that it is over a billion dollars for 50,000 community-based law enforcement people. Frankly, in order to make room for that, the President took the Byrne Grant Program and reduced it dramatically. What is going on here today in both the Harkin amendment and the Gorton amendment to be proposed, second-degree amendment, is to try to reinstate this so-called Byrne fund to its preexisting level, before the President cut it, and in some cases to let it go up a little bit, because it is thought to be one of the best crime fighting expenditures the Federal Government has.

Frankly, I think everybody understands that the Appropriations Committee is not going to cut the Byrne fund as much as the President recommended in his budget. It just cannot be. The States are going to tell us it is impossible and you cannot do this to us. And the President will lose any initiative of being a crime fighter when the States are through telling him: You cut more in the Byrne fund, which is helpful to us, than all this community police stuff you are talking about. It is going to get funded.

What we are doing here on the floor today, Senator HARKIN would say, look, I know how it ought to be funded. I am going to cut the Strategic Defense Initiative some and that will make up for the money in the Byrne fund. To tell you the truth, the President said we should not do this. Why did he say that? The President said in two different large quotes in his State of the Union Address: I have cut defense all that it should be cut. That is paraphrasing. In fact, he said something I did not think I would hear: Some of my staff and people that advise me—again paraphrasing—wanted me to cut defense more, but I refused to. It has been cut enough.

When you tear away all of what somebody wants this amendment to be—what Senator HARKIN wants it to be—it is another cut in defense to pay for what the President did not fund in the criminal justice section, the Byrne amendment. It is nothing more, nothing less. There is no doubt that this ballistic missile defense fund is not going to be cut as much as the Senator says it should be, because the Defense Appropriations Committee is going to make that decision. I remind everyone that the President himself said we should not be cutting this, because we have cut defense enough.

So, in my opinion, standing on its own, that amendment should not pass here today. Frankly, I believe the Senators want to vote for an amendment that says we are for putting the Byrne grant program on crime prevention back to where it was before, and even raise it a little. As I said, it is probably going to happen whether we vote on it here today or not, because the appropriators are going to cut someplace else and fund that program.

But if we want to vote to reinstate this fund so we can say we are crime fighters—we are even better crime fighters than the President—then it seems to me that Senator GORTON's idea that we ought to say to the agencies of this Government: Do not buy any new furniture, or at least 50 percent less, and do not use so many outside consultants; use half as many. That is what essentially he intends to do—send a signal that it is those kinds of excesses that should have been restrained in the President's budget so he would not have had to cut the crime-fighting Byrne funding for our States and localities.

With that, I ask the Chair, how much time do I have remaining?

The PRESIDING OFFICER. The Senator controls 30 minutes 49 seconds.

Mr. DOMENICI. I yield the floor.

Mr. KOHL. Mr. President, I ask to speak for 3 minutes in behalf of the Byrne amendment.

Mr. HARKIN. I yield the Senator 3 minutes.

The PRESIDING OFFICER. The Senator from Wisconsin is recognized.

Mr. KOHL. Mr. President, I rise today to support the amendment of my colleague from Iowa, which would, in his words, transfer Federal funds from star wars to street wars. It would take money currently slated to the missile defense budget and use it to restore cuts proposed to the Byrne grant anticrime and antidrug program.

Star wars to street wars is more than just a catchy phrase, it is a good idea. I was, frankly, surprised to see the President propose the elimination of the Byrne formula grant program in his budget at precisely the time the Federal Government has finally begun to face up to its responsibility to address the crime and drug problem in a truly tough, smart fashion.

The fact is that the Byrne Grant Program works. In my home State of Wisconsin alone it funds 27 drug task forces and more than 20 drug enforcement positions as well as a highly effective program that shuts down crack houses in Milwaukee.

The proposed elimination of this program has prompted more than 50 law enforcement officials from all over Wisconsin to write and call me.

They write and call with success stories; stories about the important things they have done, and the drug crime that they have fought, with the Byrne grant money.

These are clearly difficult times that compel us to make all sorts of tough budget-cutting decisions. It is our responsibility not to shy away from these difficult votes. But it is also our responsibility to ensure that our budget-cutting knife does not slice the heart out of our anticrime and antidrug efforts. We must distinguish muscle from fat. Programs that work as well as the Byrne grant program are muscle—they simply should not be cut.

So it is for this reason that I strongly support the amendment proposed by my colleague from the State of Iowa, Senator HARKIN.

I thank you and I yield the floor.

The PRESIDING OFFICER. Who yields time?

Mr. DOMENICI. Parliamentary inquiry.

The PRESIDING OFFICER. The Senator from New Mexico.

Mr. DOMENICI. It is my understanding that time is charged equally to both sides.

The PRESIDING OFFICER. If neither side yields time, that is correct.

Mr. DOMENICI. I thank the Chair.

The PRESIDING OFFICER. Who yields time?

Mr. SASSER addressed the Chair.

The PRESIDING OFFICER. The Chair recognizes the Senator from Tennessee, Senator SASSER.

Mr. SASSER. How much time does Senator HARKIN have available?

The PRESIDING OFFICER. The Senator from Iowa has 16 minutes and 44 seconds.

Mr. SASSER. Mr. President, I suggest the absence of a quorum and ask unanimous consent that the time be charged equally against both sides.

The PRESIDING OFFICER. Is there objection? Without objection, the time will be charged equally against both sides.

The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

Who yields time? The Chair recognizes the Senator from Iowa [Mr. HARKIN].

AMENDMENT NO. 1558, AS MODIFIED

Mr. HARKIN. Mr. President, we are trying to reach an agreement. First of all, I ask unanimous consent to modify my amendment.

The PRESIDING OFFICER. Is there objection?

Mr. GORTON. No objection.

The PRESIDING OFFICER. Without objection, the amendment is so modified.

The amendment, with its modification, is as follows:

Replace the matter to be inserted at the designated places with the following:

On page 5, line 1, decrease the amount by $93,000,000.

On page 5, line 11, decrease the amount by $93,000,000.

On page 5, line 22, decrease the amount by $144,000,000.

On page 5, line 23, decrease the amount by $35,000,000.

On page 5, line 24, increase the amount by $91,000,000.

On page 5, line 25, increase the amount by $11,000,000.

On page 6, line 7, decrease the amount by $144,000,000.

On page 6, line 8, decrease the amount by $35,000,000.

On page 6, line 9, increase the amount by $91,000,000.

On page 6, line 10, increase the amount by $11,000,000.

On page 6, line 11, decrease the amount by $10,000,000.

On page 6, line 17, decrease the amount by $144,000,000.

On page 6, line 18, decrease the amount by $35,000,000.

On page 6, line 19, increase the amount by $91,000,000.

On page 6, line 20, increase the amount by $11,000,000.

On page 6, line 21, decrease the amount by $10,000,000.

On page 7, line 1, decrease the amount by $144,000,000.

On page 7, line 2, decrease the amount by $35,000,000.

On page 7, line 3, increase the amount by $91,000,000.

On page 7, line 4, increase the amount by $11,000,000.

On page 7, line 8, decrease the amount by $144,000,000.

On page 7, line 9, decrease the amount by $179,000,000.

On page 7, line 10, decrease the amount by $88,000,000.

On page 7, line 11, decrease the amount by $77,000,000.

On page 7, line 12, decrease the amount by $88,000,000.

On page 8, line 7, decrease the amount by $144,000,000.

On page 8, line 8, decrease the amount by $35,000,000.

On page 8, line 9, increase the amount by $91,000,000.

On page 8, line 10, increase the amount by $11,000,000.

On page 8, line 11, decrease the amount by $10,000,000.

On page 35, line 8, increase the amount by $420,000,000.

On page 35, line 9, increase the amount by $92,000,000.

On page 35, line 16, increase the amount by $160,000,000.

On page 35, line 23, increase the amount by $147,000,000.

On page 36, line 6, increase the amount by $21,000,000.

Mr. HARKIN. Mr. President, let me briefly state what the modification is.

Basically the modification would still reduce star wars by $513 million. It would increase the amount going to the Byrne program by $423 million, and it would reduce the deficit by only $90 million. It adjusts all the numbers accordingly.

That is the modification. I want to make it very clear, it still reduces the star wars program by the $513 million. It shifts most of that into the Byrne program, but there is $90 million that is used for deficit reduction. And that is the modification.

Mr. President, I have consulted with my friend, the Senator from Washington, who feels as strongly I do, I know, about the Byrne program. We just have a difference on how to fund it. We have worked out an agreement which is acceptable to our side and I know is acceptable to their side.

I ask unanimous consent that the pending Harkin amendment be set aside; that Senator GORTON be recognized to offer a first-degree amendment on the Byrne program; that there be 20 minutes of debate on the Gorton amendment equally divided in the usual form; that upon conclusion of debate on the Gorton amendment, the Senate proceed without any intervening action to vote on or in relation to the Harkin amendment, and on disposition of that, to be followed without intervening action or debate by a vote on or in relation to the Gorton amendment, and that no second-degree amendments be in order to either amendment.

The PRESIDING OFFICER. Is there objection to the unanimous-consent request propounded by the Senator from Iowa?

Mr. GORTON. Reserving the right to object.

The PRESIDING OFFICER. The Senator reserves that right.

Mr. GORTON. Our parliamentarians tell us it is a little bit more complicated than that, Mr. President, because, of course, at this point, since we are going to vote back to back, this Senator does not know which of two amendments to put up. That will depend on the success or the failure of the Harkin amendment. So if the unanimous-consent agreement should be modified so that I will put up an amendment at this point, we will debate it, as per the request of the Senator from Iowa, but if the Harkin amendment should pass, that I have unanimous consent to substitute a different amendment for this one.

Mr. HARKIN. We have a gentleman's agreement. I understand what the Senator is going to do, and it is perfectly acceptable.

The PRESIDING OFFICER. Is there objection to the unanimous-consent request?

Mr. SASSER. Mr. President, reserving the right to object, will the distinguished Senator explain the agreement?

Mr. HARKIN. As I understand the agreement, it is this. I have just modified my amendment. That amendment will be set aside. Senator GORTON is going to offer an amendment in the first degree, and upon completion of debate on that, we will proceed to vote on my amendment up or down. On the disposition of that, we would proceed to the Gorton amendment. However—and the Senator is right—if my amendment passes, the amendment that he is now debating is moot, and he wants to be able to modify that amendment at that point to get an up-or-down vote.

Let me explain in plain English what we are doing here. I have taken the money from star wars to fund the Byrne program. There is a little bit left over that goes to deficit reduction. Senator GORTON's amendment takes the money out of a furnishings account that is spread over all of the different functions to pay for the Byrne program. If my amendment wins, Senator GORTON wants to offer an amendment that would basically undo what my amendment did. It would take the money out of my amendment that was taken out of star wars, put all that money back into star wars and take the money out of the furnishings account to pay for the Byrne program.

Mr. GORTON. Will the Senator yield?

Mr. SASSER. If the Senator will yield——

Mr. GORTON. In other words, this Senator at this point does not know whether or not Senator HARKIN will prevail. Part of my amendment will depend on whether it prevails or does not prevail. I will put up one form of it. But if his prevails, I wish to substitute the second form for it. The effect will be the same. If Senator HARKIN's wins and mine loses, the Byrne grants come out of star wars. If mine wins after his, it displaces his and the money comes out of the allowances with the intention that it be in the furnishings account.

Mr. SASSER. But in the event his wins, then the Senator will modify his amendment and the modification will be in such a way that you still fund the Byrne provision but you will take the funds from where at that juncture?

Mr. GORTON. That is correct.

Mr. SASSER. No.

Mr. GORTON. I will take them from allowances with the intention that they be from the furnishings account, exactly what we have been debating all this time.

Mr. SASSER. All right.

The PRESIDING OFFICER. Is there objection to the unanimous-consent request propounded by the Senator from Iowa? If not, that will be the order of the Senate.

AMENDMENT NO. 1559

(Purpose: Restore the Edward Byrne formula grants by reducing all agencies furniture accounts)

The PRESIDING OFFICER. Under the order just adopted, the Harkin amendment will be set aside. The Senator from Washington is recognized to offer an amendment.

Mr. GORTON. Mr. President, I send an amendment to the desk and ask it be considered.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Washington [Mr. GORTON] proposes an amendment numbered 1559.

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

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

The amendment is as follows:

On page 35, line 8, increase the amount by $423,000,000.

On page 35, line 9, increase the amount by $93,000,000.

On page 35, line 15, increase the amount by $423,000,000.

On page 35, line 16, increase the amount by $241,000,000.

On page 35, line 22, increase the amount by $423,000,000.

On page 35, line 23, increase the amount by $402,000,000.

On page 36, line 5, increase the amount by $423,000,000.

On page 36, line 6, increase the amount by $423,000,000.

On page 36, line 12, increase the amount by $423,000,000.

On page 36, line 13, increase the amount by $423,000,000.

On page 41, line 11, decrease the amount by $423,000,000.

On page 41, line 12, decrease the amount by $93,000,000.

On page 41, line 18, decrease the amount by $423,000,000.

On page 41, line 19, decrease the amount by $241,000,000.

On page 41, line 25, decrease the amount by $423,000,000.

On page 42, line 1, decrease the amount by $402,000,000.

On page 42, line 7, decrease the amount by $423,000,000.

On page 42, line 8, decrease the amount by $423,000,000.

On page 42, line 14, decrease the amount by $423,000,000.

On page 42, line 15, decrease the amount by $423,000,000.

The PRESIDING OFFICER. Who yields time?

Mr. GORTON. Mr. President, I yield myself so much of my 10 minutes as I may utilize.

The PRESIDING OFFICER. The Senator is recognized for 10 minutes.

Mr. GORTON. The Senator from Iowa has explained the situation, as we have set it out, quite accurately. Each of us agrees on the vital importance of Byrne grants to effective law enforcement and particularly to effective drug interdiction in the United States. The Senator from Iowa, in fact, has acceded to me and has listed the amount in his amendment to be essentially equal to my own, that is to say, the 1993 Byrne grant numbers. So we no longer have any difference on the importance of Byrne grants to law enforcement and to drug interdiction at all.

We do have a difference on the function or functions from which that money should be taken. The Senator from Iowa proposes that it be taken out of antiballistic missile defense. This Senator proposes that it be taken out of all functions proportionate to the amount of money that they spend on furniture and on furnishings which, of course, will include a very small amount from the defense function itself.

So the basic debate in which we are engaged at the present time is whether or not we want to restore this money for a vitally effective law enforcement function out of national defense or out of furnishings. I think it is a very simple proposition. Are we going to take perhaps the single most important function of the U.S. Government, its national defense, in a time of great unrest in the world, and deprive it of another $500 million over all of the cuts in defense which have taken place across the course of the last decade, a national defense function which the President has said he does not wish to cut, a particular item which the President has said he does not wish to cut, or should we take that money out of new furniture and new furnishings for all of the bureaucracy of the United States at a time, ironically, in which we are going to cut 200,000 or 250,000 people off of the Federal payroll.

It seems to me, Mr. President, the answer to that question is obvious. Of course, we should not cut back on national defense because, remember, whatever our stated intention that this money come out of star wars, it will come out of whatever the body decides it will come out of within the whole range of national defense at the time at which we finally pass an appropriations bill for the defense of the United States.

We already have a huge asterisk of, what is it, I ask Senator DOMENICI, $20 billion or more by which defense is underfunded for the very defense structure which the President of the United States has asked? Senator HARKIN asks that we add to that asterisk another one-half billion dollars, we take another one-half billion dollars out of defense. This Senator says, "No." We do need the Byrne Program. It is vitally important. Let us take it out of luxuries. Let us not take it out of the sinew of our national defense. Consequently, however the first vote goes, if you vote for the Gorton amendment on the second round, you will have determined that you want the Byrne grant, but you will have determined that you are going to take them out of luxuries, out of new furnishings for the governmental entities of the United States and not out of the sinew of this country's national defense.

The PRESIDING OFFICER. Who yields time?

Mr. HARKIN. Mr. President, I agree with my colleague from Washington that we have to increase the Byrne account and get that money out to our police and law enforcement for their programs for prevention and for prosecution. However, again, I would point out that the Gorton amendment takes the money for this out of all functions. He says it is going to come out of furnishings. It does not necessarily have to come out of furnishings. There is no specified item in each fund for furnishings. It is sort of an object account within every department that they have for furnishings. He says it is going to come out. Maybe it will; maybe it will not. We do not really know that for a fact. I do not know how much money is in furnishings.

Mr. GORTON. Approximately $1 billion.

Mr. HARKIN. The Senator says approximately $1 billion per year we spend on furnishings. I am not certain. I take his word for it. I would have to look at every function to see.

But again there is not any specific line item that says furnishings that we can go after. So really what he is digging into is all of the different functions. It could come out of education. It could come out of health, the FBI, the Justice Department, and prosecutions. Everything this could come out of. the Senator's amendment does not really distinguish the source. It says everything is equal out there; this cuts across the board.

My amendment specifies exactly where that money would come from. We had $2.74 billion for the old Star Wars Program last year. The President has asked and this budget includes an increase over that of about $513 million to $3.25 billion.

Again, the very accounts that the Senator from Washington is going after have all been frozen or cut in previous years. Here is one account that was not cut and was not frozen. That is star wars. It is increased by $500 million.

So what I have done is I have carefully drafted my amendment to say we will take it from the Star Wars Program, $513 billion. That will still leave $2 billion for theater missile defense programs to go after the real military threat out there. That is the time of Scud missiles, the theater missile programs that we need. We do not need to increase at this time the old star wars concept of shooting down intercontinental ballistic missiles.

So I use that money to transfer from star wars to street wars, to put it in the Byrne Program.

I believe the amendment I have offered is a much cleaner amendment. It correctly states what our priorities are going to be. It cuts down an increase that was made in the Star Wars Program, leaves it at last year's level. The Gorton amendment basically cuts into programs that have already been frozen or cut themselves. Therein I think lies the difference.

Again, I urge Senators to send a signal loud and clear that we do not need $500 million increase in Star Wars, but we do need $500 million increase in fighting crime and drugs in America.

The PRESIDING OFFICER. Who yields time?

Mr. DOMENICI. Mr. President, how much time does Senator GORTON have?

The PRESIDING OFFICER. Six minutes and 2 seconds.

Mr. GORTON. I yield such time as he wishes to use.

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

Mr. DOMENICI. Mr. President and fellow Senators, you have a clear vote it seems to me. One, do you support the President of the United States when he said we shall not cut defense anymore? He even said, "My staff has advised me, some of them have, to cut defense. But it is wrong. We have cut defense enough."

The Harkin amendment would cut defense some more to pay for what the President should have funded from the beginning: The Byrne amendment which fights drugs and crimes in our cities and States in probably the best way that any Federal money is spent. The other choice is to take Senator GORTON's approach, and it will be the second vote, and say we do not want to cut defense anymore, but we do want to replenish the Byrne Grant Program in its totality. We want to fund it right up to current policy which means inflation on top of last year because it is a great program.

Then Senator GORTON says, as I would interpret it, the President should never cut the Byrne grants, and said to the agencies of this Government, you can spend $1 billion on new furniture. So we say cut that in half. I believe had the President been looking at $1 billion worth of new furniture or cutting the Byrne grants, he would have said cut the furniture. In any event, whether he says it or not, we ought to say it here today. That is why we ought to support the second vote.

Everybody wins. Senator HARKIN gets the Byrne grant replenished. The United States Senate, which probably to a man and to a woman, wants to replenish that program. It is a good program. It should not be cut. It will not be cut.

That version wins, and who loses? The only thing that loses is the big allowance account of this Government. If you are worried about specificity, it is a $9 billion account, and it is full of generalities: rent, across-the-board reductions. It also assumes that we are going to have procurement savings, and it has a dollar number for it.

So Senator GORTON's amendment is as real as you can get on a budget resolution, and I think it deserves support of the Senate.

How much time do I have?

The PRESIDING OFFICER. The Senator controls 3 minutes, and 48 seconds.

Mr. DOMENICI. I yield 2 minutes to the Senator from Texas.

The PRESIDING OFFICER. The Senator from Texas, Mr. GRAMM.

Mr. GRAMM. Mr. President, I want to add one thing to what Senator DOMENICI said. The President, in a very passionate moment in his State of the Union Address said, "And some have said cut defense further. And I have said no." Of course 3 days later, the President's budget came out and he cut defense by another $117 billion.

Unless our alternative passes, it is too late for this budget to fulfill the President's promise. But the point is, do not cut defense any further than the President cut it after he promised he would not cut it.

So I think the question is, are we going to buy furniture for the Government, or are we going to continue to fund national defense, even though the President has already cut it $117 billion more than he promised he would cut it?

I think that is the issue. And on that basis, I think it is very important that we reject the Harkin amendment and that we accept the Gorton amendment to fund DARE, to fund the war on drugs, to fund our rural task force effort. I am very much in favor of Byrne funding.

I yield the floor.

The PRESIDING OFFICER. Who yields time?

The Senator from Iowa [Mr. HARKIN] controls 6 minutes and 4 seconds.

Mr. HARKIN. Let me clear up a misconception, Mr. President, which I think that the Senator from Texas has on this defense spending.

Quite frankly, I want to make the point again that the Star Wars Program was not cut. It was increased by $513 million over last year. That is really the issue. Do we want to keep pouring money into the old Star Wars Program, Edward Teller's dream, lasers, x-ray particle beams, star wars and all that kind of nonsense? We have put $32 billion into star wars, and what do we have to show for it? Not a thing.

What if we were to put that $32 billion into high-speed rail, into clean energy systems, or into education and better schools for our kids in this country? Then we would have something to show for it. That is not enough for the Senator from Texas. Oh, no. He wants another $500 million to go into the Star Wars Program. I am sorry. My goal is not cutting defense. It is cutting the old Star Wars Program. That is what we are doing here with this amendment. We are putting it into fighting drugs and fighting crime through the Byrne Program.

Second, I hear all this talk about cutting defense and cutting defense. The fact is that since the cold war started, there have been 16 years during the height of the cold war when we spent less money on defense than we are doing today. We are spending more, but the Soviet Union no longer exists. There is no big threat to the United States security. And the only years in which we spent more were during the Vietnam war years.

So what are we talking about here in terms of cutting defense? We are talking about cutting it below what it was when Ronald Reagan built it up.

Last, Mr. President, of all the potential enemies we face in the world, Russia, Iraq, China, North Korea, Libya, Iran, Syria, and Cuba, add them all, what they spend on defense, it comes to $52 billion. We are spending $277 billion, five times more than all of our enemies put together. But that is not enough for the Senator from Texas. No, he has to spend more on defense.

Well, there are legitimate needs in defense. But I submit to you, Mr. President, that star wars is not one of those. It is time to take the President's request, and I believe the President is wrong on this when he asked for a half billion dollars more in star wars. Take that increase, bring it down to last year's level and put it into the Byrne program to fight crime and drugs. That is what the Harkin amendment does. I ask for the Senators' support on that amendment to send a message loud and clear that Star Wars is gone, over and done with. If you want to fund defense, put it into something else, not in star wars.

I yield the floor.

Mr. GORTON. Mr. President, the Senator from Iowa and the Senator from Washington agree totally on the Byrne grant program. We agree as to its effectiveness on the war on drugs and with respect to interdisciplinary task forces. We agree on the DARE Program. What they do not agree on is how to pay for a program which the President most improvidently took out of his budget. The Senator from Iowa believes it ought to come out of national defense, and that is all he can do with this resolution, but he wishes to earmark it to come out of star wars. In that, he disagrees with his own Department of Defense, with his own President of the United States, and disagrees, of course, with the budget resolutions that came out of the Budget Committee.

The Senator from Washington believes that our national defense is more important than new furnishings for bureaucrats, and believes the money ought to come out of those furnishings. It is as simple as that. We are going to restore money for Byrne grants, I am convinced of that. The question is whether or not we take it out of the defense of the United States or furniture allowances.

The Senator from South Carolina has asked to speak for 4 minutes. I suspect I do not have that much time left. I will yield to him whatever time I have left, plus the difference between that and 4 minutes off the bill.

The PRESIDING OFFICER. The Senator from Iowa has 3 minutes.

Mr. HARKIN. I reserve the remainder of my time.

The PRESIDING OFFICER. The Senator from South Carolina is recognized.

Mr. THURMOND. Mr. President, I rise in strong opposition to the Harkin amendment. I wish to commend the able Senator from Washington State for the position he has taken.

I am astonished that the Senator from Iowa would bring this proposal to the floor now—of all times.

Just last week we learned that North Korea is developing two long-range ballistic missiles along with their nuclear weapons program. Director of Central Intelligence Woolsey has said that if deployed, they could project North Korea's offensive reach throughout the northwest Pacific.

Ballistic missiles are the primary choice to deliver weapons of mass destruction because there is no effective defense against them. We do have the Patriot, but its antimissile capabilities are limited, and it may not be effective against chemical or biological warheads.

Perhaps the Senator from Iowa has not been reading the papers or watching the news in the past few weeks. The danger posed by North Korea is obvious. What more does it take for this country to get serious about ballistic missile defense? We ought to be adding money for missile defense and expediting the program, not cutting it further.

Missiles and weapons of mass destruction are spreading all over the world, especially in outlaw states like Iran, Iraq, and North Korea. It is significant that every nation in the potential column of nuclear arms proliferants also has a parallel ballistic missile program.

If we are serious about stopping the spread of missiles and mass destructive weapons, we ought to be building the most effective theater missile defense that our technology will permit. Senator HARKIN may not realize it, but his amendment will hurt theater defense as well as homeland defense. First, the so-called star wars homeland defense program died long ago. What remains of homeland defense is technology work in land-based elements and sensors. It is not the star wars pipe-dream system as the Senator characterized it. This work has produced technologies that enhance theater defense. Second, the threats we are facing are approaching intercontinental range. The new North Korean missile is a case in point. It may have a range of 3,500 kilometers. Third, theater defense is already underfunded. To cut another $523 million from BMDO will hurt theater defense by crippling the entire effort, despite what the Senator may say.

Only missile defense can make ballistic missiles less useful and thus less attractive to would-be aggressors. Without missile defense our counterproliferation policy is impotent against a determined violator like North Korea. Without better missile defenses our troops deployed overseas and our allies are vulnerable to the most potent military threat we face today.

The Harkin amendment will extend this vulnerability. I urge the defeat of the Harkin amendment.

I yield the floor and thank the managers for their courtesy.

The PRESIDING OFFICER. Who yields time?

The Senator from Iowa has 3 minutes remaining.

Mr. HARKIN. Mr. President, I want to say that the Senator from South Carolina is right. We should be concerned about North Korea, I say to the Senator. We should be concerned about North Korea. But right now, I say to the Senator from South Carolina, I do not know if he knows how much they spend on their military. Right now, we spend in 5 days what North Korea spends in an entire year.

Here is the chart right here, Mr. President. In 1 year, North Korea spends $2.2 billion in defense. We spend $277 billion in defense. Yes, we are concerned about North Korea. Of course, we are. But to somehow argue that we have to spend even more than what we are spending now to swat at a gnat—maybe the Senator from South Carolina is afraid of the gnats and ants, but I am not. Our military is up to North Korea any day of the week. In 5 days, we spend more on defense than North Korea spends in one entire year. If that is not enough, God help us all.

I yield the remainder of my time.

Mr. GRASSLEY. Mr. President, my friend from Iowa certainly raises some good points about whether we should be increasing funding for star wars.

He also is right to support the Edward Byrne Memorial State and Local Law Enforcement Assistance Program; it has been an unqualified success.

This matching grant program plays an indispensable role in fighting drug use in rural America. These grants are distributed fairly, on the basis of population, and require State commitment to anticrime efforts through matching funds.

In Iowa, these funds enable more than 20 coordinated State and local drug task forces to function. The Byrne grants also increase undercover work in smaller communities.

As drug trafficking has spread to rural areas, less populous areas need to address drug problems that had only existed in concentrated form in urban centers.

Without the Byrne grants, localities lacking the population and resources to combat drugs would not be able to adequately respond.

It is unfortunate that the Clinton administration decided to eliminate this successful program.

I agree with the Senator's intention to fund the Byrne Program and I voted twice in Budget Committee to restore funding for this program. It would have been paid for by reducing funds to the Legal Services Corporation, and to mass transit.

Unfortunately, the Democrats on the committee voted these amendments down. It seems they believed it was more important to fund lawyers, not fight drugs.

So I have voted to fund the Byrne Program twice in committee and will support the amendment on the floor offered by Senator GORTON that will fund this program.

However, I disagree with my Iowa colleague in wanting to take from defense to pay for this domestic program. If defense spending is cut it should be used for deficit reduction in my view, not for more spending elsewhere.

This year, I don't subscribe to the liberal view that we should cut defense and spend it on social engineering. Rather, we should reduce the deficit with defense cuts, and we should prioritize better on the domestic side, given the state of the debt and deficits.

And so I must reluctantly oppose my friend from Iowa, and instead support the amendment of the Senator from Washington whose approach is consistent with how I believe these funds should be transferred.

Mr. AKAKA. Mr. President, I urge my colleagues to restore funding to the formula grant portion of the Edward Byrne Memorial State and Local Law Enforcement Assistance Block Grant Program.

I know how valuable the Byrne Program is to the State of Hawaii, and I have heard from many State and county law enforcement officials regarding the critical impact this program has on combating youth and domestic violence, expanding treatment facilities for drug abusers, improving criminal history records, and stemming the flow of illegal drugs.

During last summer's appropriations debate, I contacted the Senate Appropriations Committee to express my serious concern that any decrease from previous funding levels would have a significant impact on Hawaii.

I was, therefore, dismayed to learn that the fiscal year 1995 budget proposal would eliminate the formula grant portion of this successful program. Although the discretionary portion would be doubled, the budget proposal could not guarantee that Hawaii would receive the funds that have become so valuable in its fight against drugs and crime.

As I have mentioned before, Hawaii is an island paradise. However, there are problems in paradise, and State and local jurisdictions need the valuable resource of the Byrne Formula Grant Program.

The PRESIDING OFFICER. The question is on agreeing to amendment No. 1558, as modified.

The yeas and nays have been ordered.

The clerk will call the roll.

The bill clerk called the roll.

Mr. FORD. I announce that the Senator from Hawaii [Mr. INOUYE] is necessarily absent.

The PRESIDING OFFICER. Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 40, nays 59, as follows:

[Rollcall Vote No. 64 Leg.]

YEAS—40

Akaka	Hatfield	Moynihan
Baucus	Hollings	Murray
Biden	Jeffords	Pell
Boren	Kennedy	Pryor
Boxer	Kerry	Reid
Bradley	Kohl	Riegle
Breaux	Lautenberg	Rockefeller
Bumpers	Leahy	Sarbanes
Daschle	Levin	Sasser
DeConcini	Mathews	Simon
Dodd	Metzenbaum	Wellstone
Dorgan	Mikulski	Wofford
Feingold	Mitchell	
Harkin	Moseley-Braun	

NAYS—59

Bennett	Exon	Lugar
Bingaman	Faircloth	Mack
Bond	Feinstein	McCain
Brown	Ford	McConnell
Bryan	Glenn	Murkowski
Burns	Gorton	Nickles
Byrd	Graham	Nunn
Campbell	Gramm	Packwood
Chafee	Grassley	Pressler
Coats	Gregg	Robb
Cochran	Hatch	Roth
Cohen	Heflin	Shelby
Conrad	Helms	Simpson
Coverdell	Hutchison	Smith
Craig	Johnston	Specter
D'Amato	Kassebaum	Stevens
Danforth	Kempthorne	Thurmond
Dole	Kerrey	Wallop
Domenici	Lieberman	Warner
Durenberger	Lott	

NOT VOTING—1

Inouye

So the amendment (No. 1558), as modified, was rejected.

Mr. GORTON. Mr. President, I move to reconsider the vote by which the amendment was rejected.

Mr. DOMENICI. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. GORTON. Mr. President, I ask for the yeas and nays on the Gorton amendment.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. HATCH. Mr. President, I rise in strong support of the Gorton-Hatch amendment to the budget concurrent resolution. Frankly, I am very concerned abut the significant cuts to law enforcement proposed in President Clinton's fiscal year 1995 budget.

I commend my colleague for his leadership on this issue. I was pleased to work with him on this amendment as this has been a priority of mine for some time.

Existing Byrne memorial state and local law enforcement block grants, which police have been counting on, are cut in the proposed 1995 budget. This program currently provides my State of Utah over $3 million in law enforcement assistance. Utah desperately needs this funding. It has become a transshipment point for drug traffickers. Gangs are also a serious problem.

The argument some suggest is that this program is being eliminated in order to fund the crime bill's proposed community policing program. Yet, the crime bill funding is expected to come from savings earned through personnel reductions, not from existing law enforcement grants. this program has proven to be both effective and extremely popular. It should be retained.

These grants are used by the States for a variety of law enforcement purposes. In fact, over 950 task forces and drug unit have been established or expanded throughout the country through the use of these formula grants. These grants are also used to hire prosecutors and train law enforcement personnel. Ironically, while the administration is proposing the elimination of this successful formula program which insures that each State gets its fair share of law enforcement resources, the department has proposed increasing the funds available for discretionary grants.

There is clearly a need for fiscal restraint and budget cuts. But in a budget of $1.5 trillion, priorities can and must be met. We must ensure that budget cuts are not borne on the backs of law enforcement and crime victims. We cannot permit this administration to further impair the Government's ability to meet its obligations to our Nation's law abiding citizens. Cutting existing law enforcement grant programs is an unwise choice, especially in light of our Nation's crime problem.

For these reasons, I urge my colleagues to support the Gorton-Hatch amendment.

Mr. MURKOWSKI. Mr. President, as we take up the administration's budget request for fiscal year 1995, I rise to add my support to the Gorton amendment and demand reconsideration of the administration's proposal to completely eliminate the Edward Byrne Memorial State and Local Law Enforcement Assistance Program. Despite President Clinton's tough rhetoric on crime, he has seen fit to cut out one of the most valuable and cost effective means at our disposal for combating drugs and drug related crimes.

For 1994, the Byrne Program provides $358 million in grants directly to the States according to a population based formula. States may use the money to perform a variety of law enforcement activities, including multijurisdictional task forces, neighborhood and community crime prevention, location of clandestine drug labs, and white collar and organized crime. This flexibility recognizes the rapidly changing tactics of drug criminals and allows those on the front lines to adjust their enforcement efforts accordingly.

My State of Alaska received $1,595,000 this year through the Byrne programs, and these funds have truly made a difference. Let me quickly cite just one example to illustrate this point. Unalaska, AK, is probably the last place in the world many people would expect to find a thriving cocaine network. Unalaska is a small, isolated community located in the Aleutian Island chain, and like many Alaskan communities, accessible only by boat or aircraft. With a year-round population of only 3,000 people, local law enforcement is understandably quite limited.

Yet State and local agents have recently uncovered a sophisticated cocaine distribution system on the island which took advantage of isolation, limited law enforcement presence, and the large quantities of money generated by the seasonal seafood industry. Although based on Unalaska, the drug sales reached northward all the way to communities in Bristol Bay and Kodiak, over 500 miles away.

After an 8-month investigation, officers arrested 27 people, and the State has filed 77 criminal charges. The price of cocaine in Unalaska, Bristol Bay, and Kodiak has doubled from $100 to $200 a gram, a signal that the supply of drugs to these communities has been effectively diminished.

Elimination of Byrne grant funding would devastate Alaska's drug enforcement efforts, and severely harm the entire law enforcement community. It would mean the loss of nine state troopers and five prosecuting attorneys. These figures represent a 35-percent reduction of full-time drug enforcement efforts State-wide, and a 9-percent reduction in prosecuting attorneys. Byrne grant resources have made it possible for the State of Alaska to field the necessary expertise and manpower to confront major narcotics operations operating out of the Pacific Northwest. In the case of Unalaska, State and local law enforcement officials have interrupted the supply of drugs over a considerable area of the State.

Over the last 3 years, Byrne grant funding has been reduced by $142 million to a 1994 level of $358 million. Despite these cutbacks, State and local law enforcement agencies continue to demonstrate impressive results. We should not reward the competence and effectiveness of these fine men and women by eliminating the funds which make their successes possible.

The Gorton amendment restores these needed funds to the most fiscally responsible manner. I am pleased to support this program and this amendment.

VOTE ON AMENDMENT NO. 1559

The PRESIDING OFFICER. The question is on agreeing to amendment No. 1559 offered by the Senator from Washington.

The yeas and nays have been ordered and the clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. FORD. I announce that the Senator from North Dakota [Mr. DORGAN] and the Senator from Hawaii [Mr. INOUYE] are necessarily absent.

The PRESIDING OFFICER. Are there any other Senators in the Chamber who desire to vote?

The result was announced—yeas 97, nays 1, as follows:

[Rollcall Vote No. 65 Leg.]

YEAS—97

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

NAYS—1

Hollings

NOT VOTING—2

Dorgan Inouye

So, the amendment (No. 1559) was agreed to.

Mr. SASSER. Mr. President, I move to reconsider the vote.

Mr. DOMENICI. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. MITCHELL addressed the Chair.

The PRESIDING OFFICER. The majority leader is recognized.

Mr. MITCHELL. I ask unanimous consent that when the Senate resumes consideration of Senate Concurrent Resolution 63 tomorrow morning at 9 a.m., there be 20 hours for debate remaining on the resolution, equally divided; that Senator DOMENICI be recognized at 9 a.m. to offer a Republican alternative budget amendment and that no second-degree amendments be in order to the Domenici amendment or to language that may be stricken; that a vote on or in relation to the Domenici amendment occur at 11 a.m. tomorrow; that upon disposition of the Domenici amendment, Senator DODD be recognized to offer an amendment relating to education, with no second-degree amendments in order, nor to the language which may be stricken by the Dodd amendment.

The PRESIDING OFFICER. Is there objection?

Mr. DOMENICI. Reserving the right to object, Mr. President, I wonder if the majority leader would, on the time of voting on the substitute, make that an extra half-hour. Instead of 11, could we make it 11:30?

Mr. MITCHELL. So there would be 2½ hours?

Mr. DOMENICI. Correct.

Mr. MITCHELL. Mr. President, I ask——

Mr. DOMENICI. And we may yield back. We can say no later than that if the Senator would like.

Mr. MITCHELL. I then inquire of the chairman, I assume he has no objection to that, making it 2½ hours?

Mr. SASSER. No objection.

Mr. MITCHELL. Mr. President, I modify my request to accommodate the request of the Senator from New Mexico.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

Mr. MITCHELL. Mr. President, I thank my colleagues.

Mr. President, accordingly, there will be no further rollcall votes this evening.

Mr. President, I thank the distinguished chairman and ranking member.

For the information of Senators, it is my hope that we could complete action on this resolution by the close of business on Thursday. That is our hope and intention. I know there are several amendments remaining, but I hope that we can complete this. There are other important matters which we will have to act on prior to leaving for the recess. This obviously is a very important matter, one required by our procedures, and I thank my colleagues for their cooperation.

MORNING BUSINESS

Mr. MITCHELL. Mr. President, I ask unanimous consent that there be a period for morning business with Senators permitted to speak therein for up to 10 minutes each.

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

HOMICIDES BY GUNSHOT IN NEW YORK CITY

Mr. MOYNIHAN. Mr. President, I rise, as I have done each week during this session of the 103d Congress, to announce to the Senate that during this past week, 25 people were killed in New York City by gunshot.

COMMITTEE OF 100

Mr. MCCAIN. Mr. President, next week a delegation representing the Committee of 100, an organization of prominent Chinese-Americans, will be visiting China to introduce themselves and to promote an understanding of American attitudes toward the People's Republic of China [PRC]. At the center of its message to China are the results of a study commissioned by the committee and carried out by Wirthlin Associates.

The Wirthlin study, as I understand it, concentrates on the opinions of four United States constituencies essential to the development of our policy toward the PRC: United States congressional decisionmakers, business decisionmakers, Chinese-Americans, and the general public. It is my hope that providing Chinese leaders with the findings will underscore the importance of our relationship in all its many facets.

I have long admired the work of the Committee of 100 and the very distinguished members that represent it. The members of the committee represent Chinese-Americans from all over the Nation and across a wide range of political opinions and professions. To give my colleagues an idea of the caliber of people making up the organization, I commend to them the biographies of three members who recently visited my office, one of whom, Ms. Ming Chen Hsu, is an Arizona resident. The biographies are somewhat dated, but I think they illustrate well the competence of the Committee of 100 delegation.

I ask unanimous consent that the three biographies, as well as a complete delegation list, filled with distinguished Chinese-Americans, appear in the RECORD so that my colleagues might examine them.

I wish the Committee of 100 delegation well in their efforts to establish a dialog with the PRC and look forward to speaking with them upon their return. Given the state of United States-Chinese relations today, their efforts to promote mutual understanding could not come at a better time.

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

[From the Patriots Asian Pacific American Heritage]

MING CHEN HSU, COMMISSIONER, THE FEDERAL MARITIME COMMISSION

From vice president of international trade for the RCA Corporation to her current position as commissioner of the Federal Maritime Commission, Ming Chen Hsu for over 30 years has been part business woman, part politician, and part diplomat. During this time period, she was named the Governor's Special Trade Representative by former Governor Thomas Kean of New Jersey and served as director of the State Commerce Department's Division of International Trade.

After leaving China and her family in 1944, Hsu made it to California via the help of a United States army plane and troop ship. In New York, she enrolled at Barnard College, later transferring to George Washington University in Washington, DC. By 1949, she received her BA in foreign affairs with a minor in international economics. By this time, her father was sent to Taiwan with Chaing Kai-shek and her mother and sister soon joined her in New York. She later received her PhD from New York University and was the Penfield Fellow of International Affairs Diplomacy, and Belles-Lettres, Hsu also obtained a LLD from Ramapo College in 1988 and from Kean College in 1989.

Hsu constantly faced the possibility of deportation and received temporary stays. She

eventually married Richard Hsu, then president of the China Institute in America. Soon, Hsu began working for NBC as a researcher. She received her first break with RCA. NBC's parent company, when they asked Hsu to make a presentation because they were interested in investing in foreign television stations. Within the year, she moved to RCA and worked on corporate planning and marketing. According to Hsu, the position was not glamorous. By the 1970's, Hsu made a name for herself. After years of slowly climbing the corporate ladder, she became director of international marketing in 1976 and was staff vice president in 1980. Representing RCA before representatives of the People's Republic of China, hosting delegations, and working with United States government agencies were a few of her accomplishments during this time period.

Her constant commitment to public service and her weariness of the rigid corporate environment were some of the reasons she left RCA and accepted the position as director of the New Jersey State Commerce Department's Division of International Trade in 1982. Working with her good friend, former New Jersey Governor Thomas Kean, she set out to promote New Jersey as a place to do business. Through Hsu's efforts, over 1,000 companies from 48 countries invested in New Jersey—employing some 175,000 residents. Among the firms Hsu helped bring to New Jersey: Hyundai, Sharp Electronics, and Samsung Electronics.

After former Governor Kean left office, the White House asked Hsu to come to Washington to become commissioner of the Federal Maritime Commission. She was confirmed by the Senate in June 1990. She was reappointed in 1991 after completing the term of a former commissioner.

Hsu's and the Commission's major concern is to protect United States shipping and trade practices or trade statutes that have been enacted by foreign governments. Many complaints have been filed against a number of countries for their discriminatory trade practices. The Commission is currently gathering information on certain shipping practices from countries such as Japan, Taiwan, Venezuela and the Ivory Coast. Hsu states, "The object is to free up trade and make it easier for our exporters to sell in those countries."

The numerous committees Hsu has worked with include the Defense Advisory Committee on Women in the Services, the New Jersey Advisory Council of Channel Thirteen/WNET, the National Commission on the Observance of International Women's Year, the United States Commission on Civil Rights, and the Newark Museum, Newark, New Jersey. Some of the awards she has received include Woman on the Move Award from the Business Journal of New Jersey in 1989, the Paul L. Troast Award for Outstanding Public Service from the New Jersey Business and Industry in 1989, the Philbrook Award from the Women's Political Caucus in 1989, and Woman of the Year from the Asian-American Professional Women's Association in 1983.

[From the Patriots Asian Pacific American Heritage]

BRIG. GEN. JOHN L. FUGH, JUDGE ADVOCATE GENERAL, DEPARTMENT OF THE ARMY

After years of legal service for the United States Army, Brigadier, General John Fugh is the current Judge Advocate General, overseeing a worldwide legal organization for the Army.

As the current Judge Advocate General, Brigadier General John L. Fugh heads a worldwide legal organization for the Army consisting of 1,700 active duty lawyers, 350 civilian lawyers, 2,200 reserved component lawyers (nonactive national Guard or United States Army Reserve lawyers), and over 5,000 paralegal and administrative personnel. Fugh added that this is a statutory position and his responsibilities include being the legal adviser to the Army leadership and directing Army lawyers in the performance of their duties. Fugh also oversees the Judge Advocate General's School in Virginia, a claims service at Fort Meade, and a judiciary that includes judges and appellate judges. His duties are not only limited to the military justice arena. Fugh also handles civil law matters, such as Army contracts with the defense industry, protest disputes, and litigation. "I also assist the Justice of Department in the Federal courts, take care of soldiers' personal legal concerns, and handle legal concerns, and handle legal work in operational areas." Fugh added.

Born in Beijing, China, Fugh attended Georgetown University School of Foreign Service, the George Washington University Law School, and Harvard University's Kennedy School of Government. Fugh has also attended the Judge Advocate General's School, the United States Army Command and General Staff College, and the United States Army War College.

With over 30 years in the United States. Army, Fugh stated that he has not experience overt discrimination, "just the usual ethnic slurs one can expect from peers along the way. "In 1984, I became the first Chinese-American and the first non-white person to become General in the United States Army, so you can see that being a minority, or Chinese did not hurt me too much," commented Fugh.

Fugh has travelled extensively throughout his career. He visits the field to make sure the delivery of legal services is going well. "My next visit will be to Budapest to meet with my counterpart in the Hungarian Army. They're trying to catch up, being a former Communist country, and the interests of our national and foreign policy is to further the democratization of their society." Topics to be discussed between the two include environmental compliance and clean-up law and litigation, and civil military relations.

Prior to his appointment as Judge Advocate General, his key assignments at Headquarters, Department of the Army, include service as the Assistant Judge Advocate General (1990–1991), Assistant Judge Advocate General for Civil Law (1984–1990), and Chief, Litigation Division (1982–1984). Fugh has also been the Special Assistant in the Office of the Assistant Secretary of Defense (Manpower, Reserve Affairs, and Logistics), and the Staff Judge Advocate for Legal Counsel for the Third Armored Division in Frankfurt, Germany, for the United States Ballistic Missile Defense Program, for the Office of the Army Chief of Staff in Arlington, Virginia, and for the Military Assistance Advisory Group in Taipei, Taiwan.

Asked about his plans when he retires, Fugh stated that he hoped to do something in the area of international trade in the Pacific. "There, I can use my language, ability, background, and training. Of course, being a lawyer, I would work with law firms and our United States corporate entities and businesses over there." Because China is second to Japan in terms of favorable trade balance, Fugh would like to work on ways to promote United States companies to the Chinese.

His awards and declarations include: the Defense Superior Service Medal, Legion of Merit, Meritorious Service Medal (with Oak Leaf Cluster), Air Medal, Joint Service Commendation Medal, Army Commendation Medal (with Oak Leaf Cluster), Office of Secretary of Defense Badge, and Army Staff Badge.

VITA OF KUNG-LEE WANG

Mr. Wang is a businessman and economist. He is an active Asian Pacific American community leader. Born in China, he is a naturalized American citizen. He has a broad range of experiences as a senior government official an internationally known resource and inter-industry economist, a businessman and a community activist.

From 1955 to 1960, he was an economist-operations analyst with the C.F.I.R., Inc., a consulting firm. For twenty-two years, he worked as an economist for the U.S. Department of the Interior. From 1966 to 1982, he was a GS 15 senior economist. After 12 years as the chief of Quantitative Economics at the Bureau of Mines, he left the U.S. Civil Service in June 1982 and heads his own economic, business development and marketing consulting firm, KLW International, Inc.

In December 1982, he helped to found the Chinatown Development Corporation (CDC). CDC and its partners jointly bid and won the right to develop the Far East Trade Center in the heart of Washington, D.C. Chinatown on top of a transfer stop for three of the five Washington, D.C. subway lines from the Washington Metropolitan Area Transit Authority in May 1983. Since 1982, he has served CDC as Director and/or Officer. Now CDC is the largest limited partner of the Far East Trade Center Associates partnership that is developing a $200 million mixed-use real estate project, next to Chinatown Friendship Archway and near the Washington, D.C. Convention Center.

Mr. Wang received his B.A. degree in economics from Yenching University in China, received his M.A. degree in economics from Brown University, his M.B.A. degree in business economics from Columbia University and his M.B.A. degree in political economy and government from Harvard University.

He is a professional economist with international reputation in mineral economics and inter-industry (input-output) analysis, has authored many monographs, articles and book (sections) on mineral economics and input-output analysis. He was the founder and first president of the American Institute of Mining Metallurgical and Petroleum Engineers (AIME) Washington, D.C. Mineral Economics Section, 75–78, first time in AIME history to have a section devoted to economics. He was the national Chairman of AIME Council of Economics, 80–81. The Council has over 10,000 members among the total 55,000 AIME members at that time.

Mr. Wang is the founder of the Organization of Chinese Americans, Inc. (OCA) and served as its first National President, 73–77; National Board Member, 73–91; and OCA Business Advisory Council coordinator, 83. OCA, with 8,000 members and 11 chapters in 26 states, is a nonprofit, nonpartisan national advocacy organization dedicated to ensuring justice and equal opportunities for Chinese, other Asians and all Americans; to eliminate ignorance about the bigotry against Chinese and other Asian Americans; to promote a positive image for Chinese and other Asian Americans; and to encourage active participation of all Americans in all levels of civic, political and economic life in America.

Mr. Wang is the chairman of the U.S. China Capital Cities Friendship Council, Inc.

since 1987 that carries out and promotes cultural and business exchange between the two sister cities. He is the founder and president of the U.S. China Council for International Exchange, Inc. since February 1988 that promotes professional personnel exchange between the U.S. and China.

Mr. Wang is a co-founder and national director of the National Council of Chinese American Voters League and the Asian American Voters Coalition since 1984. The principle purpose of the two organizations is to promote political involvement of Asian Americans in mainstream American politics. He is also a co-founder and past President of the Asian Pacific American Heritage Council, Inc. of the Washington, D.C. area. Since 1979, the Council has been sponsoring annual Asian Pacific American Heritage Week activities that promote the positive image of Asian and Pacific Islanders and has been the prime mover in successfully asking the President to proclaim the annual Asian Pacific Heritage Week by Executive Order since 1979.

He is a co-founder and past national director of the Association of Chinese Schools, Inc. that promotes and coordinates activities of the 120 weekend Chinese language and cultural schools in the eastern United States. He was a counselor of the Harvard University-Kennedy School of Government Alumni Association Executive Council, 1978–82. He was a past national Vice President of the Asian Pacific American Chamber of Commerce, 1983–84.

He is a member of the Board of Directors of the Committee of 100 since 1989 and its current Executive Director. The Committee of 100 is a national organization of Chinese American leaders in arts, academia, public service, business and the sciences. The Committee's mission is to provide leadership in advocating respect for the inherent dignity and rights of Chinese Americans and Chinese everywhere and to promote a constructive relationship between the people of China and the United States.

His firm, KLW International, Inc., provides consulting assistance to business enterprises in the Far East and South East Asia in the fields of marketing, investment, finance, economic and business analysis, negotiations and public relations. The firm also provides consulting services to Americans firms outside of Washington, D.C. area in qualifying for minority business programs of U.S., state and local governments such as 8(a) program, mentor-protege program, etc. and in assisting firms to bid for business contracts from various government agencies and Fortune 500 corporations.

In 1964, he was selected to receive the Career Education Award from the Ford Foundation and U.S. Civil Service Commission. In 1966, he was selected as a Fellow of the National Institute of Public Affairs. He was the recipient of the 1976 Engineer of the Year Award and the 1984 Mineral Economist of the Year Award from the AIME-Washington, D.C. Section. He is listed in the Who's Who in the East and Who's Who in the World of Marquis Who's Who, Inc., in the Men and Women of Distinction and Men of Achievement of International Biographical Centre, Cambridge, England, U.K., and American Men and Women of Science: Economics of Bowker and Co. He is the recipient of the Civil Rights Award of the Year, 1988 by the Asian and Pacific American Civil Rights Alliance.

COMMITTEE OF 100—CHINA TRIP DELEGATION LIST

I. ATTENDING BOARD OF DIRECTORS-GOVERNORS

Mr. Yo-Yo Ma. A world famous concert cellist. (Cambridge, Massachusetts)

Mr. I.M. Pei. A world renowned architect. (New York City, New York)

Dr. Chang-Lin Tien. Chancellor, University of California at Berkeley. (Berkeley, California)

II. ATTENDING BOARD OF DIRECTORS-OFFICERS

Chairman: Ms Shirley Young. Vice President Consumer Product Development, General Motors Corporation. (Detroit, Michigan)

Vice Chairman: Mr. Henry Tang. Senior Vice President and Managing Director, Jeffries & Company Inc. (New York City, New York)

Treasurer: Mr. Oscar Tang. Former CEO and President, Reich and Tang Inc. (New York City, New York)

Secretary: Mr. Charles Pei Wang. Member and Former Vice Chairman, US Civil Rights Commission; Former President, China Institute in America. (New York City, New York)

Executive Director: Mr. Kung-Lee Wang. Founder and First National President, Organization of Chinese Americans Inc.; President, US-China Council of International Exchange and Professional Quantitative (Input-Output) and Mineral Resource Economist. (Rockville, Maryland)

III. ATTENDING BOARD OF DIRECTORS-MEMBERS

Ms. Lily Lee Chen. Chairwoman, Han. Chuan (U.S.A.) Corporation; Former Mayor City of Monterey Park, California; Delegate to Democratic National Convention; and Past National President, Organization of Chinese American Women. (Glendale, California)

Ms. Leeann Chin. Author *Betty Crocker's New Chinese Cookbook, Recipes by Leeann Chin.* CEO and Founder of Leeann Chin, Inc, an organization that runs many restaurants. (Bloomington, Minnesota)

Ms. Ming Chen Hsu. U.S. Federal Maritime Commissioner (Appointed by President George Bush in 1990). Delegate to the Republican National Conventions, 1984, 1988. Former Vice-President of RCA Corporation. (Washington, D.C.)

Mr. David K. Lam. President and CEO, Expert Edge Inc.; Past President Asian American (High Technology) Manufacturers Association of Silicon Valley, California. (Palo Alto, California)

Dr. T. Y. Lin. Chairman of the Board, Lin Tung-Yen China Inc.; Professor Emeritus of Civil Engineering, University of California Berkeley; Recipient of US Presidential National Medal of Science, 1986. (San Francisco, California)

Mr. Wei-Ming Lu. Executive Director, Lowertown Redevelopment Corporation, a US $425 Million Real Estate Development Project, St. Paul, Minnesota; Chairman, Midwest Asian Center. (St. Paul, Minnesota)

Dr. Edmund Hsin-Tung Pi. Professor of Clinical Psychiatry and Director of Transcultural Psychiatry, University of Southern California School of Medicine. (Los Angeles, California)

Mr. Charles Y. C. Tse. Lawyer, Vice Chairman (retired), Warner Lambert Company; Director, Foster-Wheeler Corporation; Director, Brendon Systems Corporation; Director, Transcell Technologies Inc.; and President, Cancer Research Institute (1992). (New York City, New York)

V. ATTENDING DELEGATION MEMBERS

Major General John L. Fugh, U.S. Army Retired. Formerly The Judge Advocate General, Department of the Army. Currently, partner at a large law firm, McGuire, Woods, Battle & Boothe, Washington, D.C. office. (Washington, D.C.)

Mr. John Chien-Nan Huang. U.S. Representative and Director of Lippo Group of Indonesia and Hong Kong and Vice Chairman, Lippo Bank California and Lippo Group (USA) Companies. (Glendale, California)

Mr. James M. Li. President, International Business Development Group, 1993 and President, Consumer Financial Service Group, 1991–93, Travel Related Service Companies, Inc. American Express. (New York City, New York)

Mr. Don Liu, MD. Professor of Ophthalmology and Chief of Oculoplastic and Orbital Surgery, University of Southern California School of Medicine Doheny Eye Institute. (Los Angeles, California)

Dr. Charles Sie. Vice-President of Advanced Technology and Engineering Excellence at Xerox Corporation; Manager, Technology Portfolio for Xerox Office Document Systems Division. (Palos Verdes, California)

Dr. John B. Tsu. Regent and Professor, John F. Kennedy University; President, Asian American Political Education Foundation; Secretary's Western Regional Representative for the US Department of Education, 1989–91; National Chairman, Asian Pacific Americans for Bush and Quayle, 1988 and 1992. (Millbrae, California)

VOLUNTARY SCHOOL PRAYER

Mr. THURMOND. Mr. President, yesterday, by a vote of 345 to 64, the House of Representatives agreed to withhold Federal education funds from school districts that prohibit students from engaging in voluntary prayer in public school. I applaud my colleagues in the House for this vote and especially commend Congressman JOHNSON of Texas who drafted the language. This amendment should remain in the bill which will provide Federal aid to elementary and secondary school programs.

Also, my good friend and colleague, Senator HELMS, had offered a similar amendment to S. 1150, the Goals 2000, Educate America Act, which was adopted in the Senate by a vote of 75 to 22. However, the House-Senate conference on Goals 2000, in a hasty manner, adopted so-called compromise language on the Helms amendment which completely misses the mark of the original Senate position. Hopefully, this action will not stand and the Senate will have the opportunity to reiterate its position on voluntary prayer in public schools.

Mr. President, last year on the first legislative day of the 103d Congress, I introduced Senate Joint Resolution 9 which is a proposed constitutional amendment to allow voluntary school prayer. This bill is essentially the same as legislation which I introduced at the request of President Reagan in March 1983, during the 98th Congress. I reintroduced this amendment in the 99th, 100th, 101st, and 102d Congress. This proposal would restore the right to pray voluntarily in pubic schools—a right which was freely exercised under our Constitution for 170 years until the Supreme Court ruled to the contrary.

Until the Supreme Court ruled in the Engel and Abington school district decisions, the establishment clause of the first amendment was generally understood to prohibit the Federal Government from officially approving, or holding in special favor, any particular faith or denomination. In crafting that clause, our Founding Fathers sought to prevent what had originally caused many colonial Americans to emigrate to this country—an official, state religion. At the same time, they sought, through the free exercise clause, to guarantee to all Americans the freedom to worship God without government interference or restraint. In their wisdom, they recognized that true religious liberty precluded the government from both forcing and preventing worship.

In the 1960's, in one fell swoop, the Supreme Court overturned the long-settled public policies of tens of thousands of communities across the country. A moment of voluntary prayer at the start of the school day—a policy that had enriched the education of generations of schoolchildren since the founding of the Republic—was determined by the Supreme Court to be a menace to the first amendment.

Mr. President, every morning we open the Senate and begin our workday with the comfort and stimulus of voluntary prayer. As a nation, we continue to recognize God in our Pledge of Allegiance by affirming that we are a nation "under God." Our currency is inscribed with the motto, "In God We Trust." It is time we restored the simple freedom of our citizens to offer prayer in our public schools and institutions. The public expression through prayer and recognition in other ways of our faith in God is a fundamental part of our American heritage. It should not be excluded from our public schools.

Mr. President, our liberty springs from and depends upon an abiding faith in God. This has been clear from the time of George Washington, who stated in his farewell address:

> Of all the dispositions and habits which lead to political prosperity, religion and morality are indispensable supports * * *. And let us with caution indulge the supposition that morality can be maintained without religion * * * [R]eason and experience both forbid us to expect that national morality can prevail in exclusion of religious principle.

Mr. President, there is much discussion across this Nation on the breakdown of values and morality. There are concerns of violence in schools threatening the safety of teachers and students alike and undermining a sound learning environment. Of course, school prayer is not the panacea to end all problems, but I am confident that it will considerably add to the well-being and character development of America's children.

Again, I commend the recent action by the House of Representatives and believe that we must rededicate our efforts to amending the Constitution to return voluntary prayer to public schools.

I yield the floor.

Mr. HELMS addressed the Chair.

The PRESIDING OFFICER. The Senator from North Carolina.

Mr. HELMS. I thank the Chair.

Mr. President, let me express my appreciation to the distinguished Senator from South Carolina for his remarks. He and I have fought this battle for 21 years, to my knowledge. And as long as I am in the Senate, we will continue to do our best to restore voluntary prayer in the schools. It should never have been eliminated in the first place.

If I may, I should like to ask the distinguished Senator from South Carolina one question.

The Senator was a conferee on the Goals 2000, was he not?

Mr. THURMOND. That is correct.

Mr. HELMS. Is it not a fact that all of the issues had been ostensibly taken care of over several days of meetings, and the Helms amendment was put off to be the last item to be resolved by the conferees? And after that, it is my understanding that the so-called compromise language on the Helms amendment—which was not a compromise because the Democratic staff knew the language was unacceptable from the minute it was first proposed—was hastily adopted with virtually no debate during literally the last minute or two of the conference. Is that the understanding of the Senator from South Carolina?

Mr. THURMOND. That is my understanding. I was necessarily absent but my staff was present and informed me of the situation.

Mr. HELMS. I understand.

It is a fact, is it not, that both the House and the Senate by overwhelming margins had approved what has come to be known as the Helms amendment? Is that correct?

Mr. THURMOND. That is correct. The Senate passed the amendment of the Senator from North Carolina overwhelmingly by a vote of 75–22, and the House passed the same language overwhelmingly yesterday by a vote of 345 to 64.

Mr. HELMS. Prior to that, I ask the Senator, is it not a fact that the House of Representatives had instructed by an overwhelming vote their conferees to retain the Helms amendment on the Goals 2000 bill?

Mr. THURMOND. I was informed that that was the case.

Mr. HELMS. I thank the Senator.

I want to say to the Senator that I have no desire whatsoever to delay the Senate in its quest for adjournment or recess on Thursday of this week. But unless and until the Helms amendment is restored to the Goals 2000 bill, this Senate runs the risk of being in session. And I will do my best to correct the error in judgment that was made by the senior Senator from Massachusetts on this issue in conference.

I do not want to delay any Senator from going home. I do not want to delay myself. But this issue is so significant to what we hope to restore to this country. We could pass all the laws we want to about drugs, crime, and all the rest of it. But unless we get back on a moral and spiritual footing, I do not believe this country has a chance.

Does the Senator agree with that?

Mr. THURMOND. This is a vital issue. It concerns our society as a whole, and I am confident that we ought to pass this. And I think it will improve the social situation in the entire Nation.

Mr. HELMS. Again, I thank the Senator for his kind remarks. I thank the Chair.

I yield the floor.

Mr. THURMOND. Again, I commend the able Senator from North Carolina.

Mr. HELMS. I thank the Senator.

I suggest the absence of a quorum.

The PRESIDING OFFICER (Ms. MIKULSKI). The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

APPOINTMENTS BY THE VICE PRESIDENT

The PRESIDING OFFICER. The Chair, on behalf of the Vice President, pursuant to 10 U.S.C. 6968(a), appoints the following Senators to the Board of Visitors of the U.S. Naval Academy:

The Senator from Maryland [Ms. MIKULSKI], from the Committee on Appropriations;

The Senator from Maryland [Mr. SARBANES], at large;

The Senator from Oregon [Mr. HATFIELD], from the Committee on Appropriations; and

The Senator from Arizona [Mr. MCCAIN], from the Committee on Armed Services.

The Chair, on behalf of the Vice President, pursuant to 10 U.S.C. 4355(a), appoints the following Senators to the Board of Visitors of the U.S. Military Academy:

The Senator from Nevada [Mr. REID], from the Committee on Appropriations;

The Senator from Alabama [Mr. SHELBY], from the Committee on Armed Services;

The Senator from Mississippi [Mr. COCHRAN], from the Committee on Appropriations; and

The Senator from South Dakota [Mr. PRESSLER], at large.

The Chair, on behalf of the Vice President, pursuant to 10 U.S.C. 9355(a), appoints the following Senators to the

Board of Visitors of the U.S. Air Force Academy:

The Senator from Nebraska [Mr. EXON], from the Committee on Armed Services;

The Senator from South Carolina [Mr. HOLLINGS], from the Committee on Appropriations;

The Senator from Montana [Mr. BURNS], from the Committee on Appropriations; and

The Senator from Idaho [Mr. KEMPTHORNE], at large.

Mr. HELMS. Madam President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

PERSEPHONE RETURNS TO THE ALLEGHENIES

Mr. BYRD. Madam President, "Winter tames man, woman, and beast," but Robert Browning has announced the good news:

The year's at the spring.
And the day's at the morn;
Morning's at seven;
The hillside's dew-pearled;
The lark's on the wing;
The snail's on the thorn:
God's in his heaven—
All's right with the world.

Even as I stand here on the floor of the U.S. Senate, an imperceptible miracle is taking place all around us—on the Capitol Grounds, around the U.S. Capitol Building, on The Mall, along the banks of the Potomac, in the parks—and in the adjacent countryside.

Without our feeling it, and with few people taking notice of it, the axis on which planet Earth spins is changing its angle.

That change of angles has been going on annually without interruption apparently for billions of years.

Off the coast of southern California, the change in the angle of the Earth's axis will bring the swallows back to Capistrano.

Off the coast of the Carolinas, the change in the angle of the Earth's axis will bring sunbathers back to the beaches on the Outer Banks and vacationers to the Grand Strand along Myrtle Beach.

And as that angle shifts, drastic changes will occur, and suddenly, the cherry blossoms will pop open and within a few days be gone.

With little advance notice, temperatures here will shoot up into the eighties—one day 65 degrees, the next day 85 degrees. Not many more weeks will slip by until, with little advance notice, air-conditioning here will have to be turned on again in Government buildings, stores, and schools. Overcoats, scarfs, and gloves will have to be stored away until next November. And with little advance notice, overheating taxicabs will appear along steaming streets through which perspiring throngs of men and women scurry to escape the increasing burn of an intemperately hot Washington spring—a spring that will all too prematurely literally and figuratively melt into another scorching Washington summer.

However, only a few score miles west of here lies West Virginia, where the resplendent forms of Nature's glorious rebirth are everywhere to be seen:

* * * The marigold, that goes to bed with the sun,
And with him rises weeping. * * * daffodils,
That come before the swallow dares, and take
The winds of March with beauty; violets dim,
But sweeter than the lids of Juno's eyes
Or Cytherea's breath; pale primroses,
That die unmarried ere they can behold
Bright Phoebus in his strength * * *

Even as I speak here today, spring is making its approach to the hills and highlands of West Virginia.

But in the Alleghenies, across which West Virginia is draped like a cloak, and along the Blue Ridge across which West Virginia's Eastern Panhandle is gently stretched, and down deep valleys and stream gorges reaching toward the mighty Ohio River in numbers too generous to count, spring returns more subtlely, more gently, and more politely than it does here in these Potomac bottomlands.

Even as I speak, in the high reaches of Pocahontas and Randolph Counties, WV, to the extended joy of skiers, high-banked snow still rests heavily on the peaks and slopes of mountains so old that their rock strata yet carry the fossil remains of lumbering dinosaurs and long-extinct sea creatures whose descendants we can today collect along the shore's edge at Ocean City or Rehoboth.

But with each passing day, the snow banks of the Alleghenies will melt, adding a pristine flow to the mother tributaries that feed into the New River and the Potomac, the Monongahela, the Kanawha, the Big Sandy, and the Gauley rivers.

The temperatures in the Alleghenies will moderate slightly, calling tomorrow for gloves to be put away, but postponing until next week or the week after, tucking the scarf into a dresser drawer, and requiring yet a few more weeks until wool can be exchanged for cotton, and the cottons then again for sheerer and lighter garments.

Across the mountains to the west, temperatures in the 80's will not arrive until mid- or late-May in most climes, and even then, cool breezes will wisp out of the lush forests and green hills at night to replace the mild heat of the day with refreshment and relief.

But before that natural air-conditioning begins, West Virginia will offer up to the sensitive and appreciative observer some of the choicest experiences that spring offers anywhere in the world.

Senators, have you ever come out of your house on a cool spring morning to be greeted by an assembly of blossoming crocuses that were not there when you looked yesterday, but today foretell the wonders of the season ahead? I have—in West Virginia.

Have you ever followed a path down a hillside just as the "rosy fingers of dawn" are emerging across a cloudless, early-spring morning, to witness at your feet and overlaying a broad mountain valley below, the stray vapors of a morning fog lifting skyward on gentle drafts? I have—in West Virginia.

Have you ever marveled at the lingering dew on early-spring spiderwebs stretched about new-spring blades of grass—cobwebs whose patterns and ornamentation suggest diamond necklaces that might render a Russian tsarina jealous? I have—in West Virginia.

Have you ever surveyed day by day the emerging tender leaves on a variety of hardwood tress—maples, oaks, hickory—or the first spring buds on a dogwood? I have—in West Virginia.

I have studied across rugged crags and plunging knolls—some so remote and so wild that never in the history of mankind on Earth has a human foot been set there—I have watched there the week-to-week progress of Nature's mantle of leaves and blossoms that cover winter's drabness, and double as shelter and sustenance for returning flocks of birds and for awakening deer and other native fauna.

Little happens quickly in West Virginia's salubrious spring. Over and over, one can calculate and watch the daily changes in the world about—the gradually warming sun, the gradually greening fields, the gradually thickening leaves, the gradually flowering rhododendron and mountain laurel, the gradually climbing and sweet-smelling honeysuckle vines, the gradually more varied chirping of birds, the gradually clearer waters in rippling brooks—all things done in God's time and measured by God's timepiece.

No wonder the song says, "Almost heaven, West Virginia."

Clocks in West Virginia are set on Eastern Time, Mr. President, but life in West Virginia is lived largely on "God's Time" minus most of the hurry and bustle, the ulcers, and lost tempers that characterize the passage of time in so many other places.

Madam President, I have labored hard to help build up the "economic infrastructure," as we say here in Washington, of my State—to draw more people and jobs to West Virginia. That is important.

But I hope that West Virginia can grow economically without sacrificing the unique wonders that render West

Virginia unlike any other place in America or in the world. There in West Virginia, just as the God-bestowed spring emerges so gradually and so gently, so can a child grow into manhood or womanhood—as I think God intends us all to so grow—nurtured in the deepest of human values and caressed by the richest wonders of Nature—wonders intended for everyone, but so richly bestowed most generously of all on the people of West Virginia—where "the wind laughs and murmurs and sings of a land where even the old are fair and even the wise are merry of tongue."

Madam President, I invite Senators to visit West Virginia sometime this spring and invite you to visit the State and witness for yourself some of the qualities of life that I have described.

But, Madam President, be careful not to tell too many others about the beauties you see there. Be careful not to reveal how much more rested you feel after sleeping one night in a West Virginia bed. Be careful not to talk too much about the friendliness of the people you might meet in Preston County or in Pendleton County or in Huntington or Beckley. Take care not to brag too much about the beauty of Greenbrier County or the magic of Dolly Sods or Seneca Rock or Spruce Knob or Cranberry Glades. After all, you and I might want to keep a good thing a secret just between ourselves.

I yield the floor. 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. 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.

APPOINTMENT OF CONFEREES—H.R. 3474

The PRESIDING OFFICER. Pursuant to the order of March 17, 1994, the Chair appoints the following Senators to serve as conferees on H.R. 3474.

The Presiding Officer appointed Mr. RIEGLE, Mr. SARBANES, Mr. DODD, Mr. D'AMATO, and Mr. GRAMM conferees on the part of the Senate.

EXECUTIVE SESSION

EXECUTIVE CALENDAR

Mr. FEINGOLD. Madam President, I ask unanimous consent that the Senate proceed to executive session to consider the following nominations: Calendar Order No. 742, Calendar Order No. 750, Calendar Order No. 778, and Calendar Order No. 779.

I further ask unanimous consent that the nominees be confirmed en bloc; that any statement appear in the RECORD as if read; that, upon confirmation, the motions to reconsider be laid upon the table en bloc; that the President be immediately notified of the Senate's action; and that the Senate return to legislative session.

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

The nominations considered and confirmed en bloc are as follows:

DEPARTMENT OF DEFENSE

Stephen C. Joseph, of Minnesota, to be an Assistant Secretary of Defense.

Helen Thomas McCoy, of Maryland, to be an Assistant Secretary of the Army.

DEPARTMENT OF JUSTICE

Deval L. Patrick, of Massachusetts, to be an Assistant Attorney General.

Jamie S. Gorelick, of Maryland, to be Deputy Attorney General.

LEGISLATIVE SESSION

The PRESIDING OFFICER. Under the previous order, the Senate will now return to legislative session.

CHILD SAFETY PROTECTION ACT

Mr. FEINGOLD. Madam President, I ask that the Chair lay before the Senate a message from the House of Representatives on H.R. 965, a bill to provide for toy safety and for other purposes.

The PRESIDING OFFICER laid before the Senate the following message from the House of Representatives:

Resolved, That the House agree to the amendment of the Senate to the bill (H.R. 965) entitled "An Act to provide for toy safety and for other purposes", with the following amendment:

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

SECTION 1. SHORT TITLE.

This Act may be cited as the "Child Safety Protection Act".

TITLE I—TOY LABELING REQUIREMENTS

SEC. 101. REQUIREMENTS FOR LABELING CERTAIN TOYS AND GAMES.

(a) REQUIREMENT UNDER FEDERAL HAZARDOUS SUBSTANCES ACT.—The Federal Hazardous Substances Act (15 U.S.C. 1261 et seq.) is amended by adding at the end the following new section:

"SEC. 24. REQUIREMENTS FOR LABELING CERTAIN TOYS AND GAMES.

"(a) TOYS OR GAMES FOR CHILDREN WHO ARE AT LEAST 3.—

"(1) REQUIREMENT.—The packaging of any toy or game intended for use by children who are at least 3 years old but not older than 6 years (or such other upper age limit as the Commission may determine, which may not be less than 5 years old), any descriptive material which accompanies such toy or game, and, in the case of bulk sales of such toy or game when unpackaged, any bin, container for retail display, or vending machine from which the unpackaged toy or game is dispensed shall bear or contain the cautionary statement described in paragraph (2) if the toy or game—

"(A) is manufactured for sale, offered for sale, or distributed in commerce in the United States, and

"(B) includes a small part, as defined by the Commission.

"(2) LABEL.—The cautionary statement required by paragraph (1) for a toy or game shall be as follows:

" ⚠ ***WARNING:***

CHOKING HAZARD—Small parts.
Not for children under 3 yrs.

"(b) BALLOONS, SMALL BALLS, AND MARBLES.—

"(1) REQUIREMENT.—In the case of any latex balloon, any ball with a diameter of 1.75 inches or less intended for children 3 years of age or older, any marble intended for children 3 years of age or older, or any toy or game which contains such a balloon, ball, or marble, which is manufactured for sale, offered for sale, or distributed in commerce in the United States—

"(A) the packaging of such balloon, ball, marble, toy, or game,

"(B) any descriptive material which accompanies such balloon, ball, marble, toy, or game, and

"(C) in the case of bulk sales of any such product when unpackaged, any bin, container for retail display, or vending machine from which such unpackaged balloon, ball, marble, toy, or game is dispensed,

shall bear or contain the cautionary statement described in paragraph (2).

"(2) LABEL.—The cautionary statement required under paragraph (1) for a balloon, ball, marble, toy, or game shall be as follows:

"(A) BALLOONS.—In the case of balloons, or toys or games that contain latex balloons, the following cautionary statement applies:

" ⚠ ***WARNING:***

CHOKING HAZARD—Children under 8 yrs. can choke or suffocate on uninflated or broken balloons. Adult supervision required.

Keep uninflated balloons from children. Discard broken balloons at once.

"(B) BALLS.—In the case of balls, the following cautionary statement applies:

" ⚠ ***WARNING:***

CHOKING HAZARD—This toy is a small ball. Not for children under 3 yrs.

"(C) MARBLES.—In the case of marbles, the following cautionary statement applies:

" ⚠ ***WARNING:***

CHOKING HAZARD—This toy is a marble. Not for children under 3 yrs.

"(D) TOYS AND GAMES.—In the case of toys or games containing balls, the following cautionary statement applies:

" ⚠ ***WARNING:***

CHOKING HAZARD—Toy contains a small ball. Not for children under 3 yrs.

In the case of toys or games containing marbles, the following cautionary statement applies:

" ⚠ ***WARNING:***

CHOKING HAZARD—Toy contains a marble. Not for children under 3 yrs.

"(c) GENERAL LABELING REQUIREMENTS.—

"(1) IN GENERAL.—Except as provided in paragraphs (2) and (3), any cautionary statement required under subsection (a) or (b) shall be—

"(A) displayed in its entirety on the principal display panel of the product's package, and on any descriptive material which accompanies the product, and, in the case of bulk sales of such product when unpackaged, on the bin, container for retail display of the product, and any vending machine from which the unpackaged product is dispensed, and

"(B) displayed in the English language in conspicuous and legible type in contrast by typography, layout, or color with other printed matter on such package, descriptive materials, bin, container, and vending machine, and in a manner consistent with part 1500 of title 16, Code of Federal Regulations (or successor regulations thereto).

"(2) EXCEPTION FOR PRODUCTS MANUFACTURED OUTSIDE UNITED STATES.—In the case of a product manufactured outside the United States and directly shipped from the manufacturer to the consumer by United States mail or other delivery service, the accompanying material inside the package of the product may fail to bear the required statement if other accompanying material shipped with the product bears such statement.

"(3) SPECIAL RULES FOR CERTAIN PACKAGES.—(A) A cautionary statement required by subsection (a) or (b) may, in lieu of display on the principal display panel of the product's package, be displayed on another panel of the package if—

"(i) the package has a principal display panel of 15 square inches or less and the required statement is displayed in three or more languages; and

"(ii) the statement specified in subparagraph (B) is displayed on the principal display panel and is accompanied by an arrow or other indicator pointing toward the place on the package where the statement required by subsection (a) or (b) appears.

"(B)(i) In the case of a product to which subsection (a), subsection (b)(2)(B), subsection (b)(2)(C), or subsection (b)(2)(D) applies, the statement specified by this subparagraph is as follows:

" ⚠ *SAFETY WARNING*

"(ii) In the case of a product to which subsection (b)(2)(A) applies, the statement specified by this subparagraph is as follows:

" ⚠ *WARNING—CHOKING HAZARD*

"(d) TREATMENT AS MISBRANDED HAZARDOUS SUBSTANCE.—A balloon, ball, marble, toy, or game, that is not in compliance with the requirements of this section shall be considered a misbranded hazardous substance under section 2(p).".

(b) OTHER SMALL BALLS.—A small ball—

(1) intended for children under the age of 3 years of age, and

(2) with a diameter of 1.75 inches or less,

shall be considered a banned hazardous substance under section 2(q) of the Federal Hazardous Substances Act (15 U.S.C. 1261(q)).

(c) REGULATIONS.—The Consumer Product Safety Commission (hereinafter referred to as the "Commission") shall promulgate regulations, under section 553 of title 5, United States Code, for the implementation of this section and section 24 of the Federal Hazardous Substances Act by July 1, 1994, or the date that is 6 months after the date of enactment of this Act, whichever occurs first. Subsections (f) through (i) of section 3 of the Federal Hazardous Substances Act (15 U.S.C. 1262) shall not apply with respect to the issuance of regulations under this subsection.

(d) EFFECTIVE DATE; APPLICABILITY.—Subsections (a) and (b) shall take effect January 1, 1995, and section 24 of the Federal Hazardous Substances Act shall apply only to products entered into commerce on or after January 1, 1995.

(e) PREEMPTION.—

(1) IN GENERAL.—Subject to paragraph (2), a State or political subdivision of a State may not establish or enforce a requirement relating to cautionary labeling of small parts hazards or choking hazards in any toy, game, marble, small ball, or balloon intended or suitable for use by children unless such requirement is identical to a requirement established by amendments made by this section to the Federal Hazardous Substances Act or by regulations promulgated by the Commission.

(2) EXCEPTION.—A State or political subdivision of a State may, until January 1, 1995, enforce a requirement described in paragraph (1) if such requirement was in effect on October 2, 1993.

SEC. 102. REPORTING REQUIREMENTS.

(a) REPORTS TO CONSUMER PRODUCT SAFETY COMMISSION.—

(1) REQUIREMENT TO REPORT.—Each manufacturer, distributor, retailer, and importer of a marble, small ball, or latex balloon, or a toy or game that contains a marble, small ball, latex balloon, or other small part, shall report to the Commission any information obtained by such manufacture, distributor, retailer, or importer which reasonably supports the conclusion that—

(A) an incident occurred in which a child (regardless of age) choked on such a marble, small ball, or latex balloon or on a marble, small ball, latex balloon, or other small part contained in such toy or game; and

(B) as a result of that incident the child died, suffered serious injury, ceased breathing for any length of time, or was treated by a medical professional.

(2) TREATMENT UNDER CPSA.—For purposes of section 19(a)(3) of the Consumer Product Safety Act (15 U.S.C. 2068(a)(3)), the requirement to report information under this subsection is deemed to be a requirement under such Act.

(3) EFFECT ON LIABILITY.—A report by a manufacturer, distributor, retailer, or importer under paragraph (1) shall not be interpreted, for any purpose, as an admission of liability or of the truth of the information contained in the report.

(b) CONFIDENTIALITY PROTECTIONS.—The confidentiality protections of section 6(b) of the Consumer Product Safety Act (15 U.S.C. 2055(b)) apply to any information reported to the Commission under subsection (a) of this section. For purposes of section 6(b)(5) of such Act, information so reported shall be treated as information submitted pursuant to section 15(b) of such Act respecting a consumer product.

TITLE II—CHILDREN'S BICYCLE HELMET SAFETY

SEC. 201. SHORT TITLE.

This title may be cited as the "Children's Bicycle Helmet Safety Act of 1993".

SEC. 202. STANDARDS.

(a) IN GENERAL.—Bicycle helmets manufactured 9 months or more after the date of the enactment of this Act shall conform to—

(1) any interim standard described under subsection (b), pending the establishment of a final standard pursuant to subsection (c); and

(2) the final standard, once it has been established under subsection (c).

(b) INTERIM STANDARDS.—The interim standards are as follows:

(1) The American National Standards Institute standard designated as "Z90.4-1984".

(2) The Snell Memorial Foundation standard designated as "B-90".

(3) The American Society for Testing and Materials (ASTM) standard designated as "F 1447".

(4) Any other standard that the Commission determines is appropriate.

(c) FINAL STANDARD.—Not later than 60 days after the date of the enactment of this Act, the Commission shall begin a proceeding under section 553 of title 5, United States Code, to—

(1) review the requirements of the interim standards set forth in subsection (a) and establish a final standard based on such requirements;

(2) include in the final standard a provision to protect against the risk of helmets coming off the heads of bicycle riders;

(3) include in the final standard provisions that address the risk of injury to children; and

(4) include additional provisions as appropriate.

Sections 7, 9, and 30(d) of the Consumer Product Safety Act (15 U.S.C. 2056, 2058, 2079(d)) shall not apply to the proceeding under this subsection and section 11 of such Act (15 U.S.C. 2060) shall not apply with respect to any standard issued under such proceeding. The final standard shall take effect 1 year from the date it is issued.

(d) FAILURE TO MEET STANDARDS.—

(1) FAILURE TO MEET INTERIM STANDARD.—Until the final standard takes effect, a bicycle helmet that does not conform to an interim standard as required under subsection (a)(1) shall be considered in violation of a consumer product safety standard promulgated under the Consumer Product Safety Act.

(2) STATUS OF FINAL STANDARD.—The final standard developed under subsection (c) shall be considered a consumer product safety standard promulgated under the Consumer Product Safety Act.

Mr. FEINGOLD. Madam President, I ask unanimous consent that the Senate disagree to the House amendment to the Senate amendment, request a conference with the House on the disagreeing votes of the two Houses, and that the Chair be authorized to appoint conferees.

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

The presiding Officer appointed Mr. HOLLINGS, Mr. FORD, Mr. BRYAN, Mr. DANFORTH, and Mr. GORTON conferees on the part of the Senate.

AUTHORITY FOR COMMITTEES TO REPORT

Mr. FEINGOLD. Madam President, I ask unanimous consent that, during the recess of the Senate, Senate committees may file committee-reported Legislative and Executive Calendar business on Tuesday, April 5, from 11 a.m. to 3 p.m.

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

MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated to the Senate by Mr. Thomas, one of his secretaries.

EXECUTIVE MESSAGES REFERRED

As in executive session the Presiding Officer laid before the Senate messages from the President of the United States submitting sundry nominations which were referred to the appropriate committees.

(The nominations received today are printed at the end of the Senate proceedings.)

MESSAGES FROM THE HOUSE

At 11:19 a.m., a message from the House of Representatives, delivered by Ms. Goetz, one of its reading clerks, announced that the House agrees to the report of the committee of conference on the disagreeing votes of the two Houses on the amendments of the House to the bill (S. 1284) to amend the Developmental Disabilities Assistance and Bill of Rights Act to expand or modify certain provisions relating to programs for individuals with developmental disabilities, Federal assistance for priority area activities for individuals with developmental disabilities, protection and advocacy of individual rights, university affiliated programs, and projects of national significance, and for other purposes.

ENROLLED JOINT RESOLUTION SIGNED

The message also announced that the Speaker has signed the following joint resolution:

S.J. Res. 56. Joint Resolution to designate the week beginning April 11, 1994, as "National Public Safety Telecommunicators Week."

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-2382. A communication from the Director of the Office of Management and Budget, Executive Office of the President, transmitting, pursuant to law, the cumulative report on rescissions and deferrals dated March 1, 1994; pursuant to the order of January 30, 1975, as modified by the order April 11, 1986; referred jointly to the Committee on Appropriations, the Committee on Budget, the Committee on Agriculture, Nutrition, and Forestry, the Committee on Armed Services, the Committee on Banking, Housing, and Urban Affairs, the Committee on Commerce, Science, and Transportation, the Committee on Energy and Natural Resources, the Committee on Environment and Public Works, the Committee on Finance, the Committee on Foreign Relations, the Committee on Governmental Affairs, the Committee on the Judiciary, and the Committee on Small Business.

EC-2383. A communication from the Secretary of Defense, transmitting, pursuant to law, notice relative to the Future Years Defense Program; to the Committee on Armed Services.

EC-2384. 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 5 days of enactment; to the Committee on the Budget.

EC-2385. A communication from the Comptroller General of the United States, transmitting, pursuant to law, the report of options for spending reductions and revenue increases; to the Committee on the Budget.

EC-2386. A communication from the President and Chairman of the Export-Import Bank of the United States, transmitting, pursuant to law, a report on a transaction involving United States exports to Russia; to the Committee on Banking, Housing, and Urban Affairs.

EC-2387. A communication from the Secretary of the Interior, transmitting, pursuant to law, the annual report on the Youth Conservation Corps for fiscal year 1993; to the Committee on Energy and Natural Resources.

EC-2388. A communication from the Secretary of Energy, transmitting, pursuant to law, notice relative to the annual/quarterly report on the Strategic Petroleum Reserve; to the Committee on Energy and Natural Resources.

EC-2389. A communication from the Deputy Administrator of the General Services Adminisrtation, transmitting, pursuant to law, a building project survey report for Springfield, IL; to the Committee on Environment and Public Works.

EC-2390. A communication from the Secretary of Defense, transmitting, pursuant to law, the annual report on the system of internal accounting and financial controls in effect during fiscal year 1993; to the Committee on Governmental Affairs.

EC-2391. A communication from the Administrator of the National Aeronautics and Space Administration, transmitting, pursuant to law, a report relative to requests for agency records under the Freedom of Information Act during calendar year 1993; to the Committee on the Judiciary.

EC-2392. A communication from the Assistant Attorney General, Legislative Affairs, transmitting, a draft of proposed legislation to allow removal of suits against the United States and its agencies, as well as those against Federal officers, and to allow removal of suits against Federal agencies and officers that are brought in tribal courts, courts of Indian offenses, and local courts of U.S. territories and possessions; to the Committee on the Judiciary.

EC-2393. A communication from the Executive Director of the National Mediation Board, transmitting, pursuant to law, a report relative to requests made under the Freedom of Information Act for calendar year 1993; to the Committee on the Judiciary.

EC-2394. A communication from the Postmaster General, transmitting, pursuant to law, a report relative to requests made under the Freedom of Information Act for calendar year year 1993; to the Committee on the Judiciary.

EC-2395. A communication from the Chairman of the National Endowment for the Arts, transmitting, pursuant to law, the annual report on the Arts and Artifacts Indemnity Program for fiscal year 1993; to the Committee on Labor and Human Resources.

EC-2396. A communication from the Secretary of Health and Human Services, transmitting, pursuant to law, a draft of proposed legislation entitled "Community Services Block Grant Amendments of 1994;" to the Committee on Labor and Human Resources.

EC-2397. A communication from the Secretary of Health and Human Services, transmitting, pursuant to law, the report of the Office of Minority Health for fiscal years 1991 and 1992; to the Committee on Labor and Human Resources.

EC-2398. A communication from the Secretary of Health and Human Services, transmitting, pursuant to law, the report on the Youth Gang Drug Prevention Program for fiscal year 1992; to the Committee on Labor and Human Resources.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. MITCHELL (for Mr. INOUYE), from the Committee on Indian Affairs, with an amendment in the nature of a substitute:

S. 1146. A bill to provide for the settlement of the water rights claims of the Yavapai-Prescott Indian Tribe in Yavapai County, Arizona, and for other purposes (Rept. No. 103-239).

By Mr. PELL, from the Committee on Foreign Relations, without amendment and with a preamble:

S. Res. 155. A resolution commending the Government of Italy for its commitment to halting software piracy.

EXECUTIVE REPORTS OF COMMITTEE

The following executive reports of committee were submitted:

By Mr. MOYNIHAN, from the Committee on Finance:

Charles F. Meissner, of Maryland, to be an Assistant Secretary of Commerce, vice Thomas J. Duesterberg, resigned.

Susan G. Esserman, of Maryland, to be an Assistant Secretary of Commerce, vice Alan M. Dunn, resigned.

William Booth Gardner, of Washington, to be Deputy United States Trade Representative, with the rank of Ambassador, vice Michael H. Moskow, resigned.

Lynn M. Bragg, of Maryland, to be a Member of the United States International Trade Commission for the term expiring June 16, 2002, vice Anne Brunsdale, term expired.

(The above nominations were approved subject to the nominees' commitment to appear and testify before any duly constituted committee of the Senate.)

By Mr. PELL, from the Committee on Foreign Relations:

Jeanette W. Hyde, of North Carolina, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to Barbados, and to serve concurrently and without additional compensation as Ambassador Extraordinary and Plenipotentiary of the United States of America to the Commonwealth of Dominica, Ambassador Extraordinary and Plenipotentiary of the United States of America to St. Lucia, and Ambassador Extraordinary and Plenipotentiary of the United States of America to St. Vincent and the Grenadines.

Nominee: Jeanette W. Hyde.

Post: U.S. Ambassador to Barbados.

The following is a list of all members of my immediate family and their spouses. I have asked each of these persons to inform me of the pertinent contributions made by them. To the best of my knowledge, the information contained in this report is complete and accurate.

Contributions, amount, date, donee:

1. Self, Gore for Senate Committee—$1,000 (1989); Price for Congress Committee—$400 (1990); Gantt for Senate Committee—$1,000 (1990); Gore for Senate Committee—$1,000 (1990); Americans for Kerry Committee—$250 (1991); David Price Reelection Committee—$1,000 (1991); Committee to Reelect Terry Sanford—$500 (1991); Gephardt for Congress Committee—$250 (1991); and Clayton for Congress—$500 (1992).

Also David Price for Congress Committee—$1,000 (1992); Committee to Reelect Terry Sanford—$1,500 (1992); Committee to Elect Bill Clinton President—$1,000 (1992); Braun for Senate Committee—$1,000 (1992); NC Democratic Campaign (Federal Account)—$5,000 (1992); DNC Victory Fund (Finance Council Membership)—$5,000 (1992); DNC Victory Fund—$5,000 (1992); and DSCC—$200 (1992).

2. Spouse, Terry Sanford for Senate Committee—$250 (1989); Democratic House and Senate Council—$5,000 (1989); Gore for Senate Committee—$1,000 (1989); David Price for Congress—$500 (1990); Gantt for Senate Committee—$1,000 (1990); Clark for Congress Committee—$500 (1990); Democratic House and Senate Council—$1,500 (1990); Gore for Senate Committee—$1,000 (1990); Bill Clinton for President—$250 (1991); and David Price for Congress—$300 (1991).

Clark for Congress Committee—$400 (1991); Stevens for Congress Committee—$300 (1991); Gephardt for Congress Committee—$250 (1991); Democratic House and Senate Council—$1,500 (1991); Bradley for Senate Committee—$1,000 (1991); Americans for Kerry Committee—$250 (1991); Terry Sanford for Senate Committee—$2,000 (1992); Bill Clinton for President—$750 (1992); Stevens for Congress Committee—$500 (1992); DNC Victory Fund—$7,000 (1992); Friends of Clayton and Watt for Congress—$200 (1992); Democratic House and Senate Council—$1,500 (1992); and Democratic House and Senate Council—$625 (1993).

Children and spouses, None.

Stepchildren and spouses names, Martha Hyde Jones, Dan Jones (spouse) none, Charlie W. Hyde, none, Barbara Hyde White, Joseph White (spouse), none.

Parents names, Gurney C. Wallace, deceased, Effie W. Wallace, none.

Grandparents, names, Nettie B. Whitlock, Jones J. Whitlock, deceased.

Brothers and spouses, none.

Sisters and spouses names, June W. Smith, John G. Smith (spouse), none, Wanda W. Dobbins, Ralph A. Dobbins (spouse), none.

Sam W. Brown, Jr., of California, for the rank of Ambassador during his tenure of service as Head of Delegation to the Conference on Security and Cooperation in Europe (CSCE).

Josiah Horton Beeman, of the District of Columbia, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to New Zealand, and to serve concurrently and without additional compensation as Ambassador Extraordinary and Plenipotentiary of the United States of America to Western Samoa.

Nominee: Josiah Horton Beeman.

Post: Ambassador to New Zealand and Western Samoa.

The following is a list of all members of my immediate family and their spouses. I have asked each of these persons to inform me of the pertinent contributions made by them. To the best of my knowledge, the information contained in this report is complete and accurate.

Contributions, amount, date, donee:

1. Self, $250, 1989, Muenster for Senate; $250, 1990, Friends of Les Aspin; $125, 1990, Keep Geo. Brown in Congress; $100, 1992, Friends of Les Aspin; $1,000, 1992, Levine for Senate; $500, 1992, EMK'94; $100, 1993, Farr for Congress; and $500, 1993, Feinstein for Senate.

2. Spouse, Linda.

3. Children and spouses, none.

4. Parents names, Josiah Horton Beeman, Helen Hooper Beeman (deceased).

5. Grandparents, deceased for over 30 years.

6. Brothers and spouses, Jerrold Hooper Beeman (deceased.

7. Sisters and spouses, Anne Beeman Lack, none.

Donald M. Blinken, of New York, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Republic of Hungary.

Nominee: Donald M. Blinken.

The following is a list of all members of my immediate family and their spouses. I have asked each of these persons to inform me of the pertinent contributions made by them. To the best of my knowledge, the information contained in this report is complete and accurate.

Contributions, amount, date, donee:

1. Self, $250, 1990, DNC; $1,000, 1990, Moynihan Committee; $2,000, 1991, Moynihan Committee; $5,000, 1992, DNC; $2,000, 1992, DNC; $1,000, 1992, DNC; $1,000, 1991, Clinton for President; $5,788, 1992, DNC; and $1,000, 1993, Democratic Senate Campaign. $2,000, 1993, Democratic Senate Campaign; $1,000, 1993, Dick Swett for Congress; $500, 1992, Abrams '92; $250, 1992, Citizens for Downey; $500, 1992, Citizens for Downey; $100, 1992, Braun for Senate; $250, 1990, Bill Green for Congress; and 250, 1992, NYS Democratic Committee.

2. Spouse, Vera Blinken, $1,000, 1992, Clinton for President; $3,000, 1992, DNC; $1,000, 1990, Moynihan Committee; $1,000, 1993, Democratic Senate Committee; and $1,000, 1993, Democratic Senate Committee.

3. Children and spouses, Antony J. Blinken, $1,000, 1992, Clinton for President; $2,000, 1993, The Moynihan Committee.

Alan John Blinken, $10,000, 1992, DNC; $1,000, 1992, Friends of Bob Carr; $500, 1992, Owens for Senate; $1,000, 1992, Clinton for President; $500, 1992, Kerry Committee; $1,000, 1991, Committee for Tim Wirth; $1,000, 1991, Liz Holtzman for Senate; $1,500, 1991, DNC; and $10,000, 1991, DNC. $1,000, 1990, Bill Bradley for U.S. Senate; $500, 1990, Eisendrath Campaign Committee; $500, 1990, Sloane for Senate Committee; $1,000, 1990, Friends of Al Gore, Jr. (Primary); $1,000, 1990, Friends of Al Gore, Jr. (General); $250, 1990, Women's Campaign Fund; $1,000, 1989, Andrew Stein for Congress; $500, 1989, Coelho for Congress; $1,000, 1989, Re-Elect Congressman Schumer.

4. Parents, names, Maurice H. Blinken, deceased, Ethel Blinken, none.

5. Grandparents, names, Mier Blinken and Anna Blinken, Kate Horowitz and Morris Horowitz, deceased.

6. Brothers and spouses, names, Robert and Allison Blinken, $10,000 1992, DNC Victory Fund; $2,000, 1992, DNC Victory Fund; and $5,000, 1990, Alan Blinken '90.

Melinda Blinken, $1,000, 1988, People for John Heinz Committee; $1,000, 1988, Al Gore for President Committee; $1,000, 1990, Re-Elect Congressman Chuck Schumer; $1,000, 1990, Bill Bradley for U.S. Senate '90; $200, 1990, Reed for Congress; $1,000, 1992, Susan Molinari for Congress; $500, 1992, Barbara Boxer for U.S. Senate; $1,000, 1992, Clinton for President; $1,000, 1992, Abrams '92; $250, 1992, Kerry for President; and $500, 1992, Lynn Yaekel for Senate.

March Fong Eu, of California, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Federated States of Micronesia.

Nominee: March Fong Eu.

Post: Ambassador to Micronesia.

The following is a list of all members of my immediate family and their spouses. I have asked each of these persons to inform me of the pertinent contributions made by them. To the best of my knowledge, the information contained in this report is complete and accurate.

Contributions, amount, date, donee:

1. Self, none.

2. Spouse, none.

3. Children and spouses, names, Marchesa/Jim Stein, none, Matthew/Paula Fong, $100, 1988, George Bush; and $100, 1988, Pete Wilson.

4. Parents names: Yuen Kong/Shiu (me) Shee deceased.

5. Grandparents names: deceased.

6. Brothers and spouses names: Bob Kong/Xiao Ling Huo Henry/Rose Kong, none.

7. Sisters and spouses names: Ruby/K.Y. Fong, none.

Richard Dale Kauzlarich, of Virginia, a Career Member of the Senior Foreign Service, Class of Minister-Counselor, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Republic of Azerbaijan.

Nominee: Richard D. Kauzlarich.

Post: Ambassador to the Republic of Azerbaijan.

The following is a list of all members of my immediate family and their spouses. I have asked each of these persons to inform me of the pertinent contributions made by them. To the best of my knowledge, the information contained in this report is complete and accurate.

Contributions, amount, date, donee:

1. Self, none.

2. Spouse: Anne Kauzlarich, none.

3. Children and spouses names: Richard D. Kauzlarich, Terri L. Kauzlarich, none.

4. Parents names: Victor Kauzlarich, Eva M. Kauzlarich, none.

5. Grandparents names: George Kauzlarich, Emma Kronfeld, deceased.

6. Brothers and spouses names: Stanley J. Kauzlarich, none.

7. Sisters and spouses names: Victoria J. Kauzlarich, none, James Thane none.

Charles R. Baquet III, of Maryland, to be Deputy Director of the Peace Corps, vice Barbara Zartman, resigned.

Thomas L. Baldini, of Michigan, to be a Commissioner on the part of the United States on the International Joint Commission, United States and Canada, vice Gordon K. Durnil, resigned.

Susan Bayh, of Indiana, to be a Commissioner on the part of the United States on the International Joint Commission, United States and Canada, vice Hilary Paterson Cleveland.

Alice Chamberlin, of New Hampshire, to be a Commissioner on the part of the United States on the International Joint Commission, United States and Canada, vice Robert F. Goodwin.

Harold C. Pachios, of Maine, to be a Member of the United States Advisory Commission on Public Diplomacy for a term expiring July 1, 1996, vice Lewis W. Douglas, Jr., term expired.

Lewis Manilow, of Illinois, to be a Member of the United States Advisory Commission on Public Diplomacy for a term expiring

July 1, 1996, vice Tom C. Korologos, term expired.

Alexander Fletcher Watson, of Massachusetts, to be a Member of the Board of Directors of the Inter-American Foundation for a term expiring September 20, 1996, vice Bernard William Aronson, term expired.

John F. Hicks, Sr., an Assistant Administrator of the Agency for International Development, to be a Member of the Board of Directors of the African Development Foundation for a term expiring September 22, 1997, vice Scott M. Spangler, term expired.

Barry S. Newman, of Virginia, to be United States Alternate Executive Director of the International Monetary Fund for a term of two years, vice Quincy Mellon Krosby, resigned.

(The above nominations were approved subject to the nominees' commitment to appear and testify before any duly constituted committee of the Senate.)

By Mr. MITCHELL (for Mr. INOUYE) from the Committee on Indian Affairs:

Michael H. Trujillo, of Oregon, to be Director of the Indian Health Service, Department of Health and Human Services, for a term of four years. (New position)

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second time by unanimous consent, and referred as indicated:

By Mr. SIMON:

S. 1954. A bill to extend the deadlines applicable to certain hydroelectric projects under the Federal Power Act, and for other purposes; to the Committee on Energy and Natural Resources.

By Mr. LOTT (for himself, Mr. SHELBY, Mr. HATCH, Mr. BROWN, Mr. BURNS, Mr. COATS, Mr. COVERDELL, Mr. DOLE, Mr. GRASSLEY, Mr. GREGG, Mr. HELMS, Mrs. KASSEBAUM, Mr. MACK, Mr. MCCAIN, Mr. NICKLES, Mr. SIMPSON, and Mr. SMITH):

S. 1955. A bill to amend the Congressional Budget and Impoundment Control Act of 1974 to reform the budget process, and for other purposes; to the Committee on the Budget and the Committee on Governmental Affairs, jointly, pursuant to the order of August 4, 1977, with instructions that if one Committee reports, the other Committee have thirty days to report or be discharged.

By Mr. SHELBY (for himself, Mr. CONRAD, Mr. JOHNSTON, Mr. BREAUX, and Mr. FAIRCLOTH):

S. 1956. A bill to amend the Consumer Credit Protection Act to improve disclosures made to consumers who enter into rental-purchase transactions, to set standards for collection practices, and for other purposes; to the Committee on Banking, Housing, and Urban Affairs.

By Mr. PELL (by request):

S. 1957. A bill to provide for a United States contribution to the Interest Subsidy Account of the successor (ESAF II) to the Enhanced Structural Adjustment Facility of the International Monetary Fund; to the Committee on Foreign Relations.

By Mr. MURKOWSKI (for himself, Mr. STEVENS, and Mr. AKAKA):

S. 1958. A bill to amend title 38, United States Code, to exclude certain payments received under the Alaska Native Claims Settlement Act from the determination of annual income for purposes of eligibility for veterans pension; to the Committee on Veterans' Affairs.

By Mr. GRAHAM:

S. 1959. A bill to prevent delay in the completion of Federal construction projects, and for other purposes; to the Committee on Governmental Affairs.

By Mr. MCCAIN:

S. 1960. A bill to increase housing opportunities for Indians; to the Committee on Indian Affairs.

By Mr. KENNEDY (for himself, Mr. DODD, Mr. DECONCINI, and Mr. KERRY):

S. 1961. A bill to provide for necessary medical care for former civilian prisoners of war; to the Committee on Labor and Human Resources.

By Mr. DODD (for himself and Mr. ROCKEFELLER):

S. 1962. A bill to provide for demonstration projects in 6 States to establish or improve a system of assured minimum child support payments; 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. MITCHELL:

S. Res. 191. A resolution to elect the Secretary of the Senate, Martha S. Pope; considered and agreed to.

S. Res. 192. A resolution to elect Sergeant at Arms and Doorkeeper of the Senate, Robert Laurent Benoit; considered and agreed to.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. LOTT (for himself, Mr. SHELBY, Mr. HATCH, Mr. BROWN, Mr. BURNS, Mr. COATS, Mr. COVERDELL, Mr. DOLE, Mr. GRASSLEY, Mr. GREGG, Mr. HELMS, Mrs. KASSEBAUM, Mr. MACK, Mr. MCCAIN, Mr. NICKLES, Mr. SIMPSON, and Mr. SMITH):

S. 1955. A bill to amend the Congressional Budget and Impoundment Control Act of 1974 to reform the budget process, and for other purposes; to the Committee on the Budget and the Committee on Governmental Affairs, jointly, pursuant to the order of August 4, 1977, with instructions that if one committee reports, the other committee has 30 days to report or be discharged.

BUDGET PROCESS REFORM ACT

Mr. LOTT. Mr. President, today as we begin debate on the budget resolution for the next fiscal year, I think it is appropriate that we also think at this time about the need for budget process reform.

Twenty years ago, we passed the Congressional Budget and Impoundment Control Act of 1974. I supported it at that time because I thought we needed some process to take a look at how much we were spending, what it was going for, and just basically adding up what we were doing. Up until that time, there was no budget. We had authorization bills and appropriations bills out of the various subcommittees of Appropriations Committee, and nobody ever added them up to see what we were spending really, in total, and what it was doing to the deficit.

So we passed the Budget and Impoundment Control Act, and I thought it was a good idea at the time. This bill established our basic budget process as we know it today. Twenty years has been long enough to see what has worked and what has not worked. Some of it has been fine; some of it has not accomplished all we would like for it to have accomplished. So, as the old adage says, "Hindsight is 20/20." It is time for us to take advantage of what we can see behind us, learn from it, and make some changes.

As we consider this fiscal year 1995 budget, we should also make significant changes in the budget process that the Budget Act, the Budget and Impoundment Control Act, established in 1974.

That is why I am introducing a bill today to overhaul the Federal budget process, along with a number of our colleagues, including Democrats and Republicans. Process reform may not seem very glamorous. Indeed, it is not. But it is the foundation upon which all of our annual spending and taxing decisions are made. Without a strong foundation, a house will not stand.

There are two fundamental components of the budget which must be addressed to achieve effectiveness and efficiency in budgeting, as well as deficit reduction. After all, that should be our goal.

As we debate the budget, we will see this week that as a matter of fact we continue to have deficits every year, and the debt continues to go up every year. In fact, it will go up, some estimate, to $5 trillion over the next 5 years unless we find some way to better address the problem.

But the two components of the budget go hand in hand. The first is the process for development and implementation of a budget, and the second is the actual determination of the taxing and spending levels within that budget.

This bill addresses the first component, process reform, as its title, "The Budget Process Reform Act," indicates. I am introducing this bill with my friend Senator SHELBY and 15 other original Senate cosponsors. This bill would radically change the way Congress does business.

With budget reform in place, we could then effectively administer the second component of budgeting, the resource allocation process: where and how much do we spend of the taxpayers money. We will have a structure designed to permit clear, rational, and accountable choices among competing priorities.

That is the difficult part. If we would just basically says we have this much

coming in, and that is all we are going to spend, there would be a ferocious debate about what our priorities would be and how we would spend that money.

But that is what we are here for, and in the end we could make, I think, rational decisions about our priorities for spending and keep the budget deficits and eventually the debt under control.

I do think deficits matter, and as far as pointing fingers, I am not doing that. I think we all have contributed to this problem. But I think instead of looking back at the past, and how we got here, we need to be looking forward to how we stop this problem.

I believe the momentum behind the balanced budget amendment, which we have debated and which got a very strong vote—it came within four votes in the Senate, and I believe five votes in the House of Representatives—is an indication of a continuing and, I believe, growing concern about this problem.

Our Nation is facing a fiscal crisis. Our deficit for fiscal year 1993 was $255 billion. Our debt for fiscal year 1994 is projected to be $4.734 trillion. That is $13,345 for every man, woman, and child in America. We must do something about this.

Why are we debating these types of changes? Because Congress needs handcuffs. Unfortunately, Congress has not been willing to make the tough choices and cut spending enough.

There have been some starts and fits and stops, back and forth, and we have accomplished some things. I remember in 1981 and 1982, we actually cut the deficit some. Last year, the process I think actually did contribute to cutting the deficit some. I objected because I thought too much of it was done in the tax area. But the net result was that we still have not made enough tough choices to deal with the problem.

I can understand why each one of us were sent here by constituencies to protect the interests of our various States. In my own State, we have a lot of poverty; we have a lot of needs. We need better roads. We need better schools. Naturally, I am interested in trying to help my State with those needs.

Putting procedural changes in place such as the balanced budget amendment and some of the provisions of this bill would force Congress to be more responsible stewards of our constituents' hard-earned money.

I do want to point out that even if we had a budget surplus, I would still believe the changes in this bill are necessary. The system needs to be tweaked. As it stands currently, it does not allow the budget to reflect the current priorities of our Nation.

This bill was also introduced in the House by my friend Congressman CHRIS COX. He and Congressman CHARLES STENHOLM have worked very hard on this and there are now over 160 cosponsors in the House.

The bill will achieve the following objectives: simplification of the process, a shift from its current bias toward higher spending, and compliance with current law.

The Budget Process Reform Act would accomplish these goals through the following specific provisions:

First, it requires the budget resolution to be a joint one, voted on by April 15. Making it legally binding by requiring the President's signature will involve the President in the process at an early stage and ensure a shared effort.

I think that would be very important. You may say: Well, this President is not involved. But maybe he is more than others. I think until we get this requirement for a joint resolution, the President will not be as involved. We really need him.

The bill espouses a wise concept: Budget first, spend second. No spending bills—either authorizations or appropriations—could be considered prior to passage of the budget resolution. This will allow spending bills to move through the appropriations process in a logical and timely manner.

Second, the bill forces overall spending decisions to be made at a macro level. This year's budget is 4 volumes, 2,013 pages, and weighs 6 pounds.

How many of us are actually going to read it?

It takes a budget guru just to figure out what we're spending on a specific program. Our system seems designed to keep us all confused.

This bill would simplify the budget process by first requiring a 1-page budget document reflecting the total spending levels in the 19 summary categories currently used.

This would facilitate an easier decisionmaking process and the ability to prioritize—and see—where we are spending the American taxpayers' money.

We should not get bogged down in the details. That job belongs to the authorizers and appropriators.

The budget would also set ceilings on all Federal spending for the coming fiscal year, except for Social Security and interest on the debt. The bill does not say what those ceilings would be, but merely that Congress would set them and then live by them.

The President would be required to submit the detailed support 2 weeks later, after the overall spending decisions had been addressed.

The bill would eliminate baseline budgeting as we know it. This concept of budgeting allows automatic spending increases every year. This is the only place I know in the world where you allow for an increase and then you begin deciding how much you are going to add to that from that particular point.

I believe there are two fundamental problems with this: First, this means spending automatically goes up every year. Period. Second, this does not allow Congress to make decisions about where we should spend more or less.

I think anyone who considers this issue in terms of their own financial position would agree that this is poor policy and it is not even honest. For instance, how many of you automatically plan to spend 3 or 4 percent—or whatever the annual inflation rate is—more each year than you did the year before?

I was very encouraged by the vote on this issue in the Senate Budget Committee markup last Thursday. The Budget Committee voted 15 to 5 for a sense-of-the-Congress to eliminate baseline budgeting. This provision was also included in the House passed budget resolution. This is a change whose time has come. I urge that we adopt this provision.

The bill also contains a bias in favor of spending constraint which is in sharp contrast to our current situation. Any spending which exceeds the caps set in the budget resolution would be subject a three-fifth's vote of the Senate. Thus, the only way to adopt spending proposals by simple majority would be to authorize and appropriate within the ceilings of a duly enacted budget law.

Additionally, the ceilings on spending would also apply to entitlements. Again, this merely means that Congress would decide on specific spending totals for these programs. Congress has abdicated their control over the largest Government programs. As a result, these programs have grown uncontrollably. We must reign them in and make conscious decisions about the Government spending instead of just signing the blank check year after year.

The head of each executive agency that administers any entitlement program would be authorized to adjust benefit levels and eligibility requirements, so that the program costs exactly what Congress has appropriated and no more.

To maintain the integrity of congressional control over the legislative process, the CBO—rather than the OMB—would be the scorekeeper for determining whether particular authorization and appropriations measures were consistent with the budget ceilings. In his State of the Union speech last year, President Clinton said that the CBO should be the official scorekeeper. I do not have any bias for CBO. In fact, I have a lot of reservations about it. But, we need to decide who it is going to be, so we will have consistent numbers.

President Clinton has also repeatedly stated his support for the line item veto. This bill would give it to him. Why shouldn't the President of the United States have the same ability as 43 Governors to reduce targeted, pork-barrel projects?

This bill gives the President the authority to rescind over-budget spending

unless Congress were to enact legislation expressly overturning it. This gives the President the power to selectively reduce individual programs by a percentage, leaving intact some portions of programs budgeted by Congress if he chooses. This would help control spending.

The bill also precludes the need for continuing resolutions by automatically reverting any unfinished appropriations bills to the prior year's spending level. It amazes me, by law, Congress is to finish all appropriations bills by June 30. Yet, every year we miss this legal deadline and are forced to pass continuing resolutions because we can't get our work done in a timely manner. Various Government agencies and programs do not know whether they are going to be able to continue or not. We always talk about shutting down the Washington Monument. It is time to stop that insanity.

This provision of the bill will prevent actual or threatened annual shutdowns of the Federal Government.

In addition, this reversion would encourage spending restraint—if no action were taken on the appropriations bills, spending would not increase from year to year.

In conclusion, through the Budget Process Reform Act we will enforce the law. We will require cooperation between the President and Congress. We will bring entitlement programs under budget control. Above all, we will make the system clear and understandable to the people whose money we are spending.

As we annualy translate our Nation's priorities into a Federal budget, we can use this new process to both plan and discipline our spending while still achieving our goals. The final result will be a meaningful budget which allows Congress to focus on the effects of the bottom line on the economy and on the tradeoffs which must be made among priorities to control overall levels of spending.

This is a bipartisan plan. In preparing this legislation, we drew upon the experience and ideas of Democratic and Republican administration officials, congressional leaders, and academic experts across the past seven decades. This bill is a good starting point for real deficit reduction.

It sets the mechanisms in place to facilitate a more efficient and effective budget system.

I am hopeful that the grounds swell of support for reform will enable us to get this bill through this Congress. We need to put aside old ways of thinking and doing things. I believe Congress can do what it must do. We can win back the people's trust.

Our fiscal problems are not unsurmountable. A child must learn to step before he walks, and walk before he runs.

I remind my colleagues of a quote by St. Francis of Assisi:

Start by doing what's necessary; then do what is possible; and suddenly you are doing the impossible.

So I urge my colleagues to join me and the cosponsors of this bill in taking this step towards restoring fiscal responsibility, discipline, and accountability.

Mr. President, I ask unanimous consent that the Budget Process Reform Act be printed in it's entirety at the conclusion of my remarks.

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

S. 1955

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 "Budget Process Reform Act".

(b) TABLE OF CONTENTS.—The table of contents for this Act is as follows:

Sec. 1. Short title; table of contents.

TITLE I—STATEMENT OF CONGRESSIONAL PURPOSE

Sec. 101. Improvement in decisionmaking process.
Sec. 102. Reform of fiscal management.
Sec. 103. Safeguards against delay and inaction.

TITLE II—BINDING BUDGET LAW

Sec. 201. Joint resolution establishing binding budget law.
Sec. 202. Budget required before spending bills may be considered.
Sec. 203. "baseline" budgeting prohibited; unadjusted year-to-year comparisons required in budget law.
Sec. 204. President's budget submissions.

TITLE III—ENFORCEMENT MECHANICS

Subtitle A—Supermajority Required to Break Budget Law

Sec. 301. Three-fifths requirement for all spending bills in absence of budget law.
Sec. 302. Three-fifths requirement for over-budget spending bills.
Sec. 303. Three-fifths requirement for waiver of this Act.

Subtitle B—Limited Enhanced Rescission Authority

Sec. 304. Rescission authority limited to spending above limits of congressional budget law.
Sec. 305. Application.

Subtitle C—"Blank Check" Appropriations Prohibited

Sec. 306. Intent of Senate.
Sec. 307. Fixed-dollar appropriations required.
Sec. 308. Agency-adjusted benefits.
Sec. 309. Budget authority and entitlement authority may cover only a single fiscal period.

Subtitle D—"Pay As You Go" Requirement for New Spending

Sec. 310. Spending offsets required.
Sec. 311. Three-fifths vote required to waive point of order.

TITLE IV—SUSTAINING MECHANISM

Sec. 401. Automatic continuing resolution.
Sec. 402. Contingency regulations.
Sec. 403. Unauthorized appropriations prohibited.

TITLE V—PROTECTION OF SOCIAL SECURITY

Sec. 501. Benefits protected against deficit reduction.
Sec. 502. Conforming amendment.

TITLE VI—TIMETABLE

Sec. 601. Revision of timetable.

TITLE VII—CONFORMING AMENDMENTS

Sec. 701. Conforming and technical amendments changing "concurrent" to "joint" resolutions.
Sec. 702. Further conforming and technical amendments.
Sec. 703. Conforming amendments to the Impoundment Control Act of 1974.
Sec. 704. Conforming amendment to title 31, United States Code.

TITLE VIII—DEFINITIONS AND RULES OF INTERPRETATION

Sec. 801. Definitions.
Sec. 802. Amendments to Congressional Budget and Impoundment Control Act of 1974.
Sec. 803. Use of terms.

TITLE IX—EFFECTIVE DATE

Sec. 901. General provision.
Sec. 902. Fiscal year 1993.

TITLE I—STATEMENT OF CONGRESSIONAL PURPOSE

SEC. 101. IMPROVEMENT IN DECISIONMAKING PROCESS.

Because the Federal budget process is the principal vehicle by which many of the most fundamental policy choices in Government are made, the purpose of this Act is to facilitate rational, informed, and timely decisions by the Congress in the course of that process.

SEC. 102. REFORM OF FISCAL MANAGEMENT.

It is the sense of the Congress that a properly functioning Federal budget process should focus the attention of policymakers and the public on the aggregate impact of Federal spending on the economy, and on the tradeoffs that must be made among priorities in order to control overall levels of spending. To this end, the Act is intended to establish a budget process that, in each fiscal period—

(1) requires the adoption of a budget before, not after, any spending begins;

(2) produces decisions on that budget early in the budgeting cycle;

(3) encourages cooperation between Congress and the President in adopting the budget;

(4) ties each subsequent spending decision to an overall, binding budget total;

(5) requires regular, periodic decisions on appropriate spending levels for all Federal programs, not just those arbitrarily deemed "controllable"; and

(6) produces a bias in favor of fiscal responsibility that can be overcome only if the Congress expressly determines to do so.

SEC. 103. SAFEGUARDS AGAINST DELAY AND INACTION.

The Congress further finds that a properly functioning budget process should contain safeguards against delay and inaction, so that temporary shut-downs of the Federal Government may be avoided when the President and the Congress fail to complete work on the budget prior to the beginning of a fiscal period. Accordingly, this Act is intended to provide an enforcement mechanism that gives meaning and importance to the timely adoption of a budget, and a sustaining mechanism that ensures a continuation of the Government should the political process produce deadlock or a failure to act in a timely fashion.

TITLE II—BINDING BUDGET LAW

SEC. 201. JOINT RESOLUTION ESTABLISHING BINDING BUDGET LAW.

To encourage early consultation and cooperation between the Congress and the

President on decisions concerning overall spending levels for all Federal programs, the Congress shall enact a binding budget law, in the form of a joint resolution, by April 15 of the calendar year before that in which the fiscal period commences. The technical amendments contained in title VI and section 701 of this Act are intended to assist in the establishment of this requirement. The budget law itself shall fit on a single page, which sets forth specific budget ceilings in the following 19 major functional categories, which together comprise the entire Federal budget.

Function 050: National Defense
Function 150: International Affairs
Function 250: General Science, Space and Technology
Function 270: Energy
Function 300: Natural Resources and Environment
Function 350: Agriculture
Function 400: Transportation
Function 450: Community and Regional Development
Function 500: Education, Training, Employment and Social Services
Function 550: Health
Function 570: Medicare
Function 600: Income Security
Function 650: Social Security
Function 700: Veterans Benefits and Services
Function 750: Administration of Justice
Function 800: General Government
Function 900: Net Interest
Function 920: Allowances
Function 950: Undistributed Offsetting Receipts.

By thus requiring that the budget process begin with highly generalized macroeconomic decisions about spending in 19 overall categories, this section is intended to facilitate agreement within Congress itself, and between Congress and the President, on how much the Federal Government should spend in the ensuing fiscal period.

SEC. 202. BUDGET REQUIRED BEFORE SPENDING BILLS MAY BE CONSIDERED.

Unless and until a joint resolution on the budget is enacted with respect to any major functional category for a fiscal period, it shall not be in order in either the House of Representatives or the Senate, or any committee or subcommittee thereof, to consider any spending bill affecting spending in that category, except as provided in Title III of this Act. The purpose of this provision is to ensure that until the budget is signed into law, no authorization or appropriations bill shall be considered in the Congress.

SEC. 203. "BASELINE" BUDGETING PROHIBITED; UNADJUSTED YEAR-TO-YEAR COMPARISONS REQUIRED IN BUDGET LAW.

Section 301(e) of the Congressional Budget Act of 1974 is amended by—

(1) inserting after the second sentence the following: "The starting point for any deliberations in the Committee on the Budget of each House on the joint resolution on the budget for the next fiscal period shall be the estimated level of outlays for the current period in each function and subfunction. Any increases or decreases in the Congressional budget for the next fiscal period shall be from such estimated levels.";

(2) striking paragraphs (2) and (3) and inserting the following:

"(2) a comparison of levels for the current fiscal period with proposed spending for the subsequent fiscal periods along with the proposed increase or decrease of spending in percentage terms for each function and subfunction;

"(3) information, data, and comparisons indicating the manner in which, and the basis on which, the committee determined each of the matters set forth in the joint resolution, including information on outlays for the current fiscal period and the decisions reached to set funding for the subsequent fiscal years;";

(3) inserting "and" after the semicolon in paragraph (7);

(4) striking paragraph (8); and

(5) redesignating paragraph (9) as paragraph (8).

The technical amendments contained in sections 702(g) and 704(b) of this Act are intended to apply the same prohibition against "baseline" budgeting to the budgets prepared by the President and the Congressional Budget Office reports to the Budget Committees.

SEC. 204. PRESIDENT'S BUDGET SUBMISSIONS.

On or before the fifteenth day after a joint resolution on the budget is enacted, the President shall submit to the Congress a detailed budget for the fiscal period beginning on October 1 of the current calendar year, including all summaries and explanations required under section 1105(a) of title 31, United States Code.

TITLE III—ENFORCEMENT MECHANICS

Subtitle A—Supermajority Required to Break Budget Law

SEC. 301. THREE-FIFTHS REQUIREMENT FOR ALL SPENDING BILLS IN ABSENCE OF BUDGET LAW.

Unless and until a joint resolution on the budget is enacted with respect to any major functional category for a fiscal period, it shall not be in order in the Senate or any committee or subcommittee thereof, to consider any spending bill affecting spending in that category unless it is approved by the affirmative vote of three-fifths of the Members voting, a quorum being present.

SEC. 302. THREE-FIFTHS REQUIREMENT FOR OVER-BUDGET SPENDING BILLS.

(a) DETERMINATION OF BUDGET EFFECT OF ALL PROPOSED SPENDING BILLS.—The Congressional Budget Office shall provide to the Senate (or the appropriate committee, subcommittee, or conference thereof) as soon as practicable after the introduction of any spending bill, its estimate of the costs in each major functional category attributable to that bill during the fiscal period in which it is to become effective and in each of the next 4 fiscal years, together with the basis for such estimate. The Congressional Budget Office report shall not be required, however, if the Congressional Budget Office certifies that a spending bill will likely result in applicable costs of less than $10,000,000. For purposes of estimating the costs attributable to any spending bill that includes new credit authority, the report shall deem the market value of any loan (if it were sold by the Federal Government) or the assumption cost of any guarantee (if it were assumed at market rates) to be the costs attributable to such loan or guarantee in the fiscal period in which it is made.

(b) CBO REPORT REQUIRED BEFORE CONSIDERATION OF SPENDING BILLS.—It shall not be in order in the Senate, or in any committee thereof, to consider any spending bill, unless and until the report referred to in subsection (a) has been made available to the Senate or the appropriate committee or subcommittee thereof.

(c) THREE-FIFTHS REQUIREMENT FOR ALL OVER-BUDGET SPENDING BILLS.—It shall not be in order in the Senate (or in any committee, subcommittee, or conference) to consider any spending bill for a fiscal period that the report referred to in subsection (a) indicates would in such fiscal period exceed a budget ceiling, unless such bill is approved by the affirmative vote of three-fifths of the Members voting, a quorum being present.

(d) DETERMINATION OF SPENDING IN A CATEGORY.—A spending bill shall be deemed to break a budget ceiling if—

(1) its cost in any major functional category as estimated in the report referred to in subsection (a); and

(2) all other budget authority, budget outlays, and entitlement authority, if any, in that major functional category for the relevant fiscal period contained in any previously enacted legislation for the fiscal period; and

(3) to the extent that new budget authority or entitlement authority for the relevant fiscal period has not been granted (or modified from the level of the previous fiscal period) in any other enacted legislation for any program within such major functional category, the amounts of budget authority and entitlement authority for such major functional category (or part thereof) for the previous fiscal period;

exceed the budget ceiling for such major functional category.

SEC. 303. THREE-FIFTHS REQUIREMENT FOR WAIVER OF THIS ACT.

No waiver of any provision of this Act, including the calendar deadlines for completion of Congressional action and the provisions concerning over-budget spending, shall be effective unless approved by the affirmative vote of three-fifths of the Members of the Senate, a quorum being present. No committee of the Senate shall have jurisdiction to report a rule governing procedures for consideration of spending bills covered by this Act, if such rule would violate the provisions of this section. Nothing in this provision shall be deemed to require a supermajority vote to amend this Act.

Subtitle B—Limited Enhanced Rescission Authority

SEC. 304. RESCISSION AUTHORITY LIMITED TO SPENDING ABOVE LIMITS OF CONGRESSIONAL BUDGET LAW.

The Impoundment Control Act of 1974 (2 U.S.C. 681 et seq.) is amended by redesignating sections 1013 through 1017 as sections 1014 through 1018, respectively, and inserting after section 1012 the following new section:

"RESCISSION OF SPENDING ABOVE LIMITS OF CONGRESSIONAL BUDGET LAW

"SEC. 1013. (a) TRANSMITTAL OF SPECIAL MESSAGE.—The President may transmit to both Houses of Congress for consideration in accordance with this section one or more special messages to rescind (in whole or in part) items of budget authority or entitlement authority sufficient to ensure that the levels of budget authority, entitlement authority, and outlays in a functional category do not exceed the levels stated in the budget law for the applicable fiscal period (or, in the absence of a budget law, do not exceed such levels in the previous fiscal period).

"(b) LIMITATIONS.—For purposes of this section—

"(1) continuing appropriations made pursuant to section 1311 of title 31, United States Code, shall be treated as continuing appropriations for an entire fiscal period; and

"(2) the levels of budget authority, entitlement authority, and outlays shall be determined on the basis of the reports made by the Congressional Budget Office pursuant to section 202 of the Budget Process Reform Act of 1990.

"(c) CONTENTS OF SPECIAL MESSAGE.—Each special message transmitted under subsection (a) shall specify, with respect to each item of budget authority to be rescinded, the matters referred to in paragraphs (1) through (5) of section 1012(a).

"(d) REQUIREMENT NOT TO MAKE AVAILABLE FOR OBLIGATION.—Any item of budget authority to be rescinded as set forth in such special message shall not be made available for obligation unless, within the prescribed 45-day period, Congress completes action on a rescission bill disapproving the rescission of the amount to be rescinded. Funds made available for obligation under this procedure may not be included in a special message again.

"(e) PROCEDURES.—

"(1)(A) Before the close of the third day beginning after the day on which a special message to rescind an item of budget authority is transmitted to the House of Representatives and the Senate under subsection (a), a bill may be introduced (by request) by the majority leader or minority leader of the House of the Congress in which the appropriation Act providing the budget authority originated to disapprove the rescission set forth in the special message. If such House is not in session on the day on which a special message is transmitted, the bill may be introduced in such House, as provided in the preceding sentence, on the first day thereafter on which such House is in session.

"(B) A bill introduced in the House of Representatives or the Senate pursuant to subparagraph (A) shall be referred to the Committee on Appropriations of such House. The Committee shall report the bill without substantive revision (and with or without recommendation) not later than 15 calendar days of continuous session of the Congress after the date on which the bill is introduced. A committee failing to report a bill within the 15-day period referred to in the preceding sentence shall be automatically discharged from consideration of the bill and the bill shall be placed on the appropriate calendar.

"(C) A vote on final passage of a bill introduced in a House of the Congress pursuant to subparagraph (A) shall be taken on or before the close of the 25th calendar day of continuous session of the Congress after the date of the introduction of the bill in such House. If the bill is agreed to, the Clerk of the House of Representatives (in the case of a bill agreed to in the House of Representatives) or the Secretary of the Senate (in the case of a bill agreed to in the Senate) shall cause the bill to be engrossed, certified, and transmitted to the other House of the Congress on the same calendar day on which the bill is agreed to.

"(2)(A) A bill transmitted to the House of Representatives or the Senate pursuant to paragraph (1)(C) shall be referred to the Committee on Appropriations of such House. The committee shall report the bill without substantive revision (and with or without recommendation) not later than 10 calendar days of continuous session of the Congress after the bill is transmitted to such House. A committee failing to report the bill within the 10-day period referred to in the preceding sentence shall be automatically discharged from consideration of the bill and the bill shall be placed upon the appropriate calendar.

"(B) A vote on the final passage of a bill transmitted to a House of the Congress pursuant to paragraph (1)(C) shall be taken on or before the close of the 10th calendar day of continuous session of the Congress after the date on which the bill is transmitted to such House. If the bill is agreed to in such House, the Clerk of the House of Representatives (in the case of a bill agreed to in the House of Representatives) or the Secretary of the Senate (in the case of a bill agreed to in the Senate) shall cause the engrossed bill to be returned to the House in which the bill originated, together with a statement of the action taken by the House acting under this paragraph.

"(3)(A) A motion in the House of Representatives to proceed to the consideration of a bill under this section shall be highly privileged and not debatable. An amendment to the motion shall not be in order, nor shall it be in order to move to reconsider the vote by which the motion is agreed to or disagreed to.

"(B) Debate in the House of Representatives on a bill under this section shall be limited to not more than 2 hours, which shall be divided equally between those favoring and those opposing the bill. A motion further to limit debate shall not be debatable and shall require an affirmative vote of two-thirds of the Members voting, a quorum being present. It shall not be in order to move to recommit a bill under this section or to move to reconsider the vote by which the bill is agreed to or disagreed to.

"(C) All appeals from the decisions of the Chair relating to the application of the Rules of the House of Representatives to the procedure relating to a bill under this section shall be decided without debate.

"(D) Except to the extent specifically provided in the preceding provisions of this subsection, consideration of a bill under this section shall be governed by the Rules of the House of Representatives applicable to other bills in similar circumstances.

"(4)(A) A motion in the Senate to proceed to the consideration of a bill under this section shall be privileged and not debatable. An amendment to the motion shall not be in order, nor shall it be in order to move to reconsider the vote by which the motion is agreed to or disagreed to.

"(B) Debate in the Senate on a bill under this section, and all debatable motions and appeals in connection therewith, shall be limited to not more than 2 hours. The time shall be equally divided between, and controlled by, the majority leader and the minority leader or their designees.

"(C) Debate in the Senate on any debatable motion or appeal in connection with a bill under this section shall be limited to not more than 1 hour, to be equally divided between, and controlled by, the mover and the manager of the bill except that in the event the manager of the bill is in favor of any such motion or appeal, the time in opposition thereto shall be controlled by the minority leader or his designee. Such leaders, or either of them, may, from time under their control on the passage of a bill, allot additional time to any Senator during the consideration of any debatable motion or appeal.

"(D) A motion in the Senate to further limit debate on a bill under this section is not debatable. A motion to recommit a bill under this section is not in order.

"(f) AMENDMENTS PROHIBITED.—No amendment to a bill considered under this section shall be in order in either the House of Representatives or the Senate. No motion to suspend the application of this subsection shall be in order in either House, not shall it be in order in either House for the presiding officer to entertain a request to suspend the application of this subsection by unanimous consent.".

SEC. 305. APPLICATION.

The amendments made by section 304 shall apply to items of budget authority (as defined in subsection (g)(1) of section 1013, as added by section 103(b) of this Act) provided by appropriation Acts (as defined in subsection (g)(3) of such section) that become law after the date of enactment of this Act.

Subtitle C—"Blank Check" Appropriations Prohibited

SEC. 306. INTENT OF SENATE.

It is the intent of the Senate, by this provision, to put an end to open-ended, "blank check" appropriations, which typically authorize the spending of "such sums as may be necessary." By requiring explicit decisions concerning the desired level of spending for each federal program (except social security and interest on the debt), it is intended that currently uncontrolled programs will be brought within the discipline of an overall budget.

SEC. 307. FIXED-DOLLAR APPROPRIATIONS REQUIRED.

(a) FIXED-DOLLAR APPROPRIATIONS.—For every account except social security and interest on the debt, every appropriation for a fiscal period for any program, project, or activity shall be for a specific, fixed dollar amount. Any appropriations of "such sums as may be necessary" (except with respect to the automatic continuing resolution provided for by section 401 of this Act) are hereby prohibited.

(b) POINT OF ORDER.—It shall not be in order in the Senate (or in any committee, subcommittee, or conference) to consider any appropriation that is in violation of subsection (a).

SEC. 308. AGENCY-ADJUSTED BENEFITS.

The head of each Executive agency that administers any entitlement program is authorized to adjust benefit levels and eligibility requirements, or both, with respect to the program such that aggregate outlays for a fiscal period do not exceed the fixed-dollar appropriation proved pursuant to this title such fiscal period. Such adjustment shall be made by rule or, pending adoption of appropriate rules, informal guideline. The purpose of any such rule or guideline shall be to ensure that the fixed-dollar appropriations for the program authorized by Congress are not exceeded.

SEC. 309. BUDGET AUTHORITY AND ENTITLEMENT AUTHORITY MAY COVER ONLY A SINGLE FISCAL PERIOD.

Chapter 13 of title 31, United States Code, is amended by inserting after section 1312 the following new section:

"§ 1313. Budget authority and entitlement authority must cover single fiscal period

"(a) Notwithstanding any other provision of law and except as provided by subsection (b), no budget authority or entitlement authority—

"(1) enacted on or after the date of enactment of this section shall be effective for more than one fiscal period; or

"(2) enacted before the date of enactment of this section shall continue in effect beyond the end of the first fiscal period beginning after the date of enactment of this section.

"(b) Subsection (a) does not apply with respect to appropriations for the repayment of indebtedness incurred under chapter 31 or benefits payable under the old-age, survivors, and disability insurance program established under title II of the Social Security Act.".

Subtitle D—"Pay As You Go" Requirement for New Spending

SEC. 310. SPENDING OFFSETS REQUIRED.

It shall not be in order in the Senate to consider any supplemental appropriation measure, or any other bill, resolution, or amendment which authorizes, requires, or provides new entitlements/mandatory spending as defined in section 3 (12)(A) of the Congressional Budget and Impoundment Control Act of 1974, or which authorizes spending for a fiscal period that the report referred to in section 302(a) of this Act indicates would in such fiscal period exceed a budget ceiling, unless any such increased spending called for therein is offset fully in each such fiscal period in such measure, bill, resolution or amendment by an equal amount of reductions in existing spending.

SEC. 311. THREE-FIFTHS VOTE REQUIRED TO WAIVE POINT OF ORDER.

The point of order established by this subtitle may be waived or suspended in the Senate, and an appeal of the ruling of the Chair on a point of order raised under this section may be sustained, only by the affirmative vote of three-fifths of the Members voting, a quorum being present.

TITLE IV—SUSTAINING MECHANISM

SEC. 401. AUTOMATIC CONTINUING RESOLUTION.

Chapter 13 of title 31, United States Code, is amended by inserting after section 1310 the following new section:

"§ 1311. Continuing appropriation

"(a) If for any account an appropriation for a fiscal period does not become law before the beginning of such fiscal period, there are hereby appropriated, out of any moneys in the Treasury not otherwise appropriated, and out of applicable corporate or other revenues, receipts, and funds, such sums as may be necessary to continue any program, project, or activity provide for in the most recent appropriation Act at a rate of operations not in excess of the rate of operations provided for such program, project, or activity in such Act. In no case shall the total dollar amount of appropriations for any program, project or activity pursuant to this section exceed the appropriation for such program, project, or activity in the most recent appropriation Act, determined on a fiscal-period basis.

"(b) Amounts appropriated pursuant to subsection (a) for a program, project, or activity shall be available during a fiscal period until the earlier of—

"(1) the day on which the appropriation bill for such fiscal period which would include the program, project, or activity takes effect; or

"(2) the last day of such fiscal period.".

SEC. 402. CONTINGENCY REGULATIONS.

Chapter 13 of title 31, United States Code, is amended by inserting after section 1311 the following new section:

"§ 1312. Contingency regulations

"(a) Notwithstanding any other provisions of law and except as provided by subsection (b), the head of each Executive agency that administers any entitlement program shall, by rule, (or informal guideline, pending adoption of appropriate rules), provide for the adjustments of benefit levels or eligibility requirements, or both, with respect to the program such that aggregate outlays for a fiscal period do not exceed the fixed-dollar appropriation provided pursuant to section 314 (requiring fixed-dollar appropriations) or section 401 (providing for an Automatic Continuing Resolution) of this Act for such fiscal period.

"(b) In the case of social safety net programs, the rules shall provide each State the option of receiving an aggregate amount for the fiscal period for such programs equal to the amount it received for the preceding fiscal period for such programs (in which case such State could, in its discretion, allocate the benefits among such programs to best meet the needs of recipients in its State) or the amounts it received for each such program for such preceding fiscal period.

"(c) As used in this section—

"(1) the term 'Executive agency' has the meaning given such term in section 105 of title 5, United States Code;

"(2) the term 'entitlement program' means any spending authority as defined in section 401(c)(2)(C) of the Congressional Budget Act of 1974; and

"(3) the term 'social safety net programs' means the following programs: family support payments, adoption assistance, child support enforcement, food stamps, foster care, medicaid, child nutrition programs, social services block grant, and supplemental security income (SSI).".

SEC. 403. UNAUTHORIZED APPROPRIATIONS PROHIBITED.

Section 401(b) is amended to read as follows:

"(b) CONTROLS ON LEGISLATION PROVIDING FUNDING.—(1) It shall not be in order in either the House of Representatives or the Senate to consider any bill, resolution, or conference report that provides budget authority or spending authority described in subsection (c)(2)(C) except a bill or resolution reported by the Committee on Appropriations of that House or a conference report made by a committee or conference all of whose conferees are member of the Committee on Appropriations.

"(2) Paragraph (1) shall not apply to benefits payable under the old-age, survivors, and disability insurance program established under title II of the Social Security Act.".

TITLE V—PROTECTION OF SOCIAL SECURITY

SEC. 501. BENEFITS PROTECTED AGAINST DEFICIT REDUCTION.

Nothing in this Act shall be construed to require or permit reductions in Social Security benefits otherwise payable pursuant to applicable law or regulations.

SEC. 502. CONFORMING AMENDMENT.

Chapter 13 of title 31, United States Code, is amended by inserting after section 1313 the following new section:

"§ 1314. Protection of social security from budget deficit reduction measures

"No reductions in benefits payable under the old-age, survivors, and disability insurance program established under title II of the Social Security Act shall be made as a consequence of the Budget Process Reform Act".

TITLE VI—TIMETABLE

SEC. 601. REVISION OF TIMETABLE.

Section 300 (2 U.S.C. 631) is amended to read as follows:

"TIMETABLE

"SEC. 300. The timetable with respect to the Congressional budget process for any Congress (beginning with the One Hundred Third Congress) is as follows:

"On or before:	Action to be completed:
First Monday in February.	President submits short-form budget recommendations.
February 15	Congressional Budget Office submits report to Budget Committees.
February 25	Committees submit views and estimates to Budget Committees.
March 31	Budget Committees report joint resolution on the budget.
April 15	Congress completes action on joint resolution on the budget and transmits it to the President for signature or veto.
President signs joint resolution, or Congress overrides veto.	Authorization and appropriations bills may be considered in the Congress.
15th day after enactment of joint budget resolution.	President submits complete budget and support documents.
June 10	Appropriations Committees report last of annual appropriation bills.
September 30	Congress completes action on reconciliation legislation and annual appropriation bills.
October 1	Fiscal period begins. Congress completes all necessary action on budget, authorizations and appropriations, or automatic continuing resolution takes effect.".

TITLE VII—CONFORMING AMENDMENTS

SEC. 701. CONFORMING AND TECHNICAL AMENDMENTS CHANGING "CONCURRENT" TO "JOINT" RESOLUTIONS.

(a) Sections 300, 301, 302, 303, 304, 305, 308, 310, and 311 (2 U.S.C. 631 et seq.) are amended by striking "concurrent resolutions" each place it appears and by inserting "joint resolutions".

(b) The table of contents set forth in section 1(b) is amended by striking "Concurrent" in the items relating to sections 301, 303, and 304 and inserting "Joint".

(c) Clauses 4(a)(2), 4(b)(2), 4(g), and 4(h) of rule X, clause 8 of rule XXIII, and rule XLIX of the Rules of the House of Representatives are amended by striking "concurrent" and by inserting in its place "joint".

(d) Section 258C(b)(1) of the Deficit Control Action of 1985 is amended by striking "concurrent" and by inserting "joint".

SEC. 702. FURTHER CONFORMING AND TECHNICAL AMENDMENTS.

(a) Section 302(f) (2 U.S.C. 633(f)) is amended—

(1) in paragraph (1) by striking "(1) IN THE HOUSE OF REPRESENTATIVES.—", by striking "new budget authority for such fiscal year, new entitlement authority effective during such fiscal year, or" and by striking "new discretionary budget authority, new entitlement authority, or"; and

(2) by striking paragraph (2).

(b) Section 303 is amended—

(1) in its heading by striking "NEW BUDGET AUTHORITY, NEW SPENDING AUTHORITY," and the comma before "OR CHANGES";

(2) in subsection (a) by striking paragraphs (1), (4) and (5) and by redesignating paragraphs (2), (3), and (6) as paragraphs (1), (2), and (3), respectively; and

(3) in subsection (b) by striking paragraph (1)(A), by striking "(B)", by striking the dash after "resolution", and by striking the last sentence.

(c) The table of contents set forth in section 1(b) is amended by striking "new budget authority, new spending authority," and the comma before "or changes" in the item relating to section 303.

(d) Section 311 is amended—

(1) in its heading by striking "NEW BUDGET AUTHORITY, NEW SPENDING AUTHORITY, AND";

(2) in subsection (a)(1) by striking "providing new budget authority for such fiscal year, providing new entitlement authority effective during such fiscal year, or"; by striking "the appropriate level of total new budget authority or total budget outlays set forth in the most recently agreed to concurrent resolution on the budget to be exceeded, or";

(3) by repealing subsection (b); and

(4) by redesignating subsection (c) as subsection (b), and by striking "new budget authority, budget outlays, new entitlement authority, and" in subsection (c) (as redesignated).

(e) The table of contents set forth in section 1(b) is amended by striking "new budget authority, new spending authority, and" in the item relating to section 311.

(f) The last sentence of clause 4(b) of rule XI of the Rules of the House of Representatives is amended by inserting before the period at the end of the following: "; nor shall it report any rule or order which would waive any point of order set forth in title III of the Budget Process Reform Act".

(g) The first sentence of section 202(f)(1) of the Congressional Budget Act of 1974 is amended to read as follows: "On or before February 15 of each year, the Director shall submit to the Committees on the Budget of the House of Representatives and the Senate a report, for the fiscal year commencing on October 1 of that year, with respect to fiscal policy, including (A) estimated budget outlays in all functions and subfunctions for appropriated accounts for the current fiscal year and estimated budget outlays under current law for all entitlement programs for the next fiscal year, (B) alternative levels of total revenues, total new budget authority, and total outlays (including related surpluses and deficits), and (C) the levels of tax expenditures under existing law, taking into account projected economic factors and any changes in such levels based on proposals in the budget submitted by the President for such fiscal year.".

SEC. 703. CONFORMING AMENDMENTS TO THE IMPOUNDMENT CONTROL ACT OF 1974.

(a) Section 1011(5) (2 U.S.C. 682(5)) is amended—

(1) by striking "1012, and" and inserting "1012, the 20-day periods referred to in paragraphs (1)(b) and (2)(A) of section 1013(c), the 45-day period referred to in section 1013(b), and";

(2) by striking "1012 during" and inserting "1012 or 1013 during";

(3) by striking "of 45" and inserting "of the applicable number of"; and

(4) by striking "45-day period referred to in paragraph (3) of this section and in section 1012" and inserting "period or periods of time applicable under such section".

(b) Section 1011 is further amended—

(1) in paragraph (4) by striking "1013" and inserting "1014"; and

(2) in paragraph (5)—

(A) by striking "1016" and inserting "1017"; and

(B) by striking "1017(b)(1)" and inserting "1018(b)(1)".

(c) Section 1015 (as redesignated) is amended—

(1) by striking "1012 or 1013" each place it appears and inserting "1012, 1013, or 1014";

(2) in subsection (b)(1) by striking "1012" and inserting "1012 or 1013";

(3) in subsection (b)(2) by striking "1013" and inserting "1014"; and

(4) in subsection (e)(1)—

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

(B) by redesignating subparagraph (B) as subparagraph (C),

(C) by striking "1013" in subparagraph (C) (as redesignated), and

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

"(B) he has transmitted a special message under section 1013 with respect to a proposed rescission; and".

(d) Section 1016 (as redesignated) is amended by striking "1012 or 1013" each place it appears and inserting "1012, 1013, or 1014".

(e) Section 1012(b) is amended by inserting before the last sentence the following new sentence: "The preceding sentence shall not apply to any item of budget authority proposed by the President to be rescinded under this section that the President has also proposed to rescind under section 1013 and with respect to which the 45-day period referred to in subsection (e) of such section has not expired.".

(f) The table of sections set forth in section 1(b) is amended—

(1) by redesignating the items relating to sections 1013 through 1017 as items relating to sections through 1018, respectively; and

(2) by inserting after the item relating to section 1012 the following new item:

"Sec. 1013. Rescission of spending above limits of congressional budget law.".

SEC. 704. CONFORMING AMENDMENT TO TITLE 31, UNITED STATES CODE.

(a) The analysis of chapter 13 of title 31, United States Code, is amended by inserting after the item relating to section 1310 the following new items:

"Sec. 1311. Continuing appropriation.
"Sec. 1312. Contingency regulations.
"Sec. 1313. Budget authority and entitlement authority must cover single fiscal period.
"Sec. 1314. Protection of Social Security from budget deficit reduction measures.".

(b) Paragraph (5) of section 1105(a) of title 31, United States Code, is amended to read as follows:

"(5) except as provided in subsection (b) of this section—

"(A) estimated expenditures and proposed appropriations for each function and subfunction in the current fiscal year;

"(B) estimated expenditures and proposed appropriations the President decides are necessary to support the Government for each function and subfunction in the fiscal year for which the budget is submitted; and

"(C) a comparison of levels of estimated expenditures and proposed appropriations for each function and subfunction in the current fiscal year and the fiscal year for which the budget is submitted, along with the proposed increase or decrease of spending in percentage terms for each function and subfunction;".

(b) Section 1105(a) of title 31, United States Code, is amended—

(1) in the first sentence, by inserting "on a single page, which sets forth specific budget ceilings for that fiscal period in the nineteen major functional categories described in section 201 of the Budget Process Reform Act" before the period; and

(2) by repealing the second sentence and all of the third sentence preceding the colon and inserting the following: "On or before the fifteenth day after a joint resolution on the budget for that budget period is enacted, the President shall submit a detailed budget for that fiscal period, including a budget message and summary and supporting information, as follows".

TITLE VIII—DEFINITIONS AND RULES OF INTERPRETATION

SEC. 801. DEFINITIONS.

(a) DEFINITION OF BUDGET LAW.—Section 3(4) (2 U.S.C. 622(4)), containing general definitions under the Budget Act is amended to read as follows:

"(4) The term 'budget law' or 'joint resolution on the budget' means—

"(A) a joint resolution setting forth the simplified budget for the United States Government for a fiscal period as provided in section 301; and

"(B) any other joint resolution revising the budget for the United States Government for a fiscal period as described in section 304.".

(b) OTHER DEFINITIONS.—Section 3 (2 U.S.C. 622) is further amended by adding at the end the following new paragraphs:

"(11) The term 'major functional category' refers to the groupings of budget authority, budget outlays, and credit authority (including continuing appropriations pursuant to section 1331 of title 31, United States Code) into any one of the following:

"Function 050: National Defense
"Function 150: International Affairs
"Function 250: General Science, Space and Technology
"Function 270: Energy
"Function 300: Natural Resources and Environment
"Function 350: Agriculture
"Function 400: Transportation
"Function 450: Community and Regional Development
"Function 500: Education, Training, Employment and Social Services
"Function 550: Health
"Function 570: Medicare
"Function 600: Income Security
"Function 650: Social Security
"Function 700: Veterans Benefits and Services
"Function 750: Administration of Justice
"Function 800: General Government
"Function 900: Net Interest
"Function 920: Allowances
"Function 950: Undistributed Offsetting Receipts.".

"(12) The term 'budget ceiling' means the dollar amount set forth in a budget law for a major functional category.

"(13) The term 'spending bill' means any bill or resolution, or amendment thereto or conference report thereon, which provides budget authority, spending authority, credit authority, or outlays.

"(14) The term 'fiscal period' means the twelve-month fiscal year beginning October 1 currently in use, or any other fiscal period (such as a biennial period) that may subsequently be adopted for the management of the budget of the United States.".

SEC. 802. AMENDMENTS TO CONGRESSIONAL BUDGET AND IMPOUNDMENT CONTROL ACT OF 1974.

Except as otherwise expressly provided, whenever any provision of this Act is expressed as an amendment to a section or other provision, the reference shall be deemed to be made to a section or other provision of the Congressional Budget and Impoundment Control Act of 1974.

SEC. 803. USE OF TERMS.

Whenever any term is used in this Act which is defined in section 3 of the Congressional Budget Impoundment Control Act of 1974, the term shall have the meaning given to such term in that Act.

TITLE IX—EFFECTIVE DATE

SEC. 901. GENERAL PROVISION.

Except as provided in section 902, this Act and the amendments made by it shall be-

come effective January 1, 1995, and shall apply to fiscal periods beginning after September 30, 1995.

SEC. 902. FISCAL YEAR 1993.

Notwithstanding subsection (a), the provisions of—

(1) the Congressional Budget Impoundment Control Act of 1974,

(2) title 31, United States Code, and

(3) the Balanced Budget and Emergency Deficit Control Act of 1985, (as such provisions were in effect on the day before the effective date of this Act) shall apply to the fiscal year beginning on October 1, 1994.

Mr. SHELBY. Mr. President, next year, we will pay close to $300 billion just on interest on the national debt—$300 billion. Mr. President. That is about one-fifth of the budget for 1995.

Because we will spend so much on our budget in 1995 on just financing our national debt, just paying the interest alone, not paying anything off, I remain unconvinced that we are on the right track, that we are doing what we need to do to address our chronic deficit and national debt problems.

While CBO's recent projection of the 1995 deficit is lower than originally expected, it does not speak to our long-term deficit and debt future, because we have not changed the way we spend money around here. Our system has not changed; yet, our problems are systemic.

Indeed, Mr. President, although deficit reduction was the justification for last year's tax bill, which raised over $230 billion in new taxes, Federal spending continues to increase at a progressive rate through the next 5 years. From 1994 through 1998, spending will continue to increase from $1.5 to $1.8 trillion.

So, Mr. President, in reality, at the same time Congress was raising new taxes, it was also increasing spending.

Mr. President, I ask you: Is this fiscal restraint? Is this a sign of a Government on a diet? It would not appear so. Rather, it looks more like the kind of diet that ends up putting 10 pounds on you instead of taking 10 pounds off.

Let us not forget spending cuts. The President claims over 300 specific program cuts in the fiscal 1995 budget, and several proposals have been offered over the past few months which would have similarly made specific program cuts in order to lower the deficit.

The fact is, however, Mr. President, that many of these proposals had nothing to do with lowering the deficit. Instead, they would only have authorized a shift in spending. These proposals would not only have had no effect on shrinking the size of the Federal pie, but, in fact, even with the proposed cuts, the Federal pie would continue to get larger through Federal spending.

So, Mr. President, I submit that while we may be slowing the growth of the debt, we are still accelerating toward fiscal disaster.

Mr. President, if we want to put the brakes on excess Federal spending, we need to change how we go about spending the Federal dollar. We need to reform our annual budget process.

What role does our budget process play today if we have to wait to pass a 5-year budget agreement locking in spending levels before we can address spending cut proposals? And why should it be necessary for Congress to always promise spending cuts in the future, or as we say, in the "outyears," and deliver tax increases today or—or in the case of the 1994 tax bill—yesterday? You will recall that it was retroactive taxes.

The reason is because Congress is unaccountable—unaccountable by choice as well as by nature. Congress has no real incentives and faces no threatened penalties to encourage fiscally responsible behavior here.

Thus far, Mr. President, Congress has sought and approved simple, politically expedient solutions to our complex deficit and debt problems. In fact, the rallying call for deficit reduction that started this past summer may have proved to be more of a cloak than a standard in combating the deficit and our national debt.

Our current budget process favors increased Federal spending, not less spending. It is impotent in enforcing current budget ceilings and remains hostile to cuts in Federal programs. In short, Mr. President, the budget process that we have today itself is impervious to efforts to cut the Federal deficit and national debt.

Indeed, Mr. President, the budget process can strengthen or weaken Congress' ability and Congress' resolve to gain control over its excessive spending habits.

Senator LOTT and I have joined the efforts of Representatives COX and STENHOLM in trying to create a budgetary framework that is receptive to efforts to curb Federal spending and facilitate fiscal responsibility here.

The Budget Process Reform Act seeks to take Federal spending off of automatic pilot and put it under stricter fiscal controls. It proposes to reform the process to provide greater budget discipline and stronger budget enforcement mechanisms.

The act would require that a legally binding budget resolution be in place prior to the consideration of any appropriations or authorization bills. Such a budget would fit on one page, setting aggregate spending totals for each of the 19 spending categories we deal with.

The bill would eliminate baseline budgeting and require that all entitlements, excepting Social Security and interest on the debt, are given fixed-sum appropriations.

In addition, in order to have effective enforcement, the bill would require a three-fifths supermajority to spend overbudget and would grant the President enhanced rescission authority when a budget category exceeds its allowable spending level.

Mr. President, this is effective legislation. It contains no gimmicks. Rather, the bill establishes a process for spending Federal dollars that imposes discipline and order while providing the flexibility to prioritize Federal spending without draconian measures such as across-the-board cuts or unlimited line-item veto authority.

While many may seek solace in the fact that the annual deficit is less than predicted for this year, it is a hollow promise for our future and for our children's future.

Without doubt, Mr. President, Congress must reform its budget process if it is ever to effectively address this country's sinister deficits and heavy debt—and ensure its citizens of a bright economic future.

I ask my colleagues in the Senate to join Senator LOTT and me in cosponsoring this important piece of legislation.

By Mr. SHELBY (for himself, Mr. CONRAD, Mr. JOHNSTON, Mr. BREAUX, and Mr. FAIRCLOTH):

S. 1956. A bill to amend the Consumer Credit Protection Act to improve disclosures made to consumers who enter into rental-purchase transactions, to set standards for collection practices, and for other purposes; to the Committee on Banking, Housing, and Urban Affairs.

RENTAL PURCHASE REFORM ACT OF 1994

• Mr. SHELBY. Mr. President, today I introduce the Rental-Purchase Reform Act of 1994, a bill that would regulate the rental-purchase industry. This legislation would ensure that consumers are provided straightforward disclosures of the important terms in rental-purchase agreements.

Under a rental-purchase transaction, consumers rent televisions, stereos, VCR's, refrigerators, furniture, and other household items by the week or by the month. There is no long-term obligation to rent the property beyond the initial rental period. However, after renting the property for a specified period of time, ownership of the item transfers automatically to the consumer.

Consumers have found rental-purchase transactions to be an attractive means of obtaining goods that may be out of reach through traditional purchase transactions. It is my understanding that renters become owners in approximately 25 percent of rental-purchase transactions.

There have been some abuses in this industry. Passage of this legislation will help curb these abuses. While this bill is similar to legislation enacted in 36 States, it goes farther than many of these State statutes. This legislation requires 11 contract disclosures, including the amount and timing of rental payments, the total number and the

total dollar amount of rental payments and other charges necessary to acquire ownership, whether the property is new or used, the cash price of the property, and other disclosures important to consumers when shopping for merchandise for their homes.

This bill also requires price tags on all of the merchandise in rental-purchase stores showing consumers the important aspects of the transaction. The bill would ensure that consumers may terminate a rental-purchase agreement voluntarily at any time with no penalty. This bill also contains substantive consumer protections, including reinstatement rights for consumers, which allow them up to 90 days to catch up on any past-due payments.

This bill also regulates the collection practices of rental merchants and the advertising of rental-purchase products. Specifically, the bill will require lessors to disclose important financial information in the advertising of rental rates or the right to acquire ownership. Finally, this bill would allow consumers to file suit for violations of the act with statutory damages and would preempt State laws which do not provide the same level of protection to rental-purchase consumers as that contained in this bill. Although 36 States have passed legislation to regulate this industry, uniform Federal regulation is still needed. I urge my colleagues to support this legislation and I ask unanimous consent that the bill be printed in the RECORD.

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

S. 1956

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 "Rental-Purchase Reform Act of 1994".

SEC. 2. REQUIREMENTS FOR RENTAL-PURCHASE TRANSACTIONS.

The Consumer Credit Protection Act (15 U.S.C. 1601 et seq.) is amended by adding at the end the following new title:

"TITLE X—RENTAL-PURCHASE TRANSACTIONS

"§ 1001. Short title

"This title may be cited as the 'Rental-Purchase Reform Act of 1994'.

"§ 1002. Findings and purposes

"(a) The Congress finds that a significant number of consumers engage in rental-purchase transactions. These transactions have taken place, in many instances, without provision of adequate disclosures and other protections to consumers.

"(b) The purposes of this title are the following:

"(1) To assure meaningful disclosure of the terms of rental-purchase agreements, including disclosure of all costs to consumers under those agreements.

"(2) To regulate the collection practices of rental-purchase merchants.

"(3) To provide certain substantive rights to consumers under rental purchase agreements.

"§ 1003. Definitions

"(a) For purposes of this title:

"(1) The term 'advertisement' means a commercial message in any medium intended to aid, promote, or assist, directly or indirectly, a rental-purchase agreement.

"(2) The term 'agricultural purpose' includes—

"(A) the production, harvest, exhibition, marketing, transportation, processing, or manufacture of agricultural products by a natural person who cultivates plants or propagates or nurtures agricultural products; and

"(B) the acquisition of farmlands, real property with a farm residence, or personal property and services used primarily in farming.

"(3) The term 'Board' means the Board of Governors of the Federal Reserve System.

"(4) The term 'consumer' means an individual that, as a party to a rental-purchase agreement, is provided use of personal property.

"(5) The term 'date of consummation' means the date on which a consumer becomes contractually obligated under a rental-purchase agreement.

"(6) The term 'merchant' means a person who provides the use of property through a rental-purchase agreement and to whom a consumer's initial obligation under the agreement is payable.

"(7) The term 'personal property' means property that is not real property under the laws of the State where the property is located when it is made available under a rental-purchase agreement.

"(8) The term 'rental-purchase agreement'—

"(A) means an agreement between a consumer and a merchant—

"(i) under which the merchant agrees to provide to the consumer the use of personal property for an initial period of 4 months or less;

"(ii) that is automatically renewable with each payment by the consumer; and

"(iii) that permits but does not obligate the consumer to become the owner of the property; and

"(B) does not include any credit sale (as that term is defined in section 103(g)).

"(9) The term 'State' means any State, the District of Columbia, the Commonwealth of Puerto Rico, and any territory or possession of the United States.

"(b) REFERENCES TO REGULATIONS.—Any reference to any provision of this title shall be considered to include reference to the regulations prescribed by the Board under this title.

"§ 1004. Exempted transactions

"This title does not apply to rental-purchase agreements primarily for business, commercial, or agricultural purposes, or those made with government agencies or instrumentalities or with organizations.

"§ 1005. General disclosure requirements

"(a) The merchant under a rental-purchase agreement shall disclose to the consumer under the agreement the information required by this title. In a transaction involving more than one merchant, only one merchant is required to make the disclosures.

"(b) The disclosures required under this title shall be made—

"(1) at or before the date of consummation of the rental-purchase agreement;

"(2) clearly and conspicuously in writing, in a form that the consumer may keep; and

"(3) in the case of disclosures required under section 1006, segregated from all other terms, data, or information provided to the consumer.

"(c) If a disclosure required to be made by a merchant under this title becomes inaccurate as the result of any act, occurrence, or agreement occurring after delivery of the required disclosure, the resulting inaccuracy is not a violation of this title.

"§ 1006. Rental-purchase disclosures

"For each rental-purchase agreement, the merchant shall disclose to the consumer under the agreement the following, as applicable:

"(1) The amount of the initial rental payment, including any fees, taxes, or other charges which may be required at or before the date of consummation of the agreement.

"(2) The amount and timing of rental renewal payments.

"(3) The total number and the total dollar amount of rental payments and other charges necessary to acquire ownership of the property.

"(4) A statement that the consumer will not own the property until the consumer has made the total dollar amount necessary to acquire ownership.

"(5) A statement that the total dollar amount of payments does not include other charges, such as late payment or reinstatement fees, and that the consumer should examine the rental-purchase agreement for an explanation of these charges, if applicable.

"(6) A statement that the consumer may be responsible for the fair market value of the property if it is lost, stolen, damaged, or destroyed.

"(7) A statement indicating whether the property is new or used, except that a statement that indicates that new property is used property is not a violation of this title.

"(8) A statement of—

"(A) the manufacturer's suggested retail price, where applicable; or

"(B) the price for which the property is available from the merchant in a cash sale.

"(9) A clear statement of the terms of the consumer's option to purchase.

"(10) A statement—

"(A) identifying the party that is responsible for maintaining or servicing the property while it is being rented;

"(B) describing that responsibility; and

"(C) disclosing that if any part of a manufacturer's express warranty covers the property at the time the consumer acquires ownership of the property, the warranty will be transferred to the consumer if allowed by the terms of the warranty.

"(11) The date of consummation of the transaction and the identities of the merchant and consumer.

"§ 1007. Point-of-sale disclosures

"Each item of property displayed or offered pursuant to a rental-purchase agreement shall have affixed to it a point-of-sale card, tag, or label that clearly and conspicuously discloses only the following:

"(1) Whether the property is new or used.

"(2) The price of the property in a cash sale.

"(3) The amount of each rental payment under the agreement.

"(4) The total number of rental payments necessary to acquire ownership of the property under the agreement.

"(5) The total dollar amount of rental payments necessary to acquire ownership of the property under the agreement.

"§ 1008. Prohibited practices

"(a) A rental-purchase agreement may not contain—

"(1) a confession of judgment;

"(2) a negotiable instrument;

"(3) a security interest or any other claim of a property interest in any goods except

those goods the use of which is provided by the merchant pursuant to the agreement;

"(4) a wage assignment; or

"(5) a waiver by the consumer of a claim or defense.

"(b) Each rental-purchase agreement shall—

"(1) provide a statement of any obligation of the consumer and the merchant under the agreement to repair any defect or malfunction of the property covered by the agreement, and any limitation of those obligations;

"(2) provide that the consumer may terminate the agreement without penalty by voluntarily surrendering or returning the property covered by the agreement upon expiration of any rental term; and

"(3) contain a provision for reinstatement of the agreement, which at a minimum—

"(A) permits a consumer who fails to make a timely rental renewal payment to reinstate the agreement, without losing any rights or options which exist under the agreement, by the payment of all past due rental charges and any late fee, within 7 days after the renewal date;

"(B) if the consumer returns or voluntarily surrenders the property covered by the agreement, other than through judicial process, during the applicable reinstatement period set forth in subparagraph (A), permits the consumer to reinstate the agreement during a period of at least 30 days after the date of the return or surrender of the property by the payment of all past due rental charges, and any applicable redelivery, repair, or late fees; and

"(C) if the consumer has paid 60 percent or more of the total dollar amount of payments necessary to acquire ownership of the property under the agreement and returns or voluntarily surrenders the property, other than through judicial process, during the applicable reinstatement period set forth in subparagraph (A), permits the consumer to reinstate the agreement during a period of at least 90 days after the date of the return of the property by the payment of all past due rental charges, and any applicable redelivery, repair, or late fees.

"(c) Subsection (b) shall not be construed to prevent a merchant from attempting to repossess property during the reinstatement period, but such a repossession does not affect the consumer's right to reinstate. Upon reinstatement, the merchant shall provide the consumer with the same property, or substitute property of comparable quality and condition.

"§ 1009. Collection practices

"(a) A merchant under a rental-purchase agreement, in communicating with any person other than the consumer for the purpose of acquiring information as to the location of a consumer—

"(1) shall identify himself or herself and state that he or she is confirming or correcting location information concerning the consumer;

"(2) shall not communicate with any person more than once, unless—

"(A) requested to do so by the person; or

"(B) the merchant reasonably believes that the earlier response is erroneous or incomplete and that the person now has correct or complete location information;

"(3) shall not communicate by postcard;

"(4) shall not use any language or symbol on any envelope or in the contents of any communication which indicates that the communication relates to the recovery or repossession of property; and

"(5) shall not communicate with any person other than the consumer's attorney, after the merchant knows the consumer is represented by an attorney with regard to the rental-purchase agreement and has knowledge of, or can readily ascertain, the attorney's name and address, unless the attorney fails to respond within a reasonable period of time to communication from the merchant or unless the attorney consents to direct communication with the consumer.

"(b)(1) Without the prior consent of the consumer given directly to the merchant or the express permission of a court of competent jurisdiction, a merchant shall not communicate with a consumer in connection with the recovery or repossession of property—

"(A) at the consumer's place of employment;

"(B) at any unusual time or place or a time; or

"(C) at any place known or which should be known to be inconvenient to the consumer.

"(2) In the absence of knowledge of circumstances to the contrary, a merchant shall assume that the convenient time for communicating with a consumer is after 8:00 a.m. and before 9:00 p.m., local time at the consumer's location.

"(c) A merchant may not communicate, in connection with a rental-purchase agreement, with any person other than the consumer, the consumer's attorney, or the merchant's attorney, except—

"(1) as reasonably necessary to acquire location information concerning the consumer in accordance with subsection (a);

"(2) after receiving prior consent from the consumer given directly to the merchant;

"(3) after receiving express permission of a court of competent jurisdiction; or

"(4) as reasonably necessary to effectuate a post-judgment judicial remedy.

"(d) If a consumer notifies the merchant in writing that the consumer desires the merchant to cease further communication with the consumer, the merchant shall not communicate further with the consumer with respect to the rental-purchase agreement, except—

"(1) to advise the consumer that the merchant's further efforts to communicate are being terminated;

"(2) to notify the consumer that the merchant may invoke specified remedies allowable under law which are ordinarily invoked by the merchant; or

"(3) as necessary to effectuate any post-judgment remedy.

"(e) A merchant shall not—

"(1) use or threaten to use violence or criminal means to harm the physical person, reputation, or property of any person;

"(2) use obscene, profane, or abusive language;

"(3) cause a telephone to ring, or engage any person in telephone conversation, repeatedly or continuously with intent to annoy, abuse, or harass any person;

"(4) place any telephone call without disclosing the caller's identity; or

"(5) perform any other act intended to harass or abuse a consumer.

"§ 1010. Receipts and accounts

"A merchant shall provide the consumer a written receipt for each payment made by cash or money order.

"§ 1011. Renegotiations and extensions

"A renegotiation of a rental-purchase agreement is deemed to be a new agreement for purposes of this title, requiring new disclosures. A renegotiation shall be considered to occur when an existing rental-purchase agreement is satisfied and replaced by a new agreement undertaken by the same merchant. Events such as the following shall not be treated as renegotiations:

"(1) The addition or return of property in a multiple-item agreement or the substitution of property, if in either case the average payment allocable to a payment period is not changed by more than 25 percent.

"(2) A deferral or extension of one or more periodic payments, or portions of a periodic payment.

"(3) A reduction in charges in the agreement.

"(4) An agreement involving a court proceeding.

"(5) Any other event described in regulations prescribed by the Board.

"§ 1012. Rental-purchase advertising

"(a) If an advertisement refers to or states the amount of any payment or the right to acquire ownership, the merchant that makes the advertisement shall also clearly and conspicuously state in the advertisement the following items, as applicable:

"(1) That the transaction advertised is to occur under a rental-purchase agreement.

"(2) The total number and total dollar amount of rental payments necessary to acquire ownership under the agreement.

"(3) That the consumer acquires no ownership rights in the property if the total dollar amount of rental payments necessary to acquire ownership is not paid.

"(b) The owner or personnel of any medium in which an advertisement appears or through which it is disseminated shall not be liable for a violation of this section.

"(c) Subsection (a) does not apply to an advertisement which—

"(1) does not refer to or state the amount of any payment,

"(2) is published in the yellow pages of a telephone directory or in any similar directory of businesses, or

"(3) is displayed in the merchant's place of business.

"§ 1013. Administrative enforcement

"(a) The requirements imposed by this title shall be enforced by the Board.

"(b) All of the functions and powers of the Board under this Act are available to the Board to enforce compliance by any person with the requirements imposed by this title.

"§ 1014. Civil liability

"(a) Except as otherwise provided in this title, a merchant who willfully violates this title with respect to a consumer is liable to the consumer in an amount equal to the following:

"(1) In an action by an individual consumer, the sum of—

"(A) actual damages sustained by the consumer as a result of the violation; and

"(B) not less than $100.

"(2) In a class action, the amount the court determines to be appropriate with no minimum recovery as to each member.

"(b)(1) An action under this section may be brought in any United States district court of competent jurisdiction, by not later than one year of the date of the occurrence of the violation.

"(2) This subsection does not bar a consumer from asserting a violation of this title in an action to collect a debt brought more than one year after the date of the occurrence of the violation as a matter of defense by recoupment or set off, except as otherwise provided by State law.

"(c)(1) A consumer may not take any action to offset any amount for which a merchant is potentially liable under subsection

(a) against any amount owed by the consumer, unless the amount of the merchant's liability has been determined by judgment of a court of competent jurisdiction in an action in which the merchant was a party.

"(2) This subsection does not bar a consumer who is in default on the obligation from asserting a violation of this title as an original action, or as a defense or counterclaim to an action brought by the merchant to collect amounts owed by the consumer.

"§ 1015. Defenses

"(a) A merchant is not liable under section 1014 for a violation of the requirements of section 1006 if within 15 days after first having knowledge of the violation, and before an action under section 1014 is filed or written notice of the violation is received from the consumer, the merchant notifies the consumer of the violation and makes whatever adjustments in the account are necessary to assure that the consumer will not be required to pay an amount in excess of the amounts actually disclosed.

"(b)(1) A merchant is not liable under this title for any act done or omitted in good faith in conformity with any rule, regulation, interpretation, or approval promulgated by the Board or by an official duly authorized by the Board.

"(2) Paragraph (1) applies even if, after the act or omission has occurred, the rule, regulation, interpretation, or approval is amended, rescinded, or determined by judicial or other authority to be invalid for any reason.

"(c) A merchant is not liable under this title for a violation if the merchant establishes, and at the time of the violation is implementing, procedures reasonably calculated to prevent the violation.

"§ 1016. Liability of assignees

"(a) For purposes of sections 1014 and 1015, the term 'merchant' includes an assignee of a merchant. However, an action under section 1014 for a violation of this title may be brought against an assignee only if the violation is apparent on the face of the rental-purchase agreement to which it relates. A violation apparent on the face of a rental-purchase agreement includes a disclosure that can be determined to be incomplete or inaccurate from the face of the agreement. An assignee has no liability in a case in which the assignment is involuntary.

"(b) In an action by or against an assignee, the consumer's written acknowledgement of receipt of a disclosure shall be conclusive proof that the disclosure was made, if the assignee had no knowledge that the disclosure had not been made when the assignee acquired the rental-purchase agreement to which it relates.

"§ 1017. Regulations

"(a) The Board shall issue regulations to carry out the purposes of this title, to prevent its circumvention, and to facilitate compliance with its requirements. The regulations may contain classifications and differentiations and may provide for adjustments and exceptions for any class of transaction.

"(b) The Board shall publish model disclosure forms and clauses to facilitate compliance with the disclosure requirements of this title and to aid consumers in understanding transactions under rental-purchase agreements. In designing forms, the Board shall consider the use by merchants of data processing or similar automated equipment. Use of the models shall be optional. A merchant who properly uses the model disclosure forms shall be deemed to be in compliance with the disclosure requirements.

"(c) Any regulation issued by the Board, or any amendment or interpretation thereof, that requires a disclosure different from the disclosures previously required by regulations of the Board shall not be effective before the October 1 that follows the date of promulgation by at least 6 months. The Board may at its discretion lengthen that period of time to permit merchants to adjust their forms to accommodate new requirements. The Board may also shorten that period of time, notwithstanding the first sentence, if it makes a specific finding that such action is necessary to comply with the findings of a court or to prevent unfair or deceptive practices. In any case, merchants may comply with any newly promulgated disclosure requirement prior to its effective date.

"§ 1018. Relation to state laws

"This title does not annul, alter, affect, or exempt any person subject to this title from complying with the laws of any State with respect to a matter covered by this title, except to the extent that those laws—

"(1) are inconsistent with this title; and

"(2) provide a lesser degree of protection for consumers.

"§ 1019. Effect on government agencies

"No civil liability under this title may be imposed on the United States or any of its departments or agencies, any State or political subdivision, or any agency of a State or political subdivision.".●

By Mr. PELL (by request):

S. 1957. A bill to provide for a United States contribution to the Interest Subsidy Account of the successor [EASF II] to the Enhanced Structural Adjustment Facility of the International Monetary Fund; to the Committee on Foreign Relations.

EASF LEGISLATION

Mr. PELL. Mr. President, by request, I introduce for appropriate reference a bill to provide for a United States contribution to the interest subsidy account of the successor [ESAF II] to the Enhanced Structural Adjustment Facility of the International Monetary Fund.

This proposed legislation has been requested by the Department of the Treasury, and I am introducing it in order that there may be a specific bill to which Members of the Senate and the public may direct their attention and comments.

I reserve my right to support or oppose this bill, as well as any suggested amendments to it, when the matter is considered by the Committee on Foreign Relations.

I ask unanimous consent that the bill be printed in the RECORD at this point, together with the letter from the general counsel of the Department of the Treasury, which was received on March 16, 1994.

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

S. 1957

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Bretton Woods Agreements Act (22 U.S.C. 286 et seq.) is amended by adding at the end thereof the following new section:

"SEC. 61. CONTRIBUTION TO THE INTEREST SUBSIDY ACCOUNT OF THE SUCCESSOR (ESAF II) TO THE ENHANCED STRUCTURAL FACILITY OF THE INTERNATIONAL MONETARY FUND.

"(a) CONTRIBUTION AUTHORIZED.—

"(1) IN GENERAL.—Subject to paragraph (2), the United States Governor of the Fund may contribute $100,000,000 to the Interest Subsidy Account of the successor (ESAF II) to the Enhanced Structural Adjustment Facility of the Fund on behalf of the United States.

"(2) CONTRIBUTION.—The contribution authorized in paragraph (1) shall be effective only to such extent or in such amounts as are provided in advance in appropriations Acts.

"(b) LIMITATION ON AUTHORIZATION OF APPROPRIATIONS.—To pay for the contribution authorized in subsection (a), there are authorized to be appropriated $100,000,000 without fiscal year limitation for payment by the Secretary of the Treasury.".

DEPARTMENT OF THE TREASURY,
Washington, March 14, 1994.

Hon. AL GORE,
President of the Senate, Washington, DC.

DEAR MR. PRESIDENT: I am pleased to transmit herewith a draft bill, "To provide for a United States contribution to the Interest Subsidy Account of the successor (ESAF II) to the Enhanced Structural Adjustment Facility of the International Monetary Fund."

The bill would authorize the United States Governor of the International Monetary Fund (Fund) to contribute $100,000,000 on behalf of the United States to the Interest Subsidy Account of ESAF II. The commitment to make this contribution is subject to obtaining the necessary appropriations.

The original ESAF was established in 1987 to enable the Fund to provide balance of payments assistance on concessional terms of low-income developing countries that have protracted payments problems and that are prepared to adopt a multi-year economic and structural reform program. On December 15, 1993, the Fund adopted a decision to establish ESAF II once the Executive Board determines that sufficient contributions have been made to the facility's Interest Subsidy Account. The establishment of ESAF II would help assure that countries with minimum access to resources that are willing to initiate reforms are provided with continued access to resources on concessional terms.

It would be appreciated if you would lay the draft bill before the Senate. An identical draft bill has been transmitted to the Speaker of the House of Representatives.

The Office of Management and Budget has advised that there is no objection to the transmittal of this draft bill to the Congress, and that enactment would be in accord with the Administration's program.

Sincerely,

JEAN E. HANSON.

By Mr. MURKOWSKI (for himself, Mr. STEVENS, and Mr. AKAKA):

S. 1958. A bill to amend title 38, United States Code, to exclude certain payments received under the Alaska Native Claims Settlement Act from the determination of annual income for purposes of eligibility for veterans pension; to the Committee on Veterans Affairs.

VETERANS PENSION LEGISLATION

Mr. MURKOWSKI. Mr. President, often when proposed legislation is pre-

sented to this body by its sponsors, they state that they are pleased to be introducing the bill in question. Usually, Mr. President, that is the case with me. Today, however, I am not entirely happy to be introducing a bill which, in my view, should not be necessary. Unfortunately, the failure of one Federal agency, the Department of Veterans Affairs [VA], to perceive accurately the clear intent of the Congress when it enacted amendments to the Alaska Native Claims Settlement Act [ANCSA] in 1987 makes this bill, which is purely technical and which seeks only to put into practical affect congressional intent as expressed in ANCSA, necessary. Before I launch into an explanation of the legislation I propose today, however, I want to thank my distinguished colleagues, Senators STEVENS and AKAKA, for joining me as cosponsors of this bill.

As many Members of this body will recall, the Congress has labored hard over the years to reach a series of compromises relating to the settlement of the land claims of Alaska's Native peoples. Those compromises are reflected in the text, and the underlying purposes of, the Alaska Native Claims Settlement Act, codified at 43 U.S.C. section 1601 et seq., as enacted in 1971, and amended in 1988. By the legislation that I introduce today, I do not intend to upset—or to effect in any way whatsoever—the delicate balance of compromises reflected in this landmark legislation; indeed, I would not amend ANCSA at all. My only purpose is to see to it that ANCSA, as amended in 1988, be put into full effect by requiring that the VA disregard payments received by Alaska Natives under ANCSA—as intended by the 1988 amendments to ANCSA—when it computes Alaska Natives' eligibility for VA's means-tested pensions programs. My amendment would amend statutes which govern VA's pension program to accomplish that result.

To fully explain why this legislation is necessary, I need to outline briefly the general terms of ANCSA and, in particular, a relatively minor—but absolutely critical—provision of the statute relating to needs-based Federal benefits. The overall purpose of ANCSA, as stated in the legislation itself, is to provide "a fair and just settlement of all claims by Natives and Native groups of Alaska, based on aboriginal land claims." Public Law 92-203, section 2(a), 85 Stat. 688 (1971). ANCSA was, and remains, an unusual—indeed, a landmark—piece of legislation in resolving Native land claims. In the words of our colleague, Senator BINGAMAN, ANCSA adopted "a novel, experimental approach in [the Federal Government's] relationship with Native Americans. It departed from the conventional method of * * * settling tribal land claims [by] creating * * * a framework for * * * administering Native lands and funds through a * * * [Native]-run corporate structure." S. Rept. No. 100-201 at 45, additional views.

To summarize, under ANCSA, Native Alaskans received a combination of cash, mineral lease proceeds, and land in exchange for the extinguishment of aboriginal land claims. Those assets, however, were not distributed directly to individual Native Alaskans when ANCSA was enacted in 1971. Rather, ANCSA authorized the creation of 12 Native owned and operated regional corporations to administer those assets for the benefit of Alaska Native shareholders. These corporations continue to exist today, and they distribute funds received in settlement of Native land claims, and funds generated from corporate earnings, to Native village corporations and to Alaska Native shareholders.

When ANCSA was enacted, the question arose as to whether these distributions should be taken into account in determining whether an Alaska Native would be eligible to receive Federal Food Stamp assistance. The Congress concluded—wisely, I think—that it would not be fair to penalize Alaska Natives for settling their land claims by causing them to lose eligibility for food stamps as a result of receiving settlement payments. Thus, ANCSA, as originally enacted, contained a provision, codified at 43 U.S.C. section 1626(b), which stated that "in determining the eligibility of any household to participate in the Food Stamp Program, any compensation, remuneration, revenue, or other benefit received by any member of such household * * * shall be disregarded." It was only when ANCSA was amended in 1988 that this "compensation disregard" provision was expanded.

As was stated in the Senate report accompanying the 1988 amendments to ANCSA,

> Currently, section 29 of ANCSA directs that any compensation, remuneration, revenue or other benefit received pursuant to ANCSA "shall be disregarded" in determining eligibility to participate in the Food Stamp Program. *Natives have been denied benefits or have received diminished benefits* in other Federal or federally-assisted programs, because of benefits received under ANCSA. Accordingly, the new subsection (c) in this section clarifies the present protections as *including all Federal or federally-assisted programs.* It also *specifically exempts dividends up to $2,000 per individual per year and dividends and distribution of stock from consideration in eligibility determinations.* Application of less restrictive eligibility tests are not prohibited by this language. S. Rept. 100-201 at 39 (emphasis added).

Based on this clear expression of intent to broaden and expand the already-existing "disregard" provisions within section 29 of ANCSA, the statute was amended to read as follows:

> In determining the eligibility of a household, an individual Native, or a descendant of a Native * * * to—
>
> * * * * *
>
> (3) receive financial assistance or *benefits, based on need, under any Federal program or federally-assisted program,*
>
> *none of the following* received from a Native corporation, shall be considered or taken into account as an asset or resource:
>
> (A) *cash (including cash dividends on stock received from a Native corporation) to the extent that it does not, in the aggregate, exceed $2,000 per individual per annum;*
>
> (B) stock (including stock issued or distributed by a Native corporation as a dividend or distribution on stock);
>
> (C) a partnership interest;
>
> (D) land or an interest in land (including land or an interest in land received from a Native Corporation as a dividend or distribution on stock); and
>
> (E) an interest in a settlement trust.
>
> 43 U.S.C. section 1626(c) (emphasis added).

It seems to me, Mr. President, that the law could hardly be clearer. By any reading of this statute, and the explanation of it contained in the Senate Energy and Natural Resources Committee's report, one can only conclude that ANCSA payments are to be disregarded not only for purposes of food stamps, but for any and all Federal needs-based benefits programs. To the extent that the words of the statute, or the Senate's expression of purpose, might have admitted to any ambiguity—and, frankly, I do not see how anyone could contend that they do—the requirement that ANCSA be construed in a fashion sympathetic to Native interests, see, e.g., *Cape Fox Corp.* v. *U.S.*, 4 Cl. Ct. 223, 231 (1983), would require that any such ambiguity be resolved to require the "disregarding" of ANCSA payments. When one considers that the needs-based benefit program in question is a veterans program—a program which embodies a longstanding tradition of resolving doubt in the veteran's favor—the door should have been slammed, I think, on any thought that ANCSA dividends might be used to reduce pension benefits to which a veteran might be eligible.

Unfortunately, the VA's general counsel has taken a differing view. In two separate legal opinions, the general counsel has stated, in effect, that despite the foregoing, VA shall take ANCSA dividends into account for purposes of determining eligibility for, and the amount of benefit received under, VA's veterans pension program. This, Mr. President, is totally indefensible in my view.

As is made clear in ANCSA, payments received under ANSCA—whether they be cash, cash dividends, up to $2,000 per year, stock dividends, land, whatever—are not to be "considered" or "taken into account" for purposes of determining eligibility for "benefits, based on need, under any Federal program." Equally, ANCSA payments are not to be taken into account for purposes of diminishing needs-based Federal benefits. See S. Rept. 100-201, supra. VA's pension program—which is not a retirement pension program but is, rather, an "income maintenance"

program which assures that wartime veterans who are permanently and totally disabled due to nonservice connected disability will not be forced to live below subsistence income levels—is clearly a "benefit, based on need." See 38 U.S.C. chapter 15. And yet, VA allows payments received pursuant to ANCSA to be taken into account in determining if one is eligible to receive pension benefits. So, for example, a veteran having an annual income of $6,000 who would otherwise be eligible for pension would be disqualified if he or she were to receive $2,000 per year in cash dividends under ANCSA. Equally—and more importantly for practical purposes—VA offsets ANCSA dividends on a dollar-for-dollar basis when it computes the amount of pension benefits to be paid. So, for example, a VA pension recipient who would otherwise receive $7,397 per year in pension benefits would only receive $5,397 if he or she were also to be a recipient of $2,000 per year in ANCSA distributions. This despite the clear indication of congressional intent to the contrary.

My colleagues might ask how VA justifies such action. I am told that VA reasons as follows: ANCSA says that cash paid to Alaska Natives shall not be taken into account as "assets" or "resources;" a person's "assets" or "resources" are akin to his or her "net worth;" therefore, Congress intended that ANCSA payments not be taken into account for determining eligibility only for a certain kind of means tested benefits programs—those that rely on "net worth" computations—as distinguished from "annual income" computations—to determine eligibility; eligibility for VA pension programs is governed by the applicant's "annual income," not his or her "net worth;" therefore, ANCSA's directive that Native Corporation dividends be disregarded does not apply to VA pension programs, even though eligibility is based on need, since pension eligibility is determined by reference to annual income, not net worth. I will only comment, at this point, that this chain of reasoning stretches out of all proportion any considered interpretation of what Congress actually intended when it amended ANCSA in 1988.

Mr. President, the Congress had no such income versus net worth distinction in mind when it expanded the disregard provision of ANCSA. It had in mind something more direct: It wanted to preclude ANCSA payments from causing Alaska Natives to be ineligible for food stamps, and any other needs-based Federal benefits; and it wanted to assure that such benefits would not be diminished as a result of ANCSA receipts. My bill, Mr. President, would see to it that that clear intent would be put into effect by forbidding VA from taking ANCSA payments into account for purposes of its pension programs.

As I stated, Mr. President, when I opened these comments, I am not particularly pleased to introduce this legislation. In light of VA's interpretation of the law, this legislation is necessary. But it should not be necessary since, to my way of thinking, the words and policy of ANCSA clearly required the result dictated by this bill: a disregarding of Native Corporation payments under ANCSA for purposes of both eligibility for veterans pension payments and the amounts of those payments. If there is a lesson to be learned here it is that whatever words we choose in legislating we cannot rely on logic and common sense to guide the interpretation of those words.

I ask my colleagues to support this common sense piece of legislation. Mr. President, I ask unanimous consent that the text of my bill be printed in the RECORD.

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

S. 1958

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

SECTION 1. EXCLUSION OF PAYMENTS FROM DETERMINATION OF ANNUAL INCOME.

Section 1503(a) of title 38, United States Code, is amended—

(1) by striking out "and" at the end of paragraph (9);

(2) by striking out the period at the end of paragraph (10)(B) and inserting in lieu thereof "; and"; and

(3) by adding at the end the following new paragraph:

"(11) cash, stock, land, or other interest referred to in subparagraphs (A) through (E) below paragraph (3) of section 29(c) of the Alaska Native Claims Settlement Act (43 U.S.C. 1626(c)), whether attributable to the disposition of real property, profits from the operation of real property, or otherwise, that is received from a Native Corporation under such Act (43 U.S.C. 1601 et seq.).".

By Mr. GRAHAM:

S. 1959. A bill to prevent delay in the completion of Federal construction projects, and for other purposes; to the Committee on Governmental Affairs.

FEDERAL CONSTRUCTION PROJECT LEGISLATION

Mr. GRAHAM. Mr. President, I rise today to introduce a bill to speed up Federal construction projects. My bill is similar to a Florida State law which speeds up funding for State construction projects. The purpose was to accelerate the progress of getting capital outlay projects started. According to William Scaringe, the director of the Florida division of building construction, the Florida law has been very "effective and the State likes it." Mr. Scaringe said that during the first 3 to 4 years under the Florida law, projects would bunch up that agencies wanted to get bid. Now Mr. Scaringe says the State has no problem with the mandated deadlines. The State has the controls in place so projects get funded and the funds don't sit waiting for a project.

My bill is very similar to the State of Florida's law. Under my bill, a Federal project would lose its funding unless work begins within 2 years of the Federal appropriation. The goal is to speed up construction, to create jobs, and to use Federal dollars more efficiently. We should not leave Federal money sitting around and gathering dust when it could be used for worthwhile projects.

Under my bill, work on each phase of the project would have to begin within 2 years of Federal appropriation for that phase. If a project were funded for design, design would have to begin within 2 years. If a project were fully funded, construction would have to begin within 2 years.

Since 1992, my staff has reviewed federally funded construction projects in Florida. At this time we have found that more than one-fourth of Florida's federally funded construction projects are running behind schedule.

When we see that projects are delayed, I have written letters to the Federal and State agencies whenever a project is behind schedule. In these letters, I have tried to determine why the projects are lagging and whether I can help expedite them.

The bill would provide the incentive to diminish these delays, and to find alternatives for projects that are hopelessly behind schedule. It would also discourage Congress from appropriating money to projects that have not been carefully planned out and would help ensure that construction begins on projects before their design is obsolete.

In December 1993, 30 percent of Florida's projects—or 396 million dollars' worth—were listed as delayed.

Among the construction projects that are substantially delayed around the country are:

IRS Complex, Chamblee, GA—Site acquisition appropriated in 1990. Work has not begun.

Federal Building-Courthouse, Boston, MA—Construction appropriated in 1990. Construction has not begun.

Southeast Federal Center-Infrastructure, Washington, DC—Appropriated in 1991. Construction delayed until 1996.

The bill also requires each Federal agency to report to the Director of the Office of Management and Budget on a quarterly basis on the status of each ongoing construction project that is under the agency's jurisdiction. The agencies shall identify each project, which projects are delayed and the reason for the delay. This information shall be given to the Director of OMB who shall work with each agency to facilitate removal of the delay on each project. The Director will then report to the Congress on a annual basis on the construction projects.

The bill would only affect projects authorized after its enactment.

Mr. President, the bill is an important step to improve the Federal Gov-

ernment's fiscal responsibility and I encourage my colleagues to review and cosponsor this bill.

By Mr. McCAIN:

S. 1960. A bill to increase housing opportunities for Indians; to the Committee on Indian Affairs.

INDIAN HOUSING DEVELOPMENT AND REFORM ACT OF 1994

Mr. McCAIN. Mr. President, I rise today to introduce the Indian Housing Development and Reform Act of 1994.

Before I begin my remarks, I want to publicly express my appreciation to Senator MIKULSKI, Senator GRAMM, and their staffs for their efforts to secure and preserve increased funding for Indian housing. I know their efforts have given Indian people a renewed sense of hope that their housing needs have not been forgotten.

While the majority of our Nation has been served under the public housing program since it was first established in 1937, American Indians and Alaska Natives were not declared eligible for Federal housing programs until 1961. And in fact, a substantial number of Indian housing units were not authorized until the early 1970's. The Office of Indian Housing at the Department of Housing and Urban Development was not permanently established until 1978. Given the slow evolution of the Indian housing program, it is not hard to understand why there continues to be a substantial number of Indian families in need of safe, decent, and sanitary housing.

I want to briefly highlight a few key provisions contained in this bill.

First, the bill increases the current Indian housing authorization from 3,000 to 4,000 units. The primary concern of Indian tribes continues to be the authorization level for the development of new housing units. While appropriations for Indian housing have been near the presently authorized level for the past several years, I believe we can do better.

Second, my bill would reform Federal Indian housing programs by taking the Housing Improvement Program now administered by the Bureau of Indian Affairs at the Department of the Interior and consolidating it with the primary Federal Indian housing programs now administered by the Office of Native American Programs at the Department of Housing and Urban Development.

The objective of this consolidation is not—repeat—not to eliminate the Housing Improvement Program [HIP]. No one disputes the fact that HIP is a valuable source of housing assistance. Unfortunately, according to five separate audits by the Department of the Interior's inspector general, HIP has been seriously mismanaged and abused. In response to these audit findings, the former Assistant Secretary for Indian Affairs wrote the following memorandum chastising bureau personnel for failing to do their job:

DEPARTMENT OF THE INTERIOR,
Washington, DC, April 12, 1993.

To: All Area Directors, Director, Office of Self-Governance.
Through: Acting Deputy Commissioner of Indian Affairs.
From: Assistant Secretary-Indian Affairs.
Subject: Program Management.

The Housing Improvement Program (HIP) started informally in 1964 as an outgrowth of disaster relief efforts in California and Montana. Regulations were developed in 1975 and contracting pursuant to P.L. 93-638 began in late 1978. In 1983, Congress removed HIP funding from what was then known as the "Band" placing it in a construction account and directing that: "HIP be more cost effective and better meet housing need." The result was the redirected HIP which, among other things, included (1) inventory of housing need and (2) use of model contract.

A General Accounting Office (GAO) report in 1987 showed that redirected HIP internal controls needed strengthening in three areas. The Acting Assistant Secretary—Indian Affairs issued a five page memorandum on August 7, 1987, mandating corrective action covering model contracting enforcement, construction monitoring and inspection, and use of the selection criteria.

In 1992, the Office of the Inspector General (OIG) began HIP audits for selected Bureau of Indian Affairs (BIA) operated programs in Albuquerque and Sacramento Areas. They also audited one tribal P.L. 93-638 contract in Aberdeen and one in Sacramento. All reports pointed out serious management problems with the Housing Improvement Program. Similar weaknesses were identified by BIA staff in those Areas who applied A-123 reviews to HIP. It is noted that not all Areas fulfilled their responsibility with this internal review.

The OIG has also completed a HIP audit for the Portland Area. The pending report covers two BIA Agency HIP operations and three tribally contracted programs. It is anticipated that the Portland Audit will also be highly critical of HIP management.

In the past eighteen months we have been embarrassed by GAO and OIG reports on Social Services, Credit and Financing, and now HIP. A common thread which runs through these audits is that we are not being responsible program managers. We are not insuring compliance to regulations as to client eligibility and requirements. We are not verifying, documenting, and enforcing.

It doesn't seem to matter whether the program is BIA operated or the services provided pursuant to P.L. 93-638 contracts, we are failing to do our job. Public funds are being wasted; clients not eligible are being served and clients who should be served are not receiving needed assistance. This must stop.

As to HIP, we are working towards revision of 25 CFR 256 and updating the 64 BIAM. This will take some time. We are also developing an instrument for review of Area HIP. This will also take time. Meanwhile, each Area Director and the Director, Office of Self-Governance is required to do the following:

1. Review the Albuquerque, Sacramento and Pit River OIG Audits. Reports for Omaha and Portland will be distributed when they become final.

2. Review the position paper on redirected HIP which was approved by the Deputy Assistant Secretary—Indian Affairs on April 30, 1985, and transmitted to all Area Directors on May 21, 1985, by the Deputy Director, Office of Indian Services.

3. Review the August 7, 1987, memorandum to All Area Directors from the Acting Assistant Secretary—Indian Affairs entitled "General Accounting Office Audit Report on Indian Housing."

4. Review 25 CFR 256.

5. Certify that housing personnel are knowledgeable of those trade crafts required by page 11 of the redirected HIP Position Paper.

6. Certify that P.L. 93-638 contractors are using the model contract as required by "redirected HIP" and specifically mandated by the above referenced August 7, 1987, memorandum.

7. Certify that all units for which HIP funds are being expended have been inspected pursuant to 25 CFR 256.9, required by page 10 of the "Redirect" and mandated by page 2 of the August 7, 1987, memorandum.

8. Certify that all HIP recipients are eligible pursuant to 25 CFR 256.6 and selected in accord with 256.7 and page 2 of the 1987 memorandum.

9. Certify that Contracting Officers award HIP Contracts only after concurrence from the Housing Officers as to work plans, eligibility of homeowners, and funding. A copy of final inspection should become part of the contract file and Housing office records.

I expect a personal certification from each Area Director to the above nine (9) requirements by COB May 17, 1993. Your certification is to be addressed to the Deputy Commissioner of Indian Affairs. Any certification which cannot assure total compliance shall include a specific Action Plan not to exceed six (6) months for corrective action.

In conclusion, and perhaps waxing philosophically, a few words need to be said about public officials. Private citizens can do anything they so desire so long as it is not specifically prohibited by law. Public officials can only do those things which are specifically authorized. This is a very significant difference. Our authorizations derive from Public Laws, regulations, manuals, policies, court cases and IBIA decisions. If it is not authorized, we cannot do it.

Regardless of whether the desired action is perceived as good or bad, we do not possess the authority to act unless specifically authorized. We do not possess authority to serve ineligible clients, approve less than professional work (such as shoddy work on a HIP house) or fail to verify basic requirements.

Simply put, we have been acting outside of our authority (a very incriminating comment against public officials in a liberal democracy) to allow those things to occur which now have been documented in audits going back for a decade. We must become professional public officials.

The final report of the National Commission on American Indian, Alaska Native, and Native Hawaiian Housing did not mince words about the BIA's administration of HIP:

The BIA has consistently failed to fulfill its responsibility to Native American people mandated by the Snyder Act. In testimony before the Commission, the BIA has admitted that it failed to meet its own goals for providing basic housing needs. Its major housing program for Indians, the Housing Improvement Program, has functioned for over 20 years as a self-perpetuating bureaucracy unable to bring about any significant improvements in the Native housing crisis. BIA has underestimated housing needs and has built only a fraction of the new homes desperately required in Indian country. An-

nual HIP appropriations have been significantly below the BIA's own declared need.

Despite this criticism, the Commission recommended increased funding for HIP. Apparently, the Commission concluded that the need for housing assistance outweighed the need for HIP reform. I strongly disagree with the Commission. I believe it is important to ensure that all levels of government possess the integrity, accountability, and capability to meet the needs of Indian citizens. The overriding goal should be to strengthen and improve the capacity of the Federal and tribal governments to effectively and efficiently provide the necessary programs and services to the Indian people. I believe the best way to accomplish this goal for Indian housing is to transfer HIP to HUD.

In addition, I believe the transfer of HIP to HUD is consistent with the administration's proposals for reinventing government which seeks to lower administrative expenses by improving productivity and efficiency. In fact, the report of the National Performance Review included several recommendations for the consolidation of various Federal programs that have a common goal. The transfer would also contribute to the President's goal of reducing Federal employment by 252,000 full-time employees by 1999.

I want to point out to my friends in Indian country that while I see merit in transferring HIP to HUD, it does not represent a general belief on my part that there needs to be a wholesale division and transfer of BIA programs to other Federal agencies as some people will argue.

Finally, section 8 of the bill authorizes $500,000 in grants to Indian tribal governments to obtain technical assistance. In the past, the Congress has seen fit to identify one organization for Indian tribes to secure such assistance. After thinking carefully about this particular approach, I believe technical assistance is best arranged between an Indian tribe and the service provider that the tribe believes can best meet its needs. The service provider is then made directly accountable to the tribe and is likely to deliver a higher quality of service in return. I do not believe any organization is entitled to Federal assistance which establishes them as the sole provider. Organizations should earn the trust of the constituency they seek to serve.

Mr. President, I ask unanimous consent that a copy of the bill and the section-by-section analysis to the bill be printed in the RECORD immediately following my remarks.

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

S. 1960

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 "Indian Housing Development and Reform Act of 1994".

SEC. 2. FINDINGS.

The Congress finds that—

(1) Indian tribes face an unprecedented crisis due to the lack of shelter for a growing number of individuals and families, including elderly persons, persons with disabilities, and families with children;

(2) the demand for Indian housing has become more severe and, in the absence of more effective efforts and consistent funding, is expected to become dramatically worse, endangering the lives and safety of Indian and Alaska Native people;

(3) the Federal Government has a historical and special legal relationship with, and resulting responsibility to, Indian tribes;

(4) included within the relationship referred to in paragraph (3) is a trust responsibility to provide decent, safe, sanitary, and affordable housing to the members of Indian tribes residing on reservations;

(5) the Inspector General of the Department of the Interior has issued several audit reports on various area offices of the Bureau of Indian Affairs and has concluded that the Housing Improvement Program has been severely mismanaged and abused;

(6) as a result of the mismanagement and abuse of the Housing Improvement Program, persons who are not eligible for the Program are receiving assistance while persons who are eligible for the Program are not receiving needed assistance;

(7) the Secretary of Housing and Urban Development has the primary responsibility for the delivery of Indian housing services; and

(8) the transfer of the Housing Improvement Program to the Department of Housing and Urban Development will eliminate useless bureaucracy and waste while allowing the Secretary of Housing and Urban Development to administer the Housing Improvement Program according to the Program's intended goals and objectives.

SEC. 3. DEFINITIONS.

For purposes of this Act, the following definitions shall apply:

(1) DEPARTMENT.—The term "Department", unless otherwise specified, means the Department of Housing and Urban Development.

(2) INCORPORATED DEFINITIONS.—The terms "Indian", "Indian housing authority", and "Indian tribe" have the same meanings as in section 3 of the United States Housing Act of 1937.

(3) PROGRAM.—The term "Program" means the Housing Improvement Program of the Bureau of Indian Affairs, Department of the Interior, as set forth in part 256 of title 25, Code of Federal Regulations.

(4) SECRETARY.—The term "Secretary", unless otherwise specified, means the Secretary of Housing and Urban Development.

SEC. 4. HOUSING IMPROVEMENT PROGRAM.

(a) TRANSFER OF PROGRAM.—

(1) IN GENERAL.—The Program is hereby transferred to the Department.

(2) EFFECTIVE DATE.—Paragraph (1) shall take effect on the expiration of the 180-day period following the date of enactment of this Act.

(b) PROGRAM GOALS.—Notwithstanding any other provision of law, the goals of the Program are—

(1) to benefit Indian families by providing decent, safe, and sanitary shelter and by reducing the health and social costs created by an unsafe and unsanitary environment; and

(2) to provide for renovations, repairs, and additions to existing Indian houses, including repairs to houses that remain substandard but need repairs for the health or safety of the occupants and repairs to bring Indian houses to standard condition.

(c) ADMINISTRATION OF THE PROGRAM.—

(1) IN GENERAL.—The Secretary shall carry out the Program in accordance with this section.

(2) LIMITATION ON ASSISTANCE.—Notwithstanding paragraph (3) or any other provision of law, the Secretary, unless otherwise authorized by the governing body of an Indian tribe—

(A) shall provide assistance under the Program only to the governing body of an Indian tribe; and

(B) shall not provide any such assistance to an Indian housing authority.

(3) MODIFICATIONS TO PROGRAM.—The Secretary is authorized to modify or otherwise change the Program to meet the goals set forth in subsection (b).

(d) TRANSFER AND ALLOCATIONS OF APPROPRIATIONS.—Except as otherwise provided in this section, the assets, liabilities, contracts, property, records, and unexpended balances of appropriations, authorizations, allocations, and other funds employed, used, held, arising from, available to, or to be made available in connection with the Program, subject to section 1531 of title 31, United States Code, shall be transferred to the Department. Unexpended funds transferred pursuant to this section shall be used only for the purposes for which the funds were originally authorized and appropriated.

(e) TRANSFER OF PERSONNEL.—

(1) IN GENERAL.—Except as otherwise provided in this section, the Secretary of the Interior shall transfer such personnel to the Department to administer the Program as the Secretary considers necessary and appropriate.

(2) NO SEPARATION OR REDUCTION IN GRADE OR COMPENSATION FOR 1 YEAR.—Except as otherwise provided in this section, any transfer pursuant to this section of full-time personnel (except special Government employees) and part-time personnel holding permanent positions shall not cause any such employee to be separated or reduced in grade or compensation during the 1-year period beginning on the date on which the employee is transferred to the Department.

(3) EXECUTIVE SCHEDULE EMPLOYEES.—Except as otherwise provided in this section, any person who, on the day preceding the date on which such person is transferred to the Department under this section, holds a position compensated in accordance with the Executive Schedule prescribed in chapter 53 of title 5, United States Code, and who, without a break in service, is appointed in the Department to a position having duties comparable to the duties performed immediately preceding such appointment shall continue to be compensated in such new position at not less than the rate provided for such previous position, for the duration of the service of such person in such new position.

(4) PRESIDENTIAL APPOINTEES.—Positions whose incumbents are appointed by the President, by and with the advice and consent of the Senate, the functions of which are transferred pursuant to this section, shall terminate on the effective date of this section.

(f) INCIDENTAL TRANSFERS.—The Director of the Office of Management and Budget, at such time or times as the Director shall provide, is authorized to make such determinations as may be necessary with regard to the Program, and to make such additional incidental dispositions of personnel, assets, li-

abilities, grants, contracts, property, records, and unexpended balances of appropriations, authorizations, allocations, and other funds held, used, arising from, available to, or to be made available in connection with the Program, as may be necessary to carry out this section. The Director of the Office of Management and Budget shall provide for the termination of the affairs of all entities terminated by this section and for such further measures and dispositions as may be necessary to effectuate the purposes of this section.

(g) CONTINUING EFFECT OF LEGAL DOCUMENTS.—All orders, determinations, rules, regulations, permits, agreements, grants, contracts, certificates, licenses, registrations, privileges, and other administrative actions—

(1) that have been issued, made, granted, or allowed to become effective by the President, any Federal agency or official, or by a court of competent jurisdiction, in the performance of the Program which are transferred under this section; and

(2) that are in effect on the effective date of subsection (a)(1), or that were final before such date and are to become effective on or after such date;

shall continue in effect according to their terms until modified, terminated, superseded, set aside, or revoked in accordance with law by the President, the Secretary, or other authorized official, a court of competent jurisdiction, or by operation of law.

(h) PROCEEDINGS NOT AFFECTED.—The provisions of this section shall not affect any proceedings, including notices of proposed rulemaking, or any application for any license, permit, certificate, or financial assistance pending before the Department of the Interior on the effective date of subsection (a)(1), with respect to the Program, and such proceedings and applications shall be continued. Orders shall be issued in such proceedings, appeals shall be taken therefrom, and payments shall be made pursuant to such orders, as if this section had not been enacted, and orders issued in any such proceedings shall continue in effect until modified, terminated, superseded, or revoked by a duly authorized official, by a court of competent jurisdiction, or by operation of law. Nothing in this section shall be deemed to prohibit the discontinuance or modification of any such proceeding under the same terms and conditions and to the same extent that such proceeding could have been discontinued or modified if this section had not been enacted.

(i) ACTIONS NOT AFFECTED.—The provisions of this section shall not affect actions commenced before the effective date of subsection (a)(1), and in all such actions, proceedings shall be had, appeals taken, and judgments rendered in the same manner and with the same effect as if this section had not been enacted.

(j) NONABATEMENT OF ACTIONS.—No action or other proceeding commenced by or against the Department of the Interior, or by or against any individual in the official capacity of such individual as an officer of the Department of the Interior, shall abate by reason of the enactment of this section.

(k) ADMINISTRATIVE ACTIONS RELATING TO PROMULGATION OF REGULATIONS.—Any administrative action relating to the preparation or promulgation of a regulation by the Department of the Interior relating to the Program may be continued by the Department with the same effect as if this section had not been enacted.

(*l*) TRANSITION.—The Secretary is authorized to utilize—

(1) the services of such officers, employees, and other personnel of the Department of the Interior with respect to the Program; and

(2) funds appropriated to the Program for such period of time as may reasonably be needed to facilitate the orderly implementation of this section.

(m) REFERENCES.—Reference in any other Federal law, Executive order, rule, regulation, or delegation of authority, or any document of or relating to—

(1) the Secretary of the Interior, with regard to the Program, shall be deemed to refer to the Secretary; and

(2) the Department of the Interior, with regard to the Program, shall be deemed to refer to the Department.

(n) REGULATIONS.—The Secretary shall, by notice published in the Federal Register, establish such requirements as may be necessary to carry out this section. The Secretary shall issue final regulations to carry out this section, based on such notice, after providing opportunity for public comment on the notice.

(o) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated $34,000,000 for fiscal years 1996, 1997, 1998, 1999, and 2000 to carry out the Program.

SEC. 5. AUTHORIZATION.

Section 5(c) of the United States Housing Act of 1937 (42 U.S.C. 1437c(c)) is amended by adding at the end the following new paragraph:

"(9) Using the additional budget authority that becomes available during fiscal years 1996, 1997, 1998, 1999, and 2000, the Secretary shall, to the extent approved in appropriation Acts, reserve authority to enter into obligations aggregating, for public housing grants for Indian families under subsection (a)(2), an amount sufficient to provide assistance for an additional 4,000 units of Indian housing for each such year.".

SEC. 6. ELIGIBLE INDIANS.

Section 201 of the United States Housing Act of 1937 (42 U.S.C. 1437aa) is amended by adding at the end the following new subsection:

"(d) ELIGIBLE FAMILIES.—

"(1) IN GENERAL.—Except as provided in section 202(d) of this title and paragraph (2) of this subsection, low-income housing developed or operated pursuant to a contract between the Secretary and an Indian housing authority shall be limited to Indian low-income families.

"(2) EXCEPTION.—An Indian housing authority may provide assistance to any non-Indian family on an Indian reservation or other Indian area if the Indian housing authority determines that the need for housing for such families on the Indian reservation or other Indian area cannot reasonably be met without such assistance.

"(3) EXISTING ASSISTANCE.—Nothing in this subsection shall be construed to prohibit or otherwise affect any assistance provided to a family served by an Indian housing authority on the date of enactment of this subsection.".

SEC. 7. CERTAIN WAGE RATES NOT APPLICABLE.

(a) WAGE RATES.—Beginning on the date of enactment of this Act, the provisions of the Davis-Bacon Act shall not be applicable to any construction, alteration, or repair, including painting and decorating, carried out pursuant to any contract entered into after the date of enactment of this Act, except as provided in subsection (b), in connection with any housing project of 40 units or less involving Indian housing developed or operated by an Indian housing authority.

(b) EXISTING CONTRACTS.—The provisions of subsection (a) shall not affect any contract in effect on the date of enactment of this Act, or any contract that is entered into on or after such date of enactment pursuant to invitations for bids that were outstanding on such date of enactment.

SEC. 8. TECHNICAL ASSISTANCE.

(a) TECHNICAL ASSISTANCE GRANTS.—The Secretary is authorized to make grants to Indian tribes for use by such tribes in obtaining technical assistance in connection with Indian housing programs.

(b) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated $500,000 to carry out the provisions of subsection (a).

SECTION-BY-SECTION ANALYSIS OF THE INDIAN HOUSING DEVELOPMENT AND REFORM ACT OF 1994

Section 1. Short Title.

Section 2. Congressional findings.

Section 3. Definitions.

Section 4. This section transfers the Housing Improvement Program at the Bureau of Indian Affairs to the Department of Housing and Urban Development. The department would use the same goals, standards and objectives of the existing HIP program. In addition, program funding would still be made to Indian tribal governments. The bill authorizes $34 million per year through FY 2000. HIP funding has generally ranged between $17 million to $20 million per year.

Section 5. This section authorizes budget authority sufficient to provide 4,000 units of Indian housing per year through FY 2000. The current authorization is 3,000 units.

Section 6. (a) Amends the 1937 Housing Act by requiring that the HUD Indian housing program is limited to low-income Indian families.

(b) An Indian housing authority is authorized to assist non-Indian families only if it is determined that the housing needs of non-Indian families on an Indian reservation cannot be reasonably met without such assistance.

(c) Any non-Indian family currently being served by an Indian housing authority is not affected by this section.

Section 7. (a) provides that the prevailing wage rates shall not apply to an Indian housing project that involves 40 units or less.

(b) provides that existing contracts, contracts signed on the date of enactment or invitations for bids issued before the date of enactment shall not be affected by this section.

Section 8. This section authorizes technical assistance grants to be made to Indian tribes. Tribes may then purchase technical assistance from the provider of choice. The bill authorizes $500,000 for this section.

By Mr. KENNEDY (for himself, Mr. DODD, Mr. DECONCINI, and Mr. KERRY):

S. 1961. A bill to provide for necessary medical care for former civilian prisoners of war; to the Committee on Labor and Human Resources.

CIVILIAN EX-POW HEALTH AND DISABILITY LEGISLATION

Mr. KENNEDY. Mr. President, on behalf of Senators DODD, DECONCINI, KERRY, and myself, I am introducing legislation to address the health and disability needs of civilian ex-prisoners of war.

The bill concerns basic issues of fairness and justice for a group of Americans who have endured a great deal of

suffering and who urgently need relief. In 1948, Congress passed the War Claims Act which extended health disability and detention benefits to more than 6,000 American civilians interned by the Japanese during World War II. Most of them were private citizens residing in the Philippines at the outbreak of the war.

Like military ex-POW's, civilian internees suffer from a number of physical and psychological disabilities caused by their imprisonment. Among the most common are gum disease caused by their poor diet in the internment camps, and post-traumatic stress syndrome.

The War Claims Act created a War Claims Commission to administer benefits to these individuals. That function was later taken over by the Department of Labor's Office of Worker's Compensation Program [OWCP]. It also established eligibility criteria, benefit levels, and procedural requirements that claimants must meet in order to receive medical and disability benefits. Of close to 5,000 cases administered since the War Claims Act was passed, between 75–100 cases remain active.

By the time War Claims Act became law, the needs of other POW groups had already been addressed. Former military POW's had access to health and disability benefits through the Veterans' Administration. Compensation programs for Federal employees interned in wartime prison camps had been authorized in 1916 by the Federal Employees Compensation Act. Similar benefits for the employees of independent Federal contractors were established in 1942 under the Defense Base Act.

Despite the importance of the 1948 law in securing health and disability benefits for civilian ex-POW's, the act is deficient in a number of important respects.

First, the 1948 law covers only those who were interned in the Philippines and other Japanese-controlled territories during World War II. This provision excludes a majority of WWII-era detainees. According to the Committee on Civilian Internee Rights, eliminating this exclusion would extend coverage by an additional 5,600 survivors, raising the total number of civilian ex-POW's covered by Federal health and disability benefits to 8,600. It also denies coverage to approximately 100 American civilians detained in Korea and Vietnam during the conflicts in those regions.

Second, the process for filing claims is unnecessarily burdensome and out of step with the more streamlined approach used to administer medical and disability benefits to other POW's. The Department of Veterans Affairs automatically approves claims related to presumptive conditions—conditions widely recognized as caused or exacerbated by periods of internment. But former civilian POW's must document that an injury or medical condition is related to their detainment, no matter how common the condition.

Finally, the disability benefits established by the War Claims Act have been unfairly eroded by four and a half decades of inflation. Under the act, the level of disability benefits is set at $25 a week—an amount derived by taking 66 percent of the National Average Weekly Wage in 1948.

Further, the maximum amount of disability benefits is set by the law at $7,500 per claimant. By contrast, the law covering those who were Federal workers or Federal contractors at the time of their capture imposes no such limit, benefit levels are automatically adjusted for increases in the cost of living.

The Civilian Ex-Prisoner of War Health and Disability Benefits Act of 1994 corrects these deficiencies. All civilian POW's from WWII and the Korean and Vietnam wars will be eligible to receive health and disability benefits. This eligibility extension also applies to civilians who went into hiding to avoid becoming prisoners of war in those conflicts.

In determining eligibility, the bill extends to civilian POW's the same presumptive conditions used by the VA to evaluate claims filed by former military POW's.

Benefit levels are also updated by the measure. The bill eliminates the per claimant cap on total disability payments under the War Claims Act. In addition, the bill sets weekly disability payment levels at the levels established by FECA, thereby creating parity with ex-POW's who were Federal workers of Federal contractors when they were interned. Linking compensation levels to FECA also assures that disability benefit levels will be adjusted every year of increases in the cost of living.

Mr. President, this bill is long overdue as a matter of simple justice. I hope that Congress will expedite its action, and I ask unanimous consent that its text may be printed in the RECORD.

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

S. 1961

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 "Civilian Ex-Prisoner of War Health and Disability Benefits Act of 1994".

SEC. 2. MEDICAL CARE AND DISABILITY BENEFITS.

(a) ELIGIBILITY.—A former civilian prisoner of war is entitled to receive necessary medical care and disability benefits for any injury or disability resulting from the period of internment or hiding. Any presumptive medical and dental condition related to a period of internment provided for former military prisoners of war under section 1112(b) of title 38, United States Code, shall be extended to former civilian prisoners of war and shall be considered to have been incurred in or aggravated by such period of internment or hiding without regard to the absence of any record of such injury.

(b) PAYMENT OF BENEFITS.—Prompt monetary payment or reimbursement shall be facilitated for reasonable and necessary expenditures for all medical treatment, including rehabilitation, mental health services, and dental care, provided for under this section for which a claim and any documentation determined necessary by the Secretary of Labor has been filed with the Secretary of Labor.

(c) WAIVER OF LIMITATIONS.—There shall be no limitation on the total medical or disability benefits which a person may receive for any injury or disability resulting from the period of internment or hiding.

(d) RATE OF COMPENSATION.—Compensation for disability shall be equal to the weekly equivalent of the minimum monthly rate of compensation payable for a total disability covered by chapter 81 of title 5, United States Code, as computed under section 8112(a) of such title.

(e) CREDITING BENEFITS UNDER THE SOCIAL SECURITY ACT.—The benefits provided by this section to any individual shall be reduced to the extent such benefits are provided under title XVIII of the Social Security Act, or any private insurance, for the same medical condition or disability.

SEC. 3. ADVISORY COMMITTEE.

(a) ESTABLISHMENT.—The Secretary of Labor shall establish an advisory committee to be known as the Former Civilian Prisoner of War Committee (hereafter in this section referred to as the "advisory committee"). The members of the advisory committee shall be appointed by the Secretary of Labor from the general public and shall include appropriate representatives of former civilian prisoners of war and individuals who are recognized authorities in fields pertinent to the injuries and disabilities prevalent among former civilian prisoners of war.

(b) AUTHORITY OF THE SECRETARY OF LABOR.—The Secretary of Labor shall determine the number, terms of service, and pay and allowances of members of the advisory committee. The Secretary of Labor shall consult with and seek the advice of the advisory committee with respect to the administration of benefits under this Act.

(c) REPORT.—Not later than January 1, 1996, the Secretary of Labor shall submit to Congress a report on the programs and activities of the Department of Labor that pertain to those former civilian prisoners of war. The Secretary of Labor shall include in the report—

(A) an assessment of the needs of such civilian prisoners of war with respect to health and disability benefits;

(B) a review of the programs and activities of the Office of Workers' Compensation Program designed to meet such needs; and

(C) such recommendations as the advisory committee considers to be appropriate.

(d) INFORMATION ON BENEFITS.—Not later than 90 days after the date of enactment of this Act, and at appropriate times thereafter, the Secretary of Labor shall seek out former civilian prisoners of war and provide them with information regarding applicable changes in law, regulations, and services to which such citizens are entitled by virtue of this Act.

SEC. 4. REGULATIONS.

The Secretary of Labor shall prescribe regulations as may be necessary to ensure that

benefits provided to former civilian prisoners of war under this Act are coordinated with and do not duplicate any benefits provided such persons under the War Claims Act.

SEC. 5. DEFINITIONS.

For purposes of this Act—

(1) the term "former civilian prisoner of war" means a person determined by the Department of Labor, in consultation with the Department of State and the Department of Defense, as being someone who, being then a citizen of the United States was forcibly interned by an enemy government or its agents, or a hostile force, or who went into hiding in order to avoid capture by such government, its agents, or hostile force, during a period of war, or other period for at least 30 days, including those interned or who went into hiding during the Asian-Pacific Theater or in the European Theater of World War II during the period beginning September 1, 1939, and ending December 31, 1946, in Korea during the period beginning June 25, 1950, and ending July 1, 1955, or in Vietnam during the period beginning February 28, 1961, and ending on the date designated by the President by Executive order as the date of termination of the Vietnam conflict, except—

(A) a person who at any time voluntarily gave aid to, collaborated with, or in any manner served such a government, or

(B) a person who at the time of his capture or entrance into hiding was—

(i) a person within the purview of the Act entitled "An Act to provide compensation for employees of the United States suffering injuries while in the performance of their duties, and for other purposes", approved September 7, 1916, as amended, and as extended;

(ii) a person within the purview of the Act entitled "An Act to provide benefits for the injury, disability, death, or enemy detention of employees of contractors with the United States, and for other purposes", approved December 2, 1942, as amended; or

(iii) a regularly appointed, enrolled, enlisted, or inducted member of any military or naval force; and

(2) the term "hostile force" means any nation, or any national thereof, or any other person serving a foreign nation—

(A) engaged in war against the United States or any of its allies; or

(B) engaged in armed conflict, whether or not war has been declared, against the United States or any of its allies.

SEC. 6. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated to carry out this Act, such sums as may be necessary for each of the fiscal years 1995 through 2000.

By Mr. DODD (for himself and Mr. ROCKEFELLER):

S. 1962. A bill to provide for demonstration projects in 6 States to establish or improve a system of assured minimum child support payments; to the Committee on Finance.

CHILD SUPPORT ASSURANCE ACT OF 1994

Mr. DODD. Mr. President, I rise today to introduce a piece of legislation whose subject should be central to our debate over welfare reform. This bill, the Child Support Assurance Act of 1994, seeks to put a stop to one of the principal causes of child poverty in this country, lack of financial support from absent parents. I am delighted to be joined in this effort by my colleague from West Virginia, Senator ROCKEFELLER, who has long been a champion of children's causes and this concept in particular.

If I had to sum this legislation in one word, it would be responsibility: Parents' responsibility to support their kids and our responsibility as a nation to support struggling families. If we can begin to live up to these responsibilities, we will go a long way toward solving the problems that lead people to turn to welfare.

WELFARE REFORM, WELFARE PREVENTION

I firmly believe we will not succeed in reforming welfare until we succeed in reforming child support. In my view, the term welfare reform does not do justice to the task at hand. Of course, we need welfare reform that will encourage people to become self-sufficient and leave government assistance. But just as important, we need welfare prevention—policies to allow people to avoid welfare in the first place. We need to seriously ask ourselves, what can we as a nation do to support families in danger of sliding into poverty?

At or near the top of our list of answers should be putting some teeth and some assurances into our child support system. Lack of child support is one of the principal causes of poverty for one-parent families. The census bureau illustrated this fact when it estimated that between 1984 and 1986 approximately half-a-million children fell into poverty after their father left home.

In 1989 alone, the children and single parents of America were owed $5.1 billion in unpaid child support. This week, we will discuss a budget resolution in which we had to squeeze and cut just to come up with an extra $700 million for Head Start this year. And that $700 million should make a real difference in the fight against child poverty. But $700 million is tiny in comparison with the amount of money owed in back child support. Can you imagine the difference it would make for the children of America if they received that $5 billion they are being cheated out of annually?

Connecticut is no different from any other State. Despite a child support enforcement system that ranks among the best in the Nation, its child support delinquencies now total nearly half-a-billion dollars. That is half-a-billion dollars in a State of only 3½ million people.

CLEAR CONNECTION

The clear connection between child support and welfare was illustrated for the subcommittee on children last August during a hearing I chaired on this topic. Geraldine Jensen testified about struggling as a single mother, receiving no help from her ex-husband. She had to work 60 hours a week just to make ends meet. One day she realized her kids had gone from two parents to one parent when her husband left, and then from one parent to none when she had to take her second job. She was working so much that she had no time for her children.

So Ms. Jensen quit her jobs and went on AFDC. She finally collected the child support owed her 7 years later, and she was able to get back on her feet. As president of the Association for Children for the Enforcement of Support, Ms. Jensen is now working to fashion a child support system that will make stories like hers a thing of the past.

But the reality today is that there are far too many families out there like Ms. Jensen's. And far too many children are plunged into poverty when their parents do not live up to their responsibilities.

The poverty rate for single-parent families headed by women is nearly 33 percent. This compares to a poverty rate of under 8 percent for 2-parent families.

Why is the poverty rate so high for households led by single women? The primary reason is a lack of support from absent fathers. Forty-two percent of single mothers do not even have child support orders for their children. For poor women, this figure is 57 percent. And a child support order is no guarantee of support. In 1989, half of all mother-let families with child support orders received no support at all or less than the amount due.

CHILDHOOD'S END

As a recent report titled "Childhood's End" by the National Child Support Assurance Consortium poignantly illustrated, these are much more than simply numbers on a page for the children involved. For far too many young Americans, the lack of child support means poverty. It means not being able to go to the doctor when they're sick. It means going to bed hungry. It means teetering on the brink of homelessness.

We have known for some time now that our child support system needs a major overhaul. The Child Support Amendments of 1984 and the Family Support Act of 1988 made modest improvements. For every 100 child support cases in 1983, there were 15 in which there was a collection. In 1990, there were 18. Out of 100, 15 to 18 is a step in the right direction, but we clearly have a long, long way to go.

The bill we are introducing today would take us further down the road toward an effective child support system. It would create incentives for responsible behavior: Incentives for custodial parents to seek child support orders, incentives for noncustodial parents to follow those orders, and incentives for States to make sure this whole process works. As a last resort, it would provide a minimum level of support for all children not living with both parents.

Right now, the poor children of America are the ones paying for the failings of our families and the failings of our child support system. It is time

for all of us to help shoulder this burden.

RIGOROUS REQUIREMENTS

The bill would authorize demonstrate grants to six States for use in guaranteeing and assured child support benefit. Participating States would have to meet a rigorous set of requirements. To qualify, States would already have to be doing a good job of collecting child support and would have to be at, or above, the national median for paternity establishment. And during the course of the grant, the State would have to show real, measurable improvement in paternity establishment, child support orders, and collections.

Just as the Child Support Assurance Act calls on participating States to meet their obligations, it would do the same for participating families. To qualify, the custodial parent would have to possess, or be seeking, a child support award or have a good reason not to.

We hope that this approach will serve as a model for the country. To test this proposition, the Department of Health and Human Services would conduct 3- and 5-year evaluations of the demonstration programs to gauge whether the approach should be extended nationally.

I hope my colleagues will join Senator ROCKEFELLER and me in supporting this legislation and demanding that we all meet our responsibilities to America's children.

I ask unanimous consent that the full text of this bill be printed in the RECORD, along with several letters of support.

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

S. 1962

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 "Child Support Assurance Act of 1994".

SEC. 2. FINDINGS AND PURPOSE.

(a) FINDINGS.—The Congress finds that—

(1) the number of single-parent households has increased significantly;

(2) there is a high correlation between childhood poverty and growing up in a single-parent household;

(3) family dissolution often brings the economic consequence of a lower standard of living for the custodian and children;

(4) children are nearly twice as likely to be in poverty after a family dissolution as before a family dissolution;

(5) one-fourth of the single mothers who are owed child support receive none and another one-fourth of such mothers receive only partial child support payments;

(6) single mothers above and below the poverty line are equally likely to receive none of the child support they are owed; and

(7) the failure of children to receive an adequate level of child support limits the ability of such children to thrive and to develop their potential and leads to long-term societal costs in terms of health care, welfare, and loss in labor force productivity.

(b) PURPOSE.—It is the purpose of this Act to enable participating States to establish child support assurance systems in order to improve the economic circumstances of children who do not receive a minimum level of child support from the noncustodial parents of such children and to strengthen the establishment and enforcement of child support awards. The child support assurance approach is structured on a demonstration basis in order to implement and evaluate different options with respect to the provision of intensive support services and mechanisms for administering the program on a national basis.

SEC. 3. ESTABLISHMENT OF CHILD SUPPORT ASSURANCE DEMONSTRATION PROJECTS.

(a) IN GENERAL.—In order to encourage States to provide a guaranteed minimum level of child support for every eligible child not receiving such support, the Secretary of Health and Human Services (hereafter in this section referred to as the "Secretary") shall make grants to not more than 6 States to conduct demonstration projects for the purpose of establishing or improving a system of assured minimum child support payments in accordance with this section.

(b) CONTENTS OF APPLICATION.—An application for grants under this section shall be submitted by the Governor of a State and shall—

(1) contain a description of the proposed child support assurance project to be established, implemented, or improved using amounts provided under this section, including the level of the assured benefit to be provided, the specific activities to be undertaken, and the agencies that will be involved;

(2) specify whether the project will be carried out throughout the State or in limited areas of the State;

(3) estimate the number of children who will be eligible for assured minimum child support payments under the project, and the amounts to which they will be entitled on average as individuals and in the aggregate;

(4) describe the child support guidelines and review procedures which are in use in the State and any expected modifications;

(5) contain a commitment by the State to carry out the project during a period of not less than 3 and not more than 5 consecutive fiscal years beginning with fiscal year 1996;

(6) contain assurances that the State—

(A) is currently at or above the national median paternity establishment rate (as defined in section 452(g)(2) of the Social Security Act),

(B) will improve the performance of the agency designated by the State to carry out the requirements under part D of title IV of the Social Security Act by at least 4 percent each year in which the State operates a child support assurance project under this section in—

(i) the number of cases in which paternity is established when required;

(ii) the number of cases in which child support orders are obtained; and

(iii) the number of cases with child support orders in which collections are made; and

(C) to the maximum extent possible under current law, will use Federal, State, and local job training assistance to assist individuals who have been determined to be unable to meet such individuals' child support obligations;

(7) describe the extent to which multiple agencies, including those responsible for administering the Aid to Families With Dependent Children Program under part A of title IV of the Social Security Act and child support collection, enforcement, and payment under part D of such title, will be involved in the design and operation of the child support assurance project; and

(8) contain such other information as the Secretary may require by regulation.

(c) USE OF FUNDS.—A State shall use amounts provided under a grant awarded under this section to carry out a child support assurance project designed to provide a minimum monthly child support benefit for each eligible child in the State to the extent that such minimum child support is not paid in a month by the noncustodial parent.

(d) REQUIREMENTS.—(1) A child support assurance project funded under this section shall provide that—

(A) any child (as defined in paragraph (2)) with a living noncustodial parent for whom a child support order has been sought (as defined in paragraph (3)) or obtained and any child who meets "good cause" criteria for not seeking or enforcing a support order is eligible for the assured child support benefit;

(B) the assured child support benefit shall be paid promptly to the custodial parent at least once a month and shall be—

(i) an amount determined by the State which is—

(I) not less than $1,500 per year for the first child, $1,000 per year for the second child, and $500 per year for the third and each subsequent child, and

(II) not more than $3,000 per year for the first child and $1,000 per year for the second and each subsequent child;

(ii) offset and reduced to the extent that the custodial parent receives child support in a month from the noncustodial parent;

(iii) indexed and adjusted for inflation; and

(iv) in the case of a family of children with multiple noncustodial parents, calculated in the same manner as if all such children were full siblings, but any child support payment from a particular noncustodial parent shall only be applied against the assured child support benefit for the child or children of that particular noncustodial parent;

(C) for purposes of determining the need of a child or relative and the level of assistance, one-half of the amount received as a child support payment shall be disregarded from income until the total amount of child support and Aid to Families With Dependent Children benefit received under part A of title IV of the Social Security Act equals the Federal poverty level for a family of comparable size;

(D) in the event that the family as a whole becomes ineligible for Aid to Families With Dependent Children under part A of the Social Security Act due to consideration of assured child support benefits, the continuing eligibility of the caretaker for Aid to Families With Dependent Children under such title shall be calculated without consideration of the assured child support benefit; and

(E) in order to participate in the child support assurance project, the child's caretaker shall apply for services of the State's child support enforcement program under part D of title IV of the Social Security Act.

(2) For purposes of this section, the term "child" means an individual who is of such an age, disability, or educational status as to be eligible for child support as provided for by the law of the State in which such individual resides.

(3) For purposes of this section, a child support order shall be deemed to have been "sought" where an individual has applied for services from the State agency designated by

the State to carry out the requirements of part D of title IV of the Social Security Act or has sought a child support order through representation by private or public counsel or pro se.

(e) CONSIDERATION AND PRIORITY OF APPLICATIONS.—(1) The Secretary shall consider all applications received from States desiring to conduct demonstration projects under this section and shall approve not more than 6 applications which appear likely to contribute significantly to the achievement of the purpose of this section. In selecting States to conduct demonstration projects under this section, the Secretary shall—

(A) ensure that the applications selected represent a diversity of minimum benefits distributed throughout the range specified in subsection (d)(1)(B)(i);

(B) consider the geographic dispersion and variation in population of the applicants;

(C) give priority to States the applications of which demonstrate—

(i) significant recent improvements in—

(I) establishing paternity and child support awards,

(II) enforcement of child support awards, and

(III) collection of child support payments;

(ii) a record of effective automation; and

(iii) that efforts will be made to link child support systems with other service delivery systems;

(D) ensure that the proposed projects will be of a size sufficient to obtain a meaningful measure of the effects of child support assurance;

(E) give priority, first, to States intending to operate a child support assurance project on a statewide basis, and, second, to States that are committed to phasing in an expansion of such project to the entire State, if interim evaluations suggest such expansion is warranted; and

(F) ensure that, if feasible, the States selected use a variety of approaches for child support guidelines.

(2) Of the States selected to participate in the demonstration projects conducted under this section, the Secretary shall require, if feasible—

(A) that at least 2 provide intensive integrated social services for low-income participants in the child support assurance project, for the purpose of assisting such participants in improving their employment, housing, health, and educational status; and

(B) that at least 2 have adopted the Uniform Interstate Family Support Act.

(f) DURATION.—(1) During fiscal year 1995, the Secretary shall develop criteria, select the States to participate in the demonstration, and plan for the evaluation required under subsection (h). The demonstration projects conducted under this section shall commence on October 1, 1995, and shall be conducted for not less than 3 and not more than 5 consecutive fiscal years, except that the Secretary may terminate a project before the end of such period if the Secretary determines that the State conducting the project is not in substantial compliance with the terms of the application approved by the Secretary under this section.

(g) COST SAVINGS RECOVERY.—The Secretary shall develop a methodology to identify any State cost savings realized in connection with the implementation of a child support assurance project conducted under this Act. Any such savings realized as a result of the implementation of a child support assurance project shall be utilized for child support enforcement improvements or expansions and improvements in the Aid to Families With Dependent Children Program conducted under part A of title IV of the Social Security Act within the participating State.

(h) EVALUATION AND REPORT TO CONGRESS.—(1) The Secretary shall conduct an evaluation of the effectiveness of the demonstration projects funded under this section. The evaluation shall include an assessment of the effect of an assured benefit on—

(A) income from nongovernment sources and the number of hours worked;

(B) the use and amount of government supports;

(C) the ability to accumulate resources;

(D) the well-being of the children, including educational attainment and school behavior; and

(E) the State's rates of establishing paternity and support orders and of collecting support.

(2) Three and 5 years after commencement of the demonstration projects, the Secretary shall submit an interim and final report based on the evaluation to the Committee on Finance and the Committee on Labor and Human Resources of the Senate, and the Committee on Ways and Means and the Committee on Education and Labor of the House of Representatives concerning the effectiveness of the child support assurance projects funded under this section.

(i) STATE REPORTS.—The Secretary shall require each State that conducts a demonstration project under this section to annually report such information on the project's operation as the Secretary may require, except that all such information shall be reported according to a uniform format prescribed by the Secretary.

(j) RESTRICTIONS ON MATCHING AND USE OF FUNDS.—(1) A State conducting a demonstration project under this section shall be required—

(A) except as provided in paragraph (2), to provide not less than 20 percent of the total amounts expended in each calendar year of the project to pay the costs associated with the project funded under this section;

(B) to maintain its level of expenditures for child support collection, enforcement, and payment at the same level, or at a higher level, than such expenditures were prior to such State's participation in a demonstration project provided by this section; and

(C) to maintain the Aid to Families With Dependent Children benefits provided under part A of title IV of the Social Security Act at the same level, or at a higher level, as the level of such benefits on the date of the enactment of this Act.

(2) A State participating in a demonstration project under this section may provide no less than 10 percent of the total amounts expended to pay the costs associated with the project funded under this section in years after the first year such project is conducted in a State if the State meets the improvements specified in subsection (b)(6)(B).

(k) COORDINATION WITH CERTAIN MEANS-TESTED PROGRAMS.—For purposes of—

(1) the United States Housing Act of 1937;

(2) title V of the Housing Act of 1949;

(3) section 101 of the Housing and Urban Development Act of 1965;

(4) sections 221(d)(3), 235, and 236 of the National Housing Act;

(5) the Food Stamp Act of 1977;

(6) title XIX of the Social Security Act; and

(7) child care assistance provided through part A of title IV of the Social Security Act, the Child Care and Development Block Grant, or title XX of the Social Security Act,

any payment made to an individual within the demonstration project area for child support up to the amount which an assured child support benefit would provide shall not be treated as income and shall not be taken into account in determining resources for the month of its receipt and the following month.

(l) TREATMENT OF CHILD SUPPORT BENEFIT.—Any assured child support benefit received by an individual under this Act shall be considered child support for purposes of the Internal Revenue Code of 1986.

(m) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as may be necessary in each of the fiscal years 1995, 1996, 1997, 1998, 1999, and 2000 to carry out the purposes of this Act.

CENTER FOR LAW AND SOCIAL POLICY,
Washington, DC, March 21, 1994.

Hon. CHRISTOPHER DODD,
Committee on Labor and Human Resources, Subcommittee on Children, Families, Drugs and Alcoholism, Washington, DC.

DEAR SENATOR DODD, the Center for Law and Social Policy commends you for sponsoring the Child Support Assurance Act of 1994.

In recent times, a great deal of attention has been paid to the idea of "ending welfare as we know it." The real issue, however, is ending poverty as we know it. In particular, we must be committed to eliminating the poverty of children being raised in single-parent families. To ameliorate this poverty, a child support assurance system is absolutely essential. Your bill takes a strong positive step toward creating such a system.

The Child Support Assurance Act of 1994 authorizes up to six demonstration projects. In a demonstration project site, any eligible child could receive a monthly guaranteed child support payment. If the child's non-custodial parent paid support, that money would be used to reimburse the government for the assured benefit. If the non-custodial parent paid no support or paid less than the guaranteed amount, the child would still receive the guaranteed payment. Each site would set its own payment structure (within the limits set out in the bill) and would use a variety of guideline approaches to determine what the non-custodial parent should pay.

Three aspects of the Child Support Assurance Act of 1994 are particularly important. First, it gives priority to states which have already shown a commitment to improving child support enforcement and requires all participating states to improve enforcement over the life of the demonstration project. Any test of child support assurance ought to be conducted in conjunction with improving enforcement. Not only is this fiscally prudent, but also it emphasizes that the child's parent is and should be the primary source of his/her support.

Second, the bill gives priority to states wishing to operate state-wide demonstration projects. The primary reason for having demonstration projects, rather than moving immediately to a national child support assurance system, is to learn how to phase in an assurance system nationwide. To learn as much as we can, large scale projects are needed and your bill recognizes this.

Third, the bill helps the most vulnerable children—those receiving AFDC. By providing a partial disregard of the assurance payment, it allows children subsisting on meager AFDC benefits the chance to obtain a family income that is closer to the poverty line. By providing a source of reliable child support to supplement the wages of a parent

when the family leaves AFDC, it makes escape from poverty possible.

We look forward to working with you to make child support assurance a reality.

Sincerely,

PAULA ROBERTS,
Senior Staff Attorney.

WOMEN'S LEGAL DEFENSE FUND,
Washington, DC, March 21, 1994.

Hon. CHRISTOPHER J. DODD and Hon. JAY D. ROCKEFELLER IV,
U.S. Senate,
Washington, DC.

DEAR SENATORS DODD AND ROCKEFELLER, the Women's Legal Defense Fund is a national, nonprofit advocacy organization that for more than twenty years has worked for policies that help women and their families achieve economic security, equal opportunity in the workplace, and access to quality health care. For more than ten years, we have worked in Congress, the executive branch, and the states, to improve this country's child support system. We write to express our strong support for a program of child support assurance, and to commend the important steps in that direction that would be taken under the Child Support Assurance Act of 1994.

Children need and deserve the support of both parents. Single parents, usually mothers, struggle to provide both nurturance and economic support for their children. They confront a labor market that offers many of them only low wage, part time, and insecure jobs, if any; often unavailable or unaffordable child care; and still insufficient flexibility to combine paid work and caretaking, even with the improvements of the Family and Medical Leave Act. As a result, over half of the children in single parent families live in poverty.

Despite reforms, a majority of single mothers and their children cannot count on the child support system to deliver economic support from the other parent. Now, when a noncustodial parent fails to pay, and the state fails to collect, the burden of these failures falls on children. Child support assurance would protect children from this loss, just as Social Security survivors' insurance protects against the loss of a parent. Thus, child support assurance is needed as a matter of simple justice.

In addition, child support assurance is an effective route to both child support and welfare reform. With child support assured, mothers who now despair of ever actually receiving child support will have a greater incentive to seek child support awards. The states will have a greater incentive to collect them. And a child support assurance program that allows mothers to combine paid work and an assured minimum benefit can truly "make work pay." With a reliable source of income in place to supplement their wages, many mothers will be able to avoid applying for public assistance. If the program is designed so that mothers receiving public assistance do not experience a dollar for dollar reduction in income, they will be able to improve their families' economic security with the assured benefit. The disincentives to work that are part of the current public assistance program will be reduced. And the fathers of children now receiving public assistance will have a greater incentive to pay. Most importantly, child support assurance can alleviate the poverty that far too many children and single mothers must bear.

The Women's Legal Defense Fund believes that every child deserves an assurance of child support. Although the Child Support Assurance Act of 1994 authorizes only demonstration projects, not a universal program, the demonstration projects it would authorize include several crucial features:

Participation would be open to custodial parents who have child support awards; are seeking awards; or have good cause not to seek a child support award. This creates an incentive for single parents to seek to establish child support, without penalizing them for system delays or failures, or putting them at risk of additional abuse.

There would be real economic benefits for all families, and work incentives would remain, because half of the assured benefit would be disregarded from income for families receiving AFDC.

At least some demonstration projects would assure a minimum benefit large enough to make a real difference in children's lives.

The Child Support Assurance Act of 1994 would represent real progress toward equity and security for children in single parent families, goals the Women's Legal Defense Fund will work to help achieve.

Sincerely,

JUDITH L. LICHTMAN,
President.

CHILDREN'S DEFENSE FUND,
Washington, DC, March 21, 1994.

Hon. CHRISTOPHER J. DODD and Hon. JOHN D. ROCKEFELLER,
U.S. Senate,
Washington, DC 20510.

DEAR SENATORS DODD AND ROCKEFELLER, we want to congratulate you for your leadership in developing a proposal to create six state demonstrations of child support assurance. We believe your partnership in supporting this concept will provide the impetus to help make child support assurance a reality.

Child support assurance is a key building block in a long-term strategy to meet the needs of children and families. With its emphasis on personal responsibility and incentives to work, as well as on reducing child poverty and economic insecurity, the proposal will unite advocates for children. It will make a genuine difference in children's lives by making child support a regular, reliable source of income that encourages custodial parents to work because they can anticipate having reliable contributions from the non-custodial parent or the government. It is an essential component of a welfare reform strategy that encourages work and parental responsibility.

We are heartened by your expectation that states must improve the way they establish paternity and enforce support in order to participate in child support assurance. We agree that child support assurance must be coupled with aggressive efforts to improve child support enforcement, both to keep government cost down and to underscore the message that every child deserves the support of both parents.

Child support assurance is built on the premise that government will insure children against harm when parents fail to meet their responsibilities, but will continue to hold parents responsible. When a parent leaves the household, this parental responsibility does not end. Child support assurance protects children and reinforces parent responsibility by helping provide a stable economic base for children, but also by aggressively pursuing reimbursement from the non-custodial parent when he or she fails to pay support.

We appreciate your longstanding work to help children, and look forward to working with you on this important proposal.

Sincerely,

NANCY EBB,
Senior Staff Attorney.

Mr. ROCKEFELLER. Mr. President, I am proud to join my distinguished colleague from Connecticut [Mr. DODD] in introducing a demonstration project which will help us chart a bold course in promoting parental responsibility and stable support for children. It truly is an honor to join with such a dedicated, effective advocate for children in promoting a new concept of security for children.

Today, we are joining forces to promote a demonstration project, the Child Support Assurance Act of 1994. It is a combination of our previous individual initiatives, but we are united in our commitment to aggressively push this concept as part of comprehensive welfare reform. Child support assurance, we believe, will be the effective carrot to get the Federal Government, States, and individuals working to collect the billions of dollars that parents owe their children in child support.

This demonstration is just one piece of the puzzle—but, I believe, is a key piece to link others together. We understand and agree that child support assurance will not be effective unless we dramatically improve child support enforcement efforts. But our child support assurance demonstration will provide tremendous incentives for States and parents to work with the Federal Government to establish paternity, get child support awards in place, and collect the money from all parents who have an obligation to support their children. Only as a last resort would a minimum benefit kick in for the child if the parent did not pay after all efforts were made to collect. The minimum benefit will ensure that children aren't penalized when an absent parent shirks their obligations.

Such stable, consistent support is vital for children. A recent study by the National Institute of Child Health and Human Development noted that children of single-parent families are at increased risk. It noted that the single most important factor in accounting for the lower achievement of children in single-parent families is poverty and economic insecurity. Income differences account for half of the increased risk for disadvantages. The researchers noted that because income is such an important factor in the increased risk for disadvantages among children in single-parent families, policies that serve to minimize the negative economic impact on children may help reduce their difficulties.

The National Child Support Assurance Consortium issued a compelling report called Childhood's End in January 1993 that outlined what happens to children when child support payments are missing or just late. Let me share

just a few of the report's significant findings about what happens to children when child support is not paid:

Fifty-five percent of mothers reported that their children missed regular health check-ups.

Thirty-six percent of mothers reported that their children did not get medical care when they became ill.

Fifty-seven percent of the mothers reported that their children lost their regular child care.

The list goes on and on, and it is tragic that parents are not living up to their financial obligations and placing their own children at risk. And demographers warn us that one out of every two children growing up today will spend some time living with only one parent, and therefore half of our children will be dependent on child support.

All these statistics indicate that we must dramatically strengthen our child support enforcement system to protect all children who are at risk, and I believe this child support assurance demonstration will do exactly that.

As chairman of the National Commission on Children, I wanted to put this initiative into perspective. Our bipartisan commission issued a unanimous report entitled "Beyond Rhetoric, A New American Agenda for Children and Families." This historic report clearly stated that the best way to help children is to strengthen families, and I wish that every child could grow up in a stable home, with two loving parents and financial security.

But in reality, over 15.7 million children are living in single-parent families and dependent on child support. Only 26 percent of those children receive the financial support they deserve from their absent parent. This means that 74 percent are placed at risk. These children deserve our compassion and support, not penalties and sanctions. We believe our child support assurance demonstration which will require improved child support enforcement, should help.

I believe this demonstration will promote parental responsibility and over the long-run strengthen families by sending a clear signal we believe every parent has obligation to support their children.

This demonstration should also promote work and responsibility for single-parents on welfare. While our child support assurance program is not means tested, it will offer stronger incentives for parents on welfare to return to work. For example, if a parent on welfare goes to work, their AFDC benefits are reduced, but if that same parent returns to work their child support award is continued and the family is better off. Our hope is that the vast majority of the child support awards will be paid by the absent parent. But when it is impossible to collect from the absent parent, and the single-parent has fully cooperated, the assured minimum benefit will ensure that the child is not penalized and put at risk.

The concept of child support assurance has attracted interest from groups across a broad range of the political spectrum, and it holds enormous potential to offer security to children. It deserves to be tested and this demonstration project is an ideal opportunity to explore this innovative idea.

I ask for unanimous consent that background information on child support facts be printed in the RECORD following my remarks.

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

FACTS AND FIGURES ON CHILD SUPPORT

One out of every two children growing up today will spend some time living with only one parent, and therefore will be dependent on child support.[1]

10 million women are custodial parents of 15.7 million children, but only 58 percent have a child support award in place, and of those women, only 26 percent receive full payment.[2]

$11.2 billion was collected in child support in 1989, but $5.1 billion more was due in support.[3]

(This does not include arrearages, which are estimated by the Office of Child Support Enforcement at about 22 billion cases in the system. Nor does it include support for 42 percent of cases in which an award has not been established.)

If all eligible mothers had child support award pegged to current state guidelines, children would be eligible for about $30 billion in support payments each year.[4]

Researchers estimate that if we improved child support enforcement and established a national child support assurance system, the results could yield:

A reduction of 8 percent to 9 percent in the poverty rate, and

A decline of 12 percent to 20 percent in welfare dependency.[5]

ADDITIONAL COSPONSORS

S. 208

At the request of Mr. BUMPERS, the name of the Senator from Massachusetts [Mr. KENNEDY] was added as a cosponsor of S. 208, a bill to reform the concessions policies of the National Park Service, and for other purposes.

S. 235

At the request of Mr. REID, the name of the Senator from New Hampshire [Mr. GREGG] was added as a cosponsor of S. 235, a bill to limit State taxation of certain pension income, and for other purposes.

S. 257

At the request of Mr. BUMPERS, the name of the Senator from Massachusetts [Mr. KENNEDY] was added as a cosponsor of S. 257, a bill to modify the requirements applicable to locatable minerals on public domain lands, consistent with the principles of self-initiation of mining claims, and for other purposes.

S. 784

At the request of Mr. HATCH, the names of the Senator from Pennsylvania [Mr. WOFFORD] and the Senator from Wisconsin [Mr. FEINGOLD] were added as cosponsors of S. 784, a bill to amend the Federal Food, Drug, and Cosmetic Act to establish standards with respect to dietary supplements, and for other purposes.

S. 978

At the request of Mr. BAUCUS, the names of the Senator from Massachusetts [Mr. KENNEDY], the Senator from Michigan [Mr. LEVIN], the Senator from Nevada [Mr. REID], the Senator from Maryland [Mr. SARBANES], the Senator from Ohio [Mr. METZENBAUM], the Senator from Connecticut [Mr. DODD], and the Senator from Rhode Island [Mr. PELL] were added as cosponsors of S. 978, a bill to establish programs to promote environmental technology, and for other purposes.

S. 1040

At the request of Mr. BINGAMAN, the names of the Senator from Rhode Island [Mr. CHAFEE] and the Senator from Mississippi [Mr. LOTT] were added as cosponsors of S. 1040, a bill to support systemic improvement of education and the development of a technologically literate citizenry and internationally competitive work force by establishing a comprehensive system through which appropriate technology-enhanced curriculum, instruction, and administrative support resources and services, that support the National Education Goals and any national education standards that may be developed, are provided to schools throughout the United States.

S. 1171

At the request of Mr. BREAUX, the name of the Senator from Utah [Mr. HATCH] was added as a cosponsor of S. 1171, a bill to amend the Internal Revenue Code of 1986 with respect to the taxation of certain sponsorship payments to tax-exempt organizations and certain amounts received by Olympic organizations.

S. 1231

At the request of Mr. MOYNIHAN, the names of the Senator from North Dakota [Mr. CONRAD], the Senator from Michigan [Mr. RIEGLE], and the Senator from Utah [Mr. HATCH] were added as cosponsors of S. 1231, a bill to provide for simplified collection of em-

[1] Irwin Garfinkel and Sara McLanahan, "Single Mothers and Their Children: A New American Dilemma" (Washington, DC: The Urban Institute Press, 1986) p.1.

[2] U.S. Census Bureau, "Statistical Brier: Who's Supporting the Kids?" October 1991.

[3] Same.

[4] David Good and Maureen Pirog-Good, "The efficiency of State Child Support Enforcement Programs" in Public Budgeting and Finance," Fall 1990, p. 25.

[5] Daniel Meyer, Irwin Garfinkel, Philip Roobins, and Donald Oellerich, "The Costs and Effects of a National Child Support Assurance System" (University of Wisconsin-Madison Institute for Research on Poverty, Discussion Paper 940-91, March 1991), p. 28.

ployment taxes on domestic services, and for other purposes.

S. 1592

At the request of Mr. DOMENICI, the names of the Senator from Minnesota [Mr. DURENBERGER] and the Senator from Alaska [Mr. STEVENS] were added as cosponsors of S. 1592, a bill to improve Federal decisionmaking by requiring a thorough evaluation of the economic impact of Federal legislative and regulatory requirements on State and local governments and the economic resources located in such State and local governments.

S. 1651

At the request of Mr. D'AMATO, the names of the Senator from Virginia [Mr. ROBB] and the Senator from Tennessee [Mr. MATHEWS] were added as cosponsors of S. 1651, a bill to authorize the minting of coins to commemorate the 200th anniversary of the founding of the United States Military Academy at West Point, New York.

S. 1688

At the request of Mr. GRAHAM, the name of the Senator from California [Mrs. FEINSTEIN] was added as a cosponsor of S. 1688, a bill to amend the Internal Revenue Code of 1986 to treat spaceports like airports under the exempt facility bond rules.

S. 1691

At the request of Mr. CONRAD, the name of the Senator from South Dakota [Mr. PRESSLER] was added as a cosponsor of S. 1691, a bill to amend the Internal Revenue Code of 1986 to provide taxpayers engaged in certain agriculture-related activities a credit against income tax for property used to control environmental pollution and for soil and water conservation expenditures.

S. 1791

At the request of Mr. KEMPTHORNE, the name of the Senator from Mississippi [Mr. LOTT] was added as a cosponsor of S. 1791, a bill to provide for mandatory life imprisonment of a person convicted of a second offense of kidnapping a minor.

S. 1825

At the request of Mr. BUMPERS, the names of the Senator from Michigan [Mr. LEVIN] and the Senator from California [Mrs. FEINSTEIN] were added as cosponsors of S. 1825, a bill to authorize collection of certain State and local taxes with respect to the sale, delivery, and use of tangible personal property.

S. 1830

At the request of Mrs. FEINSTEIN, the name of the Senator from Colorado [Mr. CAMPBELL] was added as a cosponsor of S. 1830, a bill to authorize funding for the small business defense conversion program of the Small Business Administration, and for other purposes.

S. 1920

At the request of Mr. DOMENICI, the names of the Senator from Wyoming [Mr. SIMPSON], the Senator from Virginia [Mr. WARNER], the Senator from Washington [Mr. GORTON], the Senator from Kansas [Mrs. KASSEBAUM], the Senator from New Hampshire [Mr. SMITH], the Senator from North Carolina [Mr. FAIRCLOTH], and the Senator from Idaho [Mr. KEMPTHORNE] were added as cosponsors of S. 1920, a bill to amend title IV of the Public Health Service Act (commonly known as the "Safe Drinking Water Act") to ensure the safety of public water systems, and for other purposes.

S. 1933

At the request of Mr. MCCAIN, the names of the Senator from South Carolina [Mr. HOLLINGS] and the Senator from Indiana [Mr. LUGAR] were added as cosponsors of S. 1933, a bill to repeal the Medicare and Medicaid Coverage Data Bank, and for other purposes.

S. 1943

At the request of Mrs. KASSEBAUM, the names of the Senator from New Mexico [Mr. DOMENICI], the Senator from Wyoming [Mr. SIMPSON], and the Senator from Colorado [Mr. BROWN] were added as cosponsors of S. 1943, a bill to consolidate Federal employment training programs and create a new process and structure for funding the programs, and for other purposes.

SENATE JOINT RESOLUTION 172

At the request of Mr. DOLE, the names of the Senator from New Hampshire [Mr. GREGG], the Senator from Rhode Island [Mr. CHAFEE], the Senator from Maine [Mr. COHEN], the Senator from North Dakota [Mr. CONRAD], the Senator from Idaho [Mr. CRAIG], the Senator from Ohio [Mr. GLENN], the Senator from Massachusetts [Mr. KERRY], the Senator from Wisconsin [Mr. KOHL], the Senator from Tennessee [Mr. MATHEWS], the Senator from Maine [Mr. MITCHELL], the Senator from Wyoming [Mr. SIMPSON], and the Senator from South Carolina [Mr. THURMOND] were added as cosponsors of Senate Joint Resolution 172, a joint resolution designating May 30, 1994, through June 6, 1994, as a "Time for the National Observance of the Fiftieth Anniversary of World War II."

SENATE RESOLUTION 170

At the request of Mr. CHAFEE, the name of the Senator from Washington [Mr. GORTON] was added as a cosponsor of Senate Resolution 170, a resolution to express the sense of the Senate that obstetrician-gynecologists should be included as primary care providers for women in Federal laws relating to the provision of health care.

SENATE RESOLUTION 191—ELECTING THE SECRETARY OF THE SENATE, MARTHA S. POPE

Mr. MITCHELL submitted the following resolution; which was considered and agreed to:

S. RES. 191

Resolved, That Martha S. Pope be, and she is hereby, elected Secretary of the Senate, effective April 15, 1994.

SENATE RESOLUTION 192—ELECTING THE SERGEANT AT ARMS AND DOORKEEPER OF THE SENATE, ROBERT LAURENT BENOIT

Mr. MITCHELL submitted the following resolution; which was considered and agreed to:

S. RES. 192

Resolved, That Robert Laurent Benoit be, and he is hereby elected Sergeant at Arms and Doorkeeper of the Senate, effective April 15, 1994.

AMENDMENTS SUBMITTED

CONGRESSIONAL BUDGET RESOLUTION

SPECTER AMENDMENT NO. 1557

(Ordered to lie on the table.)

Mr. SPECTER submitted an amendment intended to be proposed by him to the concurrent resolution (S. Con. Res. 63) concurrent resolution setting forth the Congressional Budget for the U.S. Government for fiscal years 1995, 1996, 1997, 1998, and 1999; as follows:

On page 13, decrease the amount on line 7 by $2,150,000,000.

On page 13, decrease the amount on line 8 by $1,400,000,000.

On page 13, decrease the amount on line 14 by $2,200,000,000.

On page 13, decrease the amount on line 15 by $2,100,000,000.

On page 13, decrease the amount on line 21 by $2,250,000,000.

On page 13, decrease the amount on line 22 by $2,250,000,000.

On page 14, decrease the amount on line 3 by $2,350,000,000.

On page 14, decrease the amount on line 4 by $2,300,000,000.

On page 14, decrease the amount on line 10 by $2,400,000,000.

On page 14, decrease the amount on line 11 by $2,350,000,000.

On page 24, increase the amount on line 17 by $1,290,000,000.

On page 24, increase the amount on line 18 by $801,000,000.

On page 24, increase the amount on line 25 by $733,000,000.

On page 25, increase the amount on line 1 by $700,000,000.

On page 25, increase the amount on line 8 by $750,000,000.

On page 25, increase the amount on line 16 by $783,000,000.

On page 25, increase the amount on line 17 by $766,000,000.

On page 25, increase the amount on line 24 by $800,000,000.

On page 25, increase the amount on line 25 by $783,000,000.

On page 26, increase the amount on line 8 by $635,000,000.

On page 26, increase the amount on line 9 by $395,000,000.

On page 26, increase the amount on line 15 by $733,000,000.

On page 26, increase the amount on line 16 by $700,000,000.

On page 26, increase the amount on line 22 by $750,000,000.

On page 26, increase the amount on line 23 by $750,000,000.

On page 27, increase the amount on line 5 by $783,000,000.

On page 27, increase the amount on line 6 by $766,000,000.

On page 27, increase the amount on line 12 by $800,000,000.

On page 27, increase the amount on line 13 by $783,000,000.

On page 30, increase the amount on line 20 by $225,000,000.

On page 30, increase the amount on line 21 by $204,000,000.

On page 31, increase the amount on line 2 by $734,000,000.

On page 31, increase the amount on line 3 by $700,000,000.

On page 31, increase the amount on line 9 by $750,000,000.

On page 31, increase the amount on line 10 by $750,000,000.

On page 31, increase the amount on line 16 by $784,000,000.

On page 31, increase the amount on line 17 by $767,000,000.

On page 31, increase the amount on line 23 by $800,000,000.

On page 31, increase the amount on line 23 by $784,000,000.

Mr. SPECTER. Mr. President, this amendment transfers $2.1 billion in budget authority and $1.4 billion in outlays from NASA's space station program for fiscal year 1995 into the following areas:

First, LIHEAP: $225 million in fiscal year 1995 to restore funds cut by the President and not fully restored by the Senate Budget Committee.

Second, Education and training (Function 500): $1.3 billion for Job Training Partnership Act [JTPA], Job Corps, vocational education, adult education, Prison Literacy, Neglected and Delinquent Program, and drug free schools.

Third, Prenatal care/pregnancy prevention (function 550): $635 million for Maternal and Child Health Block Grant Program, health start, community and migrant health centers, and substance abuse treatment for pregnant women, family planning, comprehensive school health, Center for Disease Control, Teen Pregnancy Program, Department of Education Comprehensive School Health Program, Maternal and Child Health Block Grant Program.

For the remaining 5 years under the budget resolution, the savings from cancellation of the space station are divided equally between functions 600, 500, and 550 to support the programs above.

HARKIN (AND OTHERS) AMENDMENT NO. 1558

Mr. HARKIN (for himself, Mrs. MURRAY, Mr. ROCKEFELLER, Mr. WOFFORD, Mr. DASCHLE, Mr. FEINGOLD, Mr. SASSER, Mrs. BOXER, Mr. BAUCUS, Mr. KOHL, and Mr. LAUTENBERG) proposed an amendment to the concurrent resolution Senate Concurrent Resolution 63, supra; as follows:

On page 5, line 1, decrease the amount by $155,000,000.

On page 5, line 11, decrease the amount by $155,000,000.

On page 5, line 22, decrease the amount by $158,000,000.

On page 5, line 23, decrease the amount by $59,000,000.

On page 5, line 24, increase the amount by $69,000,000.

On page 5, line 25, increase the amount by $8,000,000.

On page 6, line 1, decrease the amount by $10,000,000.

On page 6, line 7, decrease the amount by $158,000,000.

On page 6, line 8, decrease the amount by $59,000,000.

On page 6, line 9, increase the amount by $69,000,000.

On page 6, line 10, increase the amount by $8,000,000.

On page 6, line 11, decrease the amount by $10,000,000.

On page 6, line 17, decrease the amount by $158,000,000.

On page 6, line 18, decrease the amount by $59,000,000.

On page 6, line 19, increase the amount by $69,000,000.

On page 6, line 20, increase the amount by $8,000,000.

On page 6, line 21, decrease the amount by $10,000,000.

On page 7, line 1, decrease the amount by $158,000,000.

On page 7, line 2, decrease the amount by $59,000,000.

On page 7, line 3, increase the amount by $69,000,000.

On page 7, line 4, increase the amount by $8,000,000.

On page 7, line 5, decrease the amount by $10,000,000.

On page 7, line 8, decrease the amount by $158,000,000.

On page 7, line 9, decrease the amount by $217,000,000.

On page 7, line 10, decrease the amount by $148,000,000.

On page 7, line 11, decrease the amount by $140,000,000.

On page 7, line 12, decrease the amount by $150,000,000.

On page 8, line 7, decrease the amount by $158,000,000.

On page 8, line 8, decrease the amount by $59,000,000.

On page 8, line 9, increase the amount by $69,000,000.

On page 8, line 10, increase the amount by $8,000,000.

On page 8, line 11, decrease the amount by $10,000,000.

On page 10, line 3, decrease the amount by $513,000,000.

On page 10, line 4, decrease the amount by $236,000,000.

On page 10, line 11, decrease the amount by $195,000,000.

On page 10, line 18, decrease the amount by $56,000,000.

On page 10, line 25, decrease the amount by $10,000,000.

On page 11, line 7, decrease the amount by $10,000,000.

On page 35, line 8, increase the amount by $358,000,000.

On page 35, line 9, increase the amount by $78,000,000.

On page 35, line 16, increase the amount by $136,000,000.

On page 35, line 23, increase the amount by $125,000,000.

On page 36, line 6, increase the amount by $18,000,000.

GORTON (AND OTHERS) AMENDMENT NO. 1559

Mr. GORTON (for himself, Mr. HATCH, Mr. D'AMATO, and Mr. ROTH) proposed an amendment to the concurrent resolution, S. Con. Res. 63, supra; as follows:

On page 35, line 8, increase the amount by $423,000,000.

On page 35, line 9, increase the amount by $93,000,000.

On page 35, line 15, increase the amount by $423,000,000.

On page 35, line 16, increase the amount by $241,000,000.

On page 35, line 22, increase the amount by $423,000,000.

On page 35, line 23, increase the amount by $402,000,000.

On page 36, line 5, increase the amount by $423,000,000.

On page 36, line 6, increase the amount by $423,000,000.

On page 36, line 12, increase the amount by $423,000,000.

On page 36, line 13, increase the amount by $423,000,000.

On page 41, line 11, decrease the amount by $423,000,000.

On page 41, line 12, decrease the amount by $93,000,000.

On page 41, line 18, decrease the amount by $423,000,000.

On page 41, line 19, decrease the amount by $241,000,000.

On page 41, line 25, decrease the amount by $423,000,000.

On page 42, line 1, decrease the amount by $402,000,000.

On page 42, line 7, decrease the amount by $423,000,000.

On page 42, line 8, decrease the amount by $423,000,000.

On page 42, line 14, decrease the amount by $423,000,000.

On page 42, line 15, decrease the amount by $423,000,000.

NOTICE OF HEARING

SUBCOMMITTEE ON FEDERAL SERVICES, POST OFFICE, AND CIVIL SERVICE

Mr. GLENN. Mr. President, I would like to announce that the Subcommittee on Federal Services, Post Office, and Civil Service, of the Committee on Governmental Affairs, will hold a hearing on March 24, 1994. The Postmaster General of the United States will present the Annual Report of the Postal Service.

The hearing is scheduled for 10 a.m., in room 342 of the Senate Dirksen Office Building. For further information, please contact Todd Menotti, at 224-2254.

AUTHORITY FOR COMMITTEES TO MEET

COMMITTEE ON ARMED SERVICES

Mr. FEINGOLD. Mr. President, I ask unanimous consent that the Committee on Armed Services be authorized to

meet on Tuesday, March 22, 1994, at 2:30 p.m., in closed session to receive an interim briefing from Senators LEVIN and WARNER on their investigation on Somalia.

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

COMMITTEE ON FINANCE

Mr. FEINGOLD. Mr. President, I ask unanimous consent that the Committee on Finance be permitted to meet today, March 22, 1994, at 10 a.m.

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

COMMITTEE ON FOREIGN RELATIONS

Mr. FEINGOLD. Mr. President, I ask unanimous consent that the Committee on Foreign Relations, be authorized to meet during the session of the Senate on Tuesday, March 22, 1994, at 10 a.m. to hold a business meeting to vote on pending business, and to receive testimony from the Secretary of State and ACDA Director on the Chemical Weapons Convention, Treaty Doc. 103–21.

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

COMMITTEE ON LABOR AND HUMAN RESOURCES

Mr. FEINGOLD. Mr. President, I ask unanimous consent that the Committee on Labor and Human Resources be authorized to meet for a hearing on Further Perspectives on OSHA Reform, during the session of the Senate on March 22, 1994, at 10 a.m.

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

SELECT COMMITTEE ON INTELLIGENCE

Mr. FEINGOLD. Mr. President, I ask unanimous consent that the Select Committee on Intelligence be authorized to meet during the session of the Senate on Tuesday, March 22, 1994 at 4 p.m. to hold a closed hearing on intelligence matters.

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

SUBCOMMITTEE ON FEDERAL SERVICES, POST OFFICE, AND CIVIL SERVICE

Mr. FEINGOLD. Mr. President, I ask unanimous consent that the subcommittee on Federal Services, Post Office, and Civil Service, Committee on Governmental Affairs, be authorized to meet during the session of the Senate on Tuesday, March 22, 1994, to review operational testing and to discuss proposals for operational testing.

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

ADDITIONAL STATEMENTS

TRIBUTE TO ABE POLLIN

• Ms. MIKULSKI. Mr. President, I rise today to salute a distinguished citizen of the State of Maryland, Mr. Abe Pollin. In recognition of his lifetime of work in furthering the bond of friendship between Israel and the United States, the Joint Commission on the American Promenade in Israel has named Abe Pollin the founding father from the State of Maryland for the American Promenade.

The American Promenade is a privately funded national park located at the gateway to Jerusalem, whose purpose is to commemorate the unique bond of friendship between the two countries. It will consist of 50 marble monuments bearing the flags and official seals of the 50 States, and the United States-Israel Friendship Botanical Garden featuring Biblical and State trees and flowers. An outstanding personality from each State will be honored by the Joint Commission as a founding father, whose name will be permanently inscribed on the monument along with the names of the current Governor and U.S. Senators.

In selecting Abe Pollin for this honor, the Joint Commission is now recognizing something that we in Maryland have known for quite a while—that this is a man whose accomplishments in business, in his community, and in public affairs will long be remembered.

As the owner of two professional sports franchises, the Washington Bullets basketball team and the Washington Capitols hockey team, Abe Pollin has brought national recognition to the Baltimore/Washington market and generated excitement and pride in the accomplishments of its teams. As the operator of a very successful home building company and the director of a local savings and loan, Abe Pollin has directly contributed to the local economy and enabled many Marylanders to own their own homes. Finally, as a member of the board of directors for the United Jewish Appeal, the National Jewish Hospital, the Jewish Community Center, and the John F. Kennedy Cultural Center, Abe Pollin has shown his concern over many years for the spiritual, cultural, and material needs of his community.

Mr. President, I believe the Joint Commission made a wise decision. I salute my good friend, Abe Pollin, and I urge my colleagues to join me in congratulating him on his selection for this prestigious honor.•

COMMISSIONING OF THE U.S.S. "CURTIS WILBUR"

• Mr. KEMPTHORNE. Mr. President, I rise today to recognize the latest ship in the U.S. Naval fleet, the U.S.S. *Curtis Wilbur*. DDG 54, an Arleigh Burke guided missile destroyer, was commissioned Saturday in Long Beach, CA.

The ship is named after Curtis Dwight Wilbur, who served as Secretary of the Navy under Calvin Coolidge. His administration was characterized by his energetic efforts to strengthen and modernize the Navy. His foresight, instincts, and statesmanship helped restore credibility and respect to our naval forces following the Teapot Dome scandal and the subsequent resignation of Secretary of the Navy Edwin Denby.

Curtis Wilbur headed up our Navy during the difficult times between World War I and World War II. Restrictive treaties, pacifists who would eliminate the Navy, and a reluctant Congress all contributed to the deterioraton of the Navy. Secretary Wilbur successfully argued to Congress that we were in danger of creating a hollow force. He also championed naval aviation and added it to the curriculum of the Naval Academy.

As Secretary of the Navy, Curtis Wilbur fought for the front line troops. He argued that our men needed good ships as good homes for the men—clean and shipshape for good service. He also stressed that money was needed for constant training. His persistence paid off. Morale improved, as desertions went down and reenlistments went up. With the exception of four ships, the entire cruiser strength of the Navy in 1941 was the result of Secretary Wilbur and his dedication. Mr. President, where would this country have been if Curtis Wilbur had not insisted on cruiser construction?

I might add that under Secretary Wilbur's administration, the light cruiser, CL–47, the U.S.S. *Boise*, was built and commissioned. The *Boise* and her crew earned 11 battle stars and the nickname "The One Ship Fleet" for her heroics in World War II.

We can learn from Curtis Wilbur. Let me quote from a fine article written by Col. James W. Hammond, Jr., USMC (Ret.), entitled "The Almost forgotten Secretary." He wrote, "He felt it was criminal to require American boys to accept hazards stemming from inadequate equipment or lack of training because of underfunding." Mr. President, we face those same issues today. Secretary Wilbur's legacy lives on today, and I think we can all learn from his example. We must strive to ensure our men and women have the finest equipment and training possible before we send them into harm's way.

Mr. President, I ask that an article from the Saturday, March 18 Idaho Statesman about Curtis Wilbur and his son, who lives in Boise, be included in the RECORD.

The article follows:

[From the Idaho Statesman, Mar. 19, 1994]

SUCCESS ON LAND AND SEA

(By Tim Woodward)

When the Navy commissions its newest ship today, no one will be prouder than Lyman Wilbur.

The U.S.S. Curtis Wilbur is named after his father, Secretary of the Navy under Calvin Coolidge. The ship is fourth in a new class of hightech guided missile destroyers.

At 93, Boisean Lyman Wilbur took the trip to Long Beach, Calif. for today's commissioning in stride. Chief engineer for the Morrison-Knudsen Co. from 1947 to 1970, he still is very much a man in charge. His voice is

strong, his bearing erect, his presence commanding. His memories of titanic construction projects and billion-dollar contracts are as sharp as an accountant's pencil.

Before leaving for Long Beach, Wilbur took time to reminisce at his home near Hillcrest Country Club. Dapper in dress slacks and black oxfords, surrounded by mementos of world travels and a panoramic view of the Boise Front, he talked about his illustrious father, his famous boss and his own distinguished career.

His famous father was a "stern but gentle" man, a man of striking contrasts. As Secretary of the Navy, Curtis Wilbur was largely responsible for preserving "Old Ironsides," now a national monument in Boston Harbor. He was a driving force in rebuilding the Navy after World War I and helped pioneer the concept of naval aviation. He worked with Adm. Richard Byrd, the Antarctic explorer. President Harding promised him a seat on the U.S. Supreme Court.

The other side of the man who knew presidents was less daunting. He told his children bedtime stories, taught Sunday school classes, wrote children's books.

"In spite of being terribly busy and not always being able to get home for dinner, he always had time for the family," Wilbur recalled. "He used to tell us stories, some of which he wrote as books. One was published as 'The Bear Family at Home and How the Circus Came to Visit Them.'

"Dad always made us toe the mark, but he did it in a gentle way. It never hurt if he spanked us, but we felt so bad for disappointing him that we'd cry."

Lyman Wibur grew up in California, accustomed to the company of influential people. Before his father was Secretary of the Navy, he was chief justice of the California Supreme Court.

Curtis wanted his son to follow his example by attending the Naval Academy, but Wilbur chose to follow his uncle—then president of Stanford University—in academic pursuits instead. He earned a degree from Stanford in engineering and had eight years' experience when the Depression began.

By 1931, he was looking for work. A judge at a tea party urged him to apply with one of the companies building Hoover Dam, then the largest construction project in the world. Harry Morrison, who happened to be there the day he applied, hired him on the spot.

"He was a wonderful person." Wilbur said of Morrison. "He would get the most out of people and probably paid less than anyone for comparable work just because people wanted to work for him.

"He was telling me after just a few minutes things what I considered company secrets. He had a way of cutting people in on the operation of the company. He'd send you out and say go do it. If you need help, call."

Morrison sent Wilbur out a lot. When Wilbur and his late wife were building their Boise home in 1955, his first priority was "a place for my suitcase. I was traveling three fourths of the time."

He worked on the Taugus River Bridge in Portugal, making 11 trips to Lisbon in a year. The bridge has the deepest piers in the world.

He spent three years in Morocco, building airbases. He worked on the world's largest hydroelectric project, on the border of Brazil and Paraguay, and another "almost as big" in Venezuela.

He helped negotiate what became a $2 billion contract with the Navy for airfields in Vietnam. His work there won him the 1966 Man of the Year award from "Engineering News Record," the engineering profession's trade journal.

Wilbur says his father would be "greatly honored" by today's commissioning, and "of course the whole family feels the same way."

So much so that an estimated 70 family members are in Long Beach to see the ship join the fleet.

Lyman, the senior member of the family, probably won't say much about his own military service—as an Army private during the waning months of World War I.

"The only Navy connection I have is Dad wanted me to go to the Naval Academy. I studied all one summer for the exam, but then my uncle was appointed head of Stanford.

The Navy's loss was Idaho's gain. Wilbur will long be remembered as MK's top engineer during construction of Lucky Peak, Brownlee, Oxbow and Hells Canyon dams.

"Frankly," he said, "I don't think I'd have cared for Naval service."•

RAYMOND F. McCASKEY HONORED

• Ms. MOSELEY-BRAUN. Mr. President, I would like to honor a distinguished Illinoisan, Raymond F. McCaskey, who is the 1994 recipient of the Anti-Defamation League's Distinguished Community Service Award. Mr. McCaskey is the Blue Cross and Blue Shield of Illinois president and chief executive officer.

Ray joined Blue Cross in 1976 as an associate actuary, and rose through the ranks of vice president, chief financial officer, and president. He was named chief executive officer in 1993, overseeing the operations of Illinois oldest and largest health insurer.

Ray McCaskey has a strong commitment to people, and to service. Blue Cross has nurtured many community projects and programs under his tenure. Every day, Blue Cross CareVans travel to Chicago's poorest neighborhoods helping in the battle against disease. Since the program began in 1989, CareVan nurses have administered nearly 100,000 immunizations.

Blue Cross is a corporate sponsor of the Chicago Housing Authority's Midnight Basketball League, the Cabrini Green Summer Youth League and Cabrini Greens, the gardening program which has planted seeds of hope and pride at one of the city's largest public housing projects. Ray McCaskey also has continued the fight against illiteracy begun by his predecessor, S. Martin Hickman. Blue Cross is the major underwriter of Chicago United's Family Learning Center project to promote early childhood development and adult literacy.

Under Ray's leadership, Blue Cross has been a strong advocate of health care reform on the national and State levels. He serves on Illinois Gov. Jim Edgar's health care reform task force as one of two key committee chairmen. Ray also serves on the board of directors of the Mental Health Association in Illinois.

As head of one of the major employers in Illinois, Ray McCaskey has promoted equal employment opportunity and affirmative action. Blue Cross has a strong commitment to hiring and promoting minorities, women, veterans, and persons with disabilities. In numerous communications with Blue Cross employees, and most importantly, by personal example, Ray has made clear that everyone must respect and appreciate individual differences.

In presenting its 1994 Distinguished Community Service Award to Ray McCaskey, the Anti-Defamation League said it is "proud to honor this distinguished American whose life and works embody our very highest ideals and aspirations."

I wish to convey my heartfelt congratulations to Ray as he receives this special honor.•

ILLINOIS TOPS IN BATTLE AGAINST DRUNK DRIVING

• Mr. SIMON. Mr. President, I am proud to announce that in the rating the States survey conducted by Mothers Against Drunk Driving [MADD], the State of Illinois received the highest grade in the country, an "A-minus". MADD found that over the past 12 years, Illinois has gone from having one of the worst laws in the country to having the most effective program in the Nation to deter and combat drunk drivers.

This rating is very encouraging, and I commend the strong leadership of Governor Edgar, solid support from the people of Illinois, and a strong public information and education program. In addition, maintaining drunk driving offense information on driver's license records indefinitely, and progressive penalties for subsequent offenders also played a large role in this success story.

It is my pleasure to recognize the citizens of Illinois for their efforts in fighting the senseless deaths and injuries caused by drunk drivers.•

INDIANA WINNERS OF 1993–94 EIGHTH GRADE YOUTH ESSAY CONTEST

• Mr. LUGAR. Mr. President, I rise today to congratulate a group of young Indiana students who have shown great educative achievement. I would like to bring to the attention of my colleagues the winners of the 1993–94 Eighth Grade Youth Essay Contest which I sponsor in association with the Indiana Farm Bureau and Bank One of Indianapolis. These students have displayed strong writing abilities and have proven themselves to be outstanding young Hoosier scholars. I submit their names for the CONGRESSIONAL RECORD because they demonstrate the capabilities of today's students and are fine representatives of our Nation.

This year, Hoosier students wrote on the theme, "Pyramid Builders Live on

Indiana Farms." Students were encouraged to consider and creatively express what effect Indiana agriculture has on their daily lives. I would like to submit for the RECORD the winning essays of Sara Hounshell of Orange County and Christopher J. Myers of Wabash County. As State winners of the Youth Essay Contest, these two outstanding students were recognized on Friday, March 18, 1994, during a visit to our Nation's Capital.

The essays follow:

PYRAMID BUILDERS LIVE ON INDIANA FARMS

(By Sara Hounshell, Orange County)

I am an Egyptian girl, thirteen years of age. Once a stranger visited from a far away place called Indiana. This was his story.

"You're not alone in pyramid building. Indiana farmers contribute to what we call the 'Food Guide Pyramid,' a chart which I'll explain.

"Bread, cereal, rice, and pasta form the base group, and provide vitamins, minerals, and fiber. On the next level, providing these same nutrients, are the fruit and vegetable groups. Next is the milk, yogurt, and cheese group, and the meat, fish, eggs, poultry, dry beans, and nuts group. Both provide calcium, iron, and zinc. The top group, containing fats, sweets, and oils, should be avoided. These foods contain many calories and few nutrients."

He paused and I reflected on his words. "Why is a balanced diet so important?" I asked.

"Eating a balanced diet prevents disease. By avoiding excess sodium, sugar, and cholesterol, you avoid health disorders that could lead to premature death, like coronary heart disease, high blood pressure, and obesity. Obesity causes heart attacks, strokes, and diabetes. More benefits of a healthy diet are a great appearance and a longer, more productive life," he replied.

I thought for a minute and then asked, "Why are Indiana farmers important to a healthy diet?"

He answered, "Indiana farmers raise many animals, like cattle, sheep, swine, poultry, and fish. They also grow plants, such as corn, soybeans, oats, barley, wheat, fruits, and vegetables. These products are grown on Indiana farms of all sizes and are sold world wide.

"Indiana farmers are some of the most important, yet over-looked men in our land. Without them, we would be nothing."

Long after he'd left, I still thought of his words. This Indiana sounds like a wonderful place and the Indiana farmer, a hero.

PYRAMID BUILDERS LIVE ON INDIANA FARMS

(By Christopher J. Myers, Wabash County)

Today's Indiana farmers are the pyramid builders of the twentieth-century. Just as the ancient Egyptians used the products of the earth and technology to build important pyramids, so do Indiana farmers. Using the rich earth and modern technology, they build the levels of the United States Department of Agriculture's food pyramid.

It is said that, "Variety is the spice of life." According to the food pyramid, variety is the key to building a balanced diet. The pyramid base contains foods made from grains. Eating six to seven servings daily provides important fiber, vitamins, and minerals. The second level recommends that you eat three to five servings of vegetables and two to four servings of fruit daily. The milk and meat groups are located on the third level. Two to three servings daily provides protein, calcium, iron, and zinc. Fats, oils, and sweets at the tip of the pyramid should be eaten sparingly.

Eating a balanced diet has many benefits. A diet low in fat and cholesterol reduces your chance of having a heart attack and some cancers. Limiting your intake of fats, oils, and sweets helps maintain a healthy weight. This may prevent high blood pressure, heart disease, stroke, and diabetes. Using only small amounts of salt reduces the risk of high blood pressure.

Indiana farmers produce an amazing variety of products on 65,000 farms covering 16 million acres. Indiana is ranked first nationally in the production of popcorn and ducks; third in eggs and soybeans; and fourth in chickens, tomatoes, and corn. Today's Hoosier farm worker produces enough food to feed seventy-five additional people in the United States and twenty-one people abroad.

In the future, we will continue to depend on Hoosier farmers to provide high quality products from the good earth to build the food pyramid.

1993-94 DISTRICT WINNERS

District 1: Kelly Doreen Hannon, Dan Jancha.

District 2: Rachel Vonderau, Benjamin Cichocki.

District 3: Stacy Tebo, Nathan Blume.

District 4: Kathryn Gilbert, Christopher J. Myers.

District 5: Adam Phillips.

District 6: Jacqueline M. Boone, Shawn Howard.

District 7: Sandra Halter, Paul Fleschner.

District 8: Laura Willett, Mike Pogue.

District 9: Sara Hounshell, Kelly David O'Donnell.

District 10: Darcy Lynn Fowler, Justin Selmeyer.

1993-94 COUNTY WINNERS

Allen: Rachel Vonderau, Benjamin Cichocki.

Bartholomew: Laura Willett, Mike Pogue.

Blackford: Kristin Dinse, Nick Ehrhart.

Carroll: Nate Slavens.

Cass: Jessica Smith, Nathan Blume.

Clay: Kate Yegerlehner.

Clinton: Kelley Gray.

Daviess: Sandra Halter.

Delaware: Robyn Pearson, Scott Lynn Cain.

Dearborn: Darcy Lynne Fowler, Justin Selmeyer.

Decatur: Christy Kunz, Hale Kile.

Fayette: Heather Mitchell, Chad Mauger.

Floyd: Heather Bunch, Nathan Hock.

Franklin: Carrie Mergenthal.

Fulton: Amy Allison Eizinger.

Gibson: Rebecca Coomer.

Hamilton: Jacqueline Boone, Michael Cochran.

Harrison: Sarah Yeager, Chris Chamber.

Howard: David Fang.

Jay: Kathryn Gilbert, Matt Vold.

Lake: Ann Marie Bronowski, Michael Flutka.

Madison: Harmony Warner, Jeremy Davis.

Marion: Andrea Kirk, Shawn Howard.

Morgan: Adam Phillips.

Newton: Stacey Tebo, John Wheelock.

Orange: Sara Houshell.

Porter: Kelly Doreen Hannon, Andy Bien.

Posey: Sarah Seib, Mark Alan Blackburn.

Randolph: Anita Harris, Isaac Thornburg.

St. Joseph: Jill Boruff, Dan Jancha.

Starke: Kristie J. Kelley, John Ostrega.

Switzerland: Jerri Lynn Peters, Nathan Jones.

Vanderburgh: Leah Michelsen, Kelly David O'Donnell.

Vigo: Kirsten Henry, Paul Fleschner.

Wabash: Brandy E. Smith, Christopher J. Myers.

Warrick: Jessica Locker, Erick T. Hilbert.

Washington: Kelly Hauger, Andrew Knapp.

Wayne: Beth Jeffries.

Wells: Jamie Stromberg, Landon Smith.•

A FUTURE FOR BOSNIA AND HERZEGOVINA

• Mr. DECONCINI. Mr. President, it was heartening to see the weekend news from Sarajevo, which is no longer about daily killings. For the first time in about 2 years, the remaining residents of the besieged Bosnian capital were able to enjoy a soccer match, in which—by the way—Sarajevo beat the United Nations 4 to 0. More important, in terms of survival, were the images of the first U.N. humanitarian relief convoy to arrive in the isolated enclave of Maglaj since last October.

These developments demonstrate the truth of what many have said since the outbreak of hostilities in Bosnia and Herzegovina: that a credible use of force by the international community could bring the bloodshed to an end. To trigger such a force, it was critical that the United States take the lead, which, finally, it did. NATO issued an ultimatum for the withdrawal of heavy weapons around Sarajevo, and four Bosnian Serb aircraft were shot down for violating the "no-fly zone." President Clinton initiated a process to bring the Croat population of Bosnia-Herzegovina back into the Bosnian fold. This led, last week, to a new Bosnian constitution creating a federation of cantons, a good first step despite the way in which it may undemocratically perpetuate the politics of ethnic division. It also led to a mutually advantageous economic confederation between Bosnia and Herzegovina and Croatia.

These welcome developments are an indication of what can be done when members of the international community are determined to end aggression and warfare. They also illustrate the effectiveness of U.S. leadership in garnering the necessary political will in this regard. Frankly, I hope that those who viewed the aggression in Bosnia-Herzegovina as a civil war in which we should let them go ahead and kill each other, realize what such policies of inaction have done. In their toleration of genocide, and support for action only to the extent necessary to soothe public consciences, we failed to save at least 150,000 innocent, civilian lives. This puts a heavy responsibility on us to help give Bosnia and Herzegovina back its future, a future which we allowed to be stolen by war criminals, and I hope that those opposing preemptive action early on will now at least feel bound to support the more difficult challenges ahead. While the develop-

ments that have taken place are positive, they are far from complete, and the international community must further toughen its resolve to ensure that U.N. resolutions are carried out.

In the short term, for example, the ultimatum regarding Sarajevo should be extended to all besieged enclaves, in particular the designated "safe havens" and perhaps the entire country. Force should be used, if necessary, to ensure the delivery of humanitarian relief to isolated, starving and freezing populations.

In the medium term, we should make it clear to the Serb militants that the Bosnians do not get anything less than is being suggested in the current deliberations on a Bosnian federation. Bosnia and Herzegovina stays united, and territory seized by force is to be returned. If the Serb response is not satisfactory, alternatives to continued mediation should be considered, including punitive airstrikes by NATO to negate the Serb militants' ability to sustain their aggression, or the lifting of the arms embargo on a Bosnian-Croatian alliance so that it can defend itself and save its people.

In the longer term, if the Bosnian Serbs do come to terms, we must be prepared to preserve the peace, and support human rights, reconciliation and democratization in Bosnia and Herzegovina the best we can. This means, potentially, United States participation in peacekeeping in Bosnia and Herzegovina. I would support this if it were done under NATO auspices, if the peace plan respects the territorial integrity of Bosnia and Herzegovina and other important principles, and, most importantly, if the peacekeepers were given the mandate to ensure the peace plan is implemented as agreed, unlike what has happened in neighboring Croatia. In any event, this also means the persistent pursuit and prompt prosecution of war criminals, wherever they are found.

We will also need to make sure that peace in Bosnia does not mean that the war has simply moved somewhere else. Current preventive diplomacy measures—such as the CSCE mission in Macedonia and European missions in other neighboring countries, must be continued and reenforced, and Belgrade must feel pressure to agree to the reestablishment of the CSCE Missions in Kosovo, Sandzak, and Vojvodina, where the situation has worsened in the last year. Finally, we must not even think of lifting sanctions until we have seen deeds, not just more words, out of Belgrade. Sanctions should only be selectively lifted after the Serbs have come to the table, agreed to terms acceptable to their Bosnian counterparts, and begun to implement them in good faith.

Political will, Mr. President, has started us on what may be the path toward peace in the Balkans. We must now have the resolve to see the process through, and not fall into the trap of believing that a peace agreement alone means peace, and that everything can return to normal in Bosnia-Herzegovina overnight. Our commitment to Bosnia and Herzegovina must be firm and long term. We have nothing less at stake than the principles upon which a peaceful and prosperous world order are based.●

TRIBUTE TO EMBROIDERY SERVICES, INC.

● Mr. McCONNELL. Mr. President, I rise today to pay tribute to two outstanding northern Kentucky businessmen and their company. Embroidery Services, Inc., in Erlanger, KY, was recently recognized by the U.S. Small Business Administration [SBA] as the top small business in Kentucky. Company founder and president George Riggs and vice president Thomas Wells were each named as the 1994 Small Business Person of the Year for the State of Kentucky by SBA.

These outstanding Kentuckians certainly earned this honor. Embroidery Services, Inc., which embroider designs on clothing, began in 1981 as a contract embroiderer with few customers, and even fewer employees. The company had about 20 workers when it began leasing space at the Northern Kentucky University Small Business Incubator in Erlanger almost 5 years ago. Just 3 years ago, the company was enjoying modest success with annual sales at $2.2 million. Today, Embroidery Services has about 100 employees and last year sales topped $10 million.

Mr. President, I visited Mr. Riggs at Embroidery Services last year, and saw firsthand the success of this growing company. With high-technology computerized embroidery machines, the company decorates everything from pillows to polo shirts, producing about 70,000 pieces each month. The quality of work is recognized across the United States and beyond. Ninety percent of the company's sales are to resort areas in the United States and Mexico, and Embroidery Services also ships products to Spain, Italy, and Japan.

During my tour of Embroidery Services, I was equally impressed by the quality workmanship evident in the products, and the business savvy which has enabled Mr. Riggs and Mr. Wells to build such a successful company. Mr. Riggs, who is quite modest about his entrepreneurial achievements, has called himself a bad planner because his company has had to move into larger facilities six times. It is a problem that many companies would like to have. Embroidery Services, which started in a 100-square-foot office, will move into its seventh location in September—a 36,000-square-foot facility. The company also now has an outlet store to sell overrun and slightly damaged merchandise, as well as a smaller production facility.

Mr. President, Embroidery Services, Inc., is truly an outstanding example of a small business success story. Each year, the SBA chooses one business per State to honor during Small Business Week, May 1–3 here in Washington. I am very pleased that such an exceptional business will represent the Commonwealth, and congratulate George Riggs, Tom Wells, and the fine employees of Embroidery Services on this honor.

I ask to insert an article from the Kentucky Post into today's CONGRESSIONAL RECORD.

The article follows:

[From the Kentucky Post]

BOONE HAS BEST SMALL BUSINESS

Embroidery Services Inc., a Boone County company that does decorative embroidery on garments, has added a stitch to its mantle of awards.

The company has been chosen as the top small business in Kentucky by the U.S. Small Business Administration.

Both George J. Riggs, company founder and president, and Thomas R. Wells, vice president, have been notified by the administration of their selections as 1994 Small Business Person of the Year for the State of Kentucky.

"Actually, it comes out that the business is selected. They pick one business per state and all 50 of us will be in Washington in May," Wells said.

State award winners are recognized and national winners are announced as part of Small Business Week events May 1–3 in Washington, D.C.

Embroidery Services, which traces its growth spurt to the Small Business Incubator of Northern Kentucky, has grown to about 100 employees and sales of more than $10 million last year.

The company was singled out last year by the Northern Kentucky Chamber of Commerce as an outstanding example of growing local companies.

Much of the company's recent growth has come from embroidered T-shirts sold in resort areas, but the company embroiders jackets, sweatshirts and T-shirts sold in department stores as well as the resort area specialties.

"Three years ago sales were $2.2 million and that jumped to $7.2 million and we've just finished a year at $10.3 million," Wells said.

The number of employees at the company varies depending on orders, but Wells said he expects employment to peak in the busy season this year at 110 to 120 people.

Riggs started the company in 1981 as a contract embroiderer with a relatively small base of customers. The company was growing and had 20 employees when it began leasing space at the Small Business Incubator in Highland Heights almost five years ago. The company has since moved to a larger space on Cox Avenue in the Mineola Pike industrial area.●

AMERICAN BAR ASSOCIATION'S EFFORTS TO CONTROL GUN VIOLENCE

● Mr. SIMON. Mr. President, today I rise to commend the continuing efforts

of the American Bar Association [ABA] to control gun violence in our society. For almost 30 years, the ABA has supported policies regulating the sale and use of guns. The ABA began its efforts in 1965, endorsing amendments to the Federal Firearms Act of 1934. Most recently, the ABA supported legislation to limit the availability of assault weapons to military and law enforcement organizations.

In a resolution adopted this February, the ABA observed that guns have played a large role in creating the culture of violence which victimizes our youth, and reaffirmed its opposition to the uncontrolled sale and use of guns. The ABA urged legislative bodies to vigorously pursue solutions to the problem of gun violence.

I greatly appreciate the support and efforts of the ABA, and I commend the ABA for facing this issue.●

S. 1275

● Mr. DURENBERGER. Mr. President, this past Thursday the Senate passed S. 1275, the Community Development, Credit Enhancement, and Regulatory Improvement Act of 1993.

I congratulate my colleagues for approaching the issue of banking reform in a bipartisan manner. This bill will reduce the onerous burden of unnecessary paperwork and redtape for banking institutions, strengthen the small business and real estate lending markets through the securitization of loans, and increase the availability of credit in distressed communities. I strongly support these important reforms.

However, I oppose the restrictions imposed on so-called high-cost mortgages. I share the concerns of those who seek to end the practice of reverse redlining by unscrupulous lenders who prey on unsophisticated borrowers. However, most lenders engaged in nonstandard mortgages provide essential alternative financial services for homeowners facing a short-term liquidity crisis.

Individuals who are unable to make mortgage payments due to a short-term financial crisis such as the loss of a business or a death in the family need the opportunity to get back on their feet. Unfortunately, due to numerous regulatory and practical restrictions, banks are unable to refinance a loan which is already delinquent. The only lenders who are willing and able to refinance the delinquent mortgage are those engaged in higher cost mortgages—mortgages with balloon payments, high interest rates, or related lending terms. By accepting these terms, the lender is compensated for the inherent risk that he or she accepts in making the loan and the borrower is able to keep his or her home. I do not call this usury; I call it opportunity.

I regret that my colleague from Texas, Senator GRAMM, was unable to offer his amendment which would have recognized the difference between a nonstandard mortgage and an unscrupulous loan. I urge the conference committee to retain financing options for individuals faced with temporary financing options for individuals faced with temporary financial hardships. In my judgment, as long as the terms of these mortgages are disclosed, these options must be preserved.●

ORDERS FOR TOMORROW

Mr. FEINGOLD. Madam President, I ask unanimous consent that when the Senate completes its business today, it stand in recess until 9 a.m., Wednesday, March 23; that following the prayer, the Journal of proceedings be approved to date; that the time for the two leaders reserved for their use later in the day; and that the Senate then immediately resume consideration of Senate Concurrent Resolution 63, the concurrent budget resolution, as proved for under the provisions of a previous unanimous-consent agreement.

The PRESIDING OFFICER. Without objection it is so ordered.

ORDER OF PROCEDURE

Mr. FEINGOLD. Madam President, I ask unanimous consent that the Senate stand in recess, as ordered, upon the conclusion of the remarks of the Republican leader.

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

The Chair recognizes the Republican leader, Mr. DOLE.

THE 10TH MOUNTAIN DIVISION

Mr. DOLE. Madam President, I want to take a moment to pay tribute to our Armed Forces. Recently, in soldiers, a magazine published by the United States Army, I read an article about the battle that occurred on October 3 and 4, 1993, in Mogadishu, Somalia. The article focused on the brave officers and men from the unit that fought through the darkness to relieve Army Rangers and assist them in their return to safety—the men of the 2d Battalion, 14th Infantry Regiment, known as the Golden Dragons. The 2d Battalion, 14th Infantry is part of the 10th Mountain Division, my old unit, and one with a long history of tackling tough missions for our Nation. These young soldiers, representing America, fought for nearly 18 hours, mostly at night, to come to the aid of their fellow soldiers in the Ranger task force.

These selfless young men represent what is best about the soldiers serving in today's Army. They are highly trained and skilled in their profession; a profession which demands much, and, at a moment's notice, can put them in harm's way.

During World War II, the 10th Mountain Division had a well-deserved reputation for training hard to prepare for the tough, demanding combat missions it would be given. This training paid off well in combat. The performance of the Golden Dragons indicates that today's 10th Mountain soldiers truly carry forward those traditions. Their bravery and devotion to duty is well-documented; their loyalty to our Nation and the accomplishments of their comrades unequaled.

The 14th Infantry Regiment has a long history of outstanding service in both peace and war. At the end of the Civil War, General McClellan recognized the bravery of the men of the regiment by positioning them at the place of honor—the right of the line—during the grand parade in Washington, DC. The unit at the right of the line was the guide unit for all the other regiments during battle and generally was the first to engage the enemy. The regimental motto, "The Right of the Line," reflects this honor and tradition.

The 14th Infantry Regiment is no stranger to peacekeeping or multinational operations, either. The 14th Infantry served with forces from European nations in China during the Boxer Rebellion in 1900. After the 1906 earthquake that nearly leveled San Francisco, the regiment provided disaster relief. More recently, the unit provided humanitarian assistance to Haitian refugees at Guantanamo Bay. And the soldiers of the 14th Infantry Regiment continued this outstanding tradition of selfless service during the deployment to Somalia.

On October 3, 1993, the Golden Dragons were serving as the ready reaction force for the U.N. Forces in Mogadishu. Within minutes of being given the mission to assist the Ranger task force, one company was on the move. Twice, this force found there way blocked by heavy fire; the men fought through the first encounter but were stopped in a second engagement. After regrouping, they again set out in the darkness to assist their beleaguered comrades. Again, they encountered heavy fire, but they fought through to link up with the Rangers. The linkup of forces under fire is one of the most difficult operations a unit can be given, even in full daylight. The fact that this mission was accomplished under conditions of darkness, while receiving heavy fire, attests to the skill, training, and bravery of these fine soldiers.

After the linkup, these soldiers stayed, under fire, for more than 2 hours to free the body of one of their comrades-in-arms trapped in the wreckage of a helicopter downed earlier in the fighting. Only after recovering the body of that soldier and ac-

counting for all remaining Rangers did the combined force withdraw. No doubt about it, the soldiers of the 10th Mountain Division share many common values with the Rangers, including the commitment not to leave fallen comrades on the battlefield.

America and the soldiers of the 2d Battalion, 14th Infantry paid a heavy price for their bravery and dedication; two of these young Americans made the ultimate sacrifice. The commitment, devotion to duty, loyalty to each other and the Nation, and perseverance under fire of these soldiers reflects the finest traditions of the 14th Infantry, the 10th Mountain Division and indeed, America's Army. Their willingness to put their lives on the line in service to the Nation is a shining example of what makes this country, and its Armed Forces, so great. These fine young Americans deserve our deepest thanks and admiration and have again demonstrated that they deserve the honor of serving on the right of the line.

RECESS UNTIL WEDNESDAY, MARCH 23, 1994, AT 9 A.M.

Mr. DOLE. Madam President, in accordance with the previous order, I move we recess.

The motion was agreed to and, at 6:36 p.m., the Senate recessed until Wednesday, March 23, 1994, at 9 a.m.

NOMINATIONS

Executive nominations received by the Senate March 22, 1994:

DEPARTMENT OF STATE

WILLIAM J. CROWE, JR., OF VIRGINIA, TO BE AMBASSADOR EXTRAORDINARY AND PLENIPOTENTIARY OF THE UNITED STATES OF AMERICA TO THE UNITED KINGDOM OF GREAT BRITAIN AND NORTHERN IRELAND.

THE JUDICIARY

THEODORE ALEXANDER MCKEE, OF PENNSYLVANIA, TO BE U.S. CIRCUIT JUDGE FOR THE THIRD CIRCUIT, VICE A. LEON HIGGINBOTHAM, JR., RETIRED.

RAYMOND L. FINCH, OF VIRGIN ISLANDS, TO BE A JUDGE FOR THE DISTRICT COURT OF THE VIRGIN ISLANDS FOR A TERM OF 10 YEARS, VICE DAVID V. O'BRIEN, DECEASED.

PAUL L. FRIEDMAN, OF THE DISTRICT OF COLUMBIA, TO BE U.S. DISTRICT JUDGE FOR THE DISTRICT OF COLUMBIA, VICE GERHARD A. GESELL, RETIRED.

VANESSA D. GILMORE, OF TEXAS, TO BE U.S. DISTRICT JUDGE FOR THE SOUTHERN DISTRICT OF TEXAS, VICE A NEW POSITION CREATED BY PUBLIC LAW 101-650, APPROVED DECEMBER 1, 1990.

GLADYS KESSLER, OF THE DISTRICT OF COLUMBIA, TO BE U.S. DISTRICT JUDGE FOR THE DISTRICT OF COLUMBIA, VICE MICHAEL BOUDIN, RESIGNED.

EMMET G. SULLIVAN, OF DISTRICT OF COLUMBIA, TO BE U.S. DISTRICT JUDGE FOR THE DISTRICT OF COLUMBIA, VICE LOUIS F. OBERDORFER, RETIRED.

RICARDO M. URBINA, OF THE DISTRICT OF COLUMBIA, TO BE U.S. DISTRICT JUDGE FOR THE DISTRICT OF COLUMBIA, VICE AUBREY E. ROBINSON, JR., RETIRED.

IN THE COAST GUARD

THE FOLLOWING REGULAR AND RESERVE OFFICERS OF THE U.S. COAST GUARD TO BE PERMANENT COMMISSIONED OFFICERS IN THE GRADES INDICATED:

To be lieutenant commander

CURTIS B. ODOM
KEVIN P. CARPENTIER
JOSEPH R. CASTILLO

To be lieutenant

JOSEPH A. DERIE II
ROBERT M. DEAN IV
JOSEPH A. BOUDROW
JAMES MCLAUGHLIN
LOUISE A. BERNEY
VICTOR E. BLALACK III
TIMOTHY B. MESSINGER
KEVIN C. BURKE
WAYNE F. MACKENZIE
EDWARD J. KREJCI
JEFFERY P. HAYS
DANIEL P. KANE
JEFFREY M. RAMOS
LARRY W. HEWETT
ARTHUR J. SNYDER
KEITH A. LANE
JOHN K. MERRILL
RICHARD J. REINEMANN
DAVID R. XIRAU
JOSEPH J. MAHR
JEFFREY C. JACKSON
RICHARD C. BILBRO
ROBERT W. BILLER
JAMES E. STAMPER
STEVEN K. SHAFFER
JAMES S. ELBE
GUY L. SNYDER
STEVEN A. SUTTON
JUDY A. PERSALL
EARL B. SMITH
RONALD J. CANTIN
OSCAR W. STALLINGS, JR.
FREDERICK T. WILLIAMSON III
KKEVIN L. LEE
TIMOTHY J. CIAMPAGLIO
DONALD R. DYER, JR.
GREGORY D. CASE
JAMES T. HURLEY
JOHN D. RIDDLE
LEE E. JACKSON
KAREN JONES
WILLIAM A. FOX
RONALD L. RIEDINGER
KIRK N. SCHILLING
DIANE W. DURHAM
GARY G. KUNZ
GERALD P. ACHENBACH
PETER M. VANRUITENBEEK
GARY M. MESSMER
JEFFREY A. OVASKA
DANIEL E. MADISON
PHILLIP F. BROOKINGS
ROBERT L. WEGMAN
CHARLES SRIOUDOM
KENNETH M. ALBEE
OZIEL VELA

To be lieutenant (junior grade)

MARK S. LENASSI
CHRISTOPHER E. BOEHM
BARRY D. CALHOUN
MARK A. PANICEK
JOHN F. BOURGEOIS
THOMAS P. WALKER
DAVID R. MORGAN
RICHARD E. LORENZEN
GREGORY S. PIERCE
RICK D. CHRISTOFFERSEN
DEAN E. WILLIS
JOHN R. KNOTTS
MARILYN M. DYKMAN
THOMAS O. MURPHY
KEITH B. JANSSEN
JAMES M. KAHRS
BRAD L. SULTZER
RICHARD PINEIRO
STEVEN M. WISCHMANN
CURTIS J. FARRELL
JOHN P. FLYNN
AYLWYN S. YOUNG
PETER A. SCHICHTEL
JON J. BOWEN
DANIEL A. DEMARCHIS
DAVID C. NEUHAUS
LORINDA J. COUCH
STEPHEN G. GIBSON
ROBERT E. O'CONNELL
JOHN T. KONDRATOWICZ
MARSHALL E. WRIGHT
APRIL A. BROWN
VIRGINIA K. ELSESSER
JOHNNY GONZALEZ
ROBERT E. ALLEN
PATRICK W. BAKER
GEORGE P. WELZANT
MARK A. EYLER
JAMES J. VINCENT, JR.
DOUGLAS C. CLEMENTS
NANCY J. NELSEN
MAUREEN P. MARCH
ANDREW C. WISCHMEIER
CHARLES G. MURPHY
TIMOTHY P. CONNORS
ANDREA L. THOMAS
JOEL K. MOORE
TODD A. SCHMIDT
DENNIS E. BRANSON
HAROLD G. WHITLEY
CHRISTOPHER K. PALMER
THOMAS W. GAUNTT, JR.
GREGORY S. HUGHES
SAMUEL R. CREECH, JR.
HOWARD R. SHAW
EILEEN C. NALLY
LLOYD BANKS, JR.
MICHAEL K. HOLLAND
MICHAEL A, EDGERTON
GARY I. TODD, JR.
JOSEPH DIRENZO, III
TIMOTHY J. ESPINOZA
CLIFFORD K. BAYUK
DARRLY P. VERFAILLIE
ROBERT K. MACGREGOR
MARK S. RUSSELL
THOMAS K. OWENS
KENNETH D. DAHLIN
JACQUES L. ROSARIO
TIMOTHY D. SICKLER
JAMES R. DEYO
KENNETH IVERY
DANIEL C. KELLEHER
ANTHONY J. DAVERN
JOHN P. RADZISZEWSKI
BEVERLY A.BUYSSE
JOSE J. RODRIQUEZ
CURTIS J. SHAW
GEORGE J. PAITL, JR.
JEFFREY H. JAGER
PATRICIA J. HILL
GREG A. FONDRAN
RAYMOND M. WOOLDRIDGE
KYLE P. MCAVOY
JOHN T. MCALEESE
THEODORE J. FERRING III
ROBERT E. MCFARLAND
WINSTON E. LESLIE
RONALD W. NORTHRUP
PETER F. MARTIN
SCOTT M. ROGERS
DAVID S. FLURIE
BRENDAN E. O'BRIEN
ANDREW E. TUCCI
GARY L. JONES
HARLAN V. WALLACE
SEAN K. MOON
MICHAEL R. HEISLER
BRIAN P. THOMPSON
JAMES W. TEDTAOTAO
SCOTT K. DOW
JOHN P. NEWBY
BRIAN E. HUDSON
ERIC M. KING
DELWIN R. WITTERS
DOUGLAS E. NASH
JOHN F. CAMERON
JEFFREY A. BENOIST
JAME S. O'KEEFE
STACY L. OTTO
RANDALL E. WATSON
ALAN R. MARTINEZ
JOHN R. BEVILACQUA
RAMON L. GEIGEL, JR.
EUGENE R. LYTTON, JR.

IN THE ARMY

THE FOLLOWING-NAMED OFFICERS, ON THE ACTIVE DUTY LIST, FOR PROMOTION TO THE GRADE INDICATED IN THE U.S. ARMY IN ACCORDANCE WITH SECTION 624, TITLE 10, UNITED STATES CODE. THE OFFICERS INDICATED BY ASTERISK ARE ALSO NOMINATED FOR APPOINTMENT IN THE REGULAR ARMY IN ACCORDANCE WITH SECTION 531, TITLE 10, UNITED STATES CODE:

JUDGE ADVOCATE GENERAL'S CORPS

To be major

THOMAS E. AYRES, xxx-xx-x...
*BRIAN S. BANKS, xxx-xx-x...
*ELIZABETH BERRIGAN, xxx-xx-x...
*MICHAEL J. BERRIGAN, xxx-xx-xx...
*JOSEPH H. BESTUL, xxx-xx-xx...
*DAVID L. CONN, xxx-xx-x...
*TIMOTHY M. CONNELLY, xxx-xx-x...
*DENISE COUNCILROSS, xxx-xx-x...
*FLORA D. DARPINO, xxx-xx-x...
*JAMES J. DILIBERTI, xxx-xx-xx...
*PHILIP G. EVANS, xxx-xx-xx...
*JANET H. FENTON, xxx-xx-xx...
DAVID B. FREEMAN, xxx-xx-x...
*KEVIN P. FRITZ, xxx-xx-xx...
*MARVIN K. GIBBS, xxx-xx-x...
*KEVIN H. GOVERN, xxx-xx-x...
*MICHAEL J. HARGIS, xxx-xx-x...
*TARA O. HAWK, xxx-xx-x...
*JAMES W. HERRING, xxx-xx-x...
*ROY H. HEWITT xxx-xx-xxxx
FRANK M. HRUBAN, xxx-xx-x...
*ROBIN L. JOHNSON, xxx-xx-x...
*KEVIN D. JONES, xxx-xx-x...
*RANDY T. KIRKVOLD, xxx-xx-x...
*MICHAEL H. LEONARD, xxx-xx-x...
MAURICE A. LESCAULT, xxx-xx-x...
*STEWART MONEYMAKER, xxx-xx-x...
MICHAEL A. NEWTON, xxx-xx-x...
JAMES A. NORTZ, xxx-xx-x...
*CHRISTOPHER OBRIEN, xxx-xx-x...
*JONATHAN F. POTTER, xxx-xx-xx...
*ANTONIO RAIMONDO, xxx-xx-x...
*SCOTT F. ROMANS, xxx-xx-x...
*STEPHEN D. SANDERS, xxx-xx-xx...
*BERTIE A. SMISEK, xxx-xx-xx...
*KYLE D. SMITH, xxx-xx-x...
KATHERIN SPAULDING, xxx-xx-x...
*PAMELA M. STAHL, xxx-xx-x...
FRED P. TAYLOR, xxx-xx-xx...
*GUY J. TAYLOR, xxx-xx-x...
*LINDA D. TAYLOR, xxx-xx-x...
*MARK W. TOOLE, xxx-xx-x...
*RANDALL J. VANCE, xxx-xx-x...
*STEVEN E. WALBURN, xxx-xx-x...
*DAVID A. WALLACE, xxx-xx-x...
*RICKEY WATSON, xxx-xx-x...
*JOEL E. WILSON, xxx-xx-x...

IN THE NAVY

THE FOLLOWING-NAMED U.S. NAVAL RESERVE OFFICERS TO BE APPOINTED PERMANENT LIEUTENANT IN THE MEDICAL CORPS OF THE U.S. NAVY, PURSUANT TO TITLE 10, UNITED STATES CODE, SECTION 531:

MEDICAL CORPS

To be lieutenant

DIANA B. BARRETT
JOHN L. BASTIEN
ERIK W. BERGMAN
RONALD J. BOUCHER
CAROL A. CAROTHERS
WILLIAM R. CARTER
JERRY R. CASTRO
MARK E. CHISAM
ALLISON W. COSTE
KURT R. EICHENMULLER
ROBERT P. ENGLERT
JENNIFER L. ERDMAN
JAY B. ERICKSON
DAN E. FISHER
KIM M. FORMAN
WILLIAM C. FREUDENTHAL
ERIC M. GESSLER
BRIAN J. GRADY
JOHN L. GRIMWOOD
CHRISTOPHER A. HAM
JOHN V. HARDAWAY
STEVEN J. HUDSON
JOHN S. KENNEDY
TINA T. LIEBIG
JOHN W. LOVE
JULIE MAURER
MICHAEL T. MAZUREK
CHARLES E. MCCANNON
MICHAEL S. MCCLINCY
KEVIN A. MCKENNEY
THOMAS V. MESSE
STERLING A. MEZA
DAVID P. MURPHY
COUNG TAN NGUYEN
CHRISTOPHER W. NORWOOD
JOHN J. PAPE
MARTIN W. PRUSS
CHRISTOPHER H. REED
LORI M. ROGERS
ERIC M. SERGIENKO
DEANA J. SHANKS
JILL D. SIREN
ROBERT C. STABLEY
CHARLES B. TONER
LINDA C. ULRICH
ANASTASIA F. VALENZUELA
CHRISTINA WALSH
CYNTHIA A. WILKES

DEPARTMENT OF DEFENSE

ROGER HILSMAN, OF NEW YORK, TO BE A MEMBER OF THE NATIONAL SECURITY EDUCATION BOARD FOR A TERM OF 4 YEARS. (NEW POSITION.)

ROBERT N. SHAMANSKY, OF OHIO, TO BE A MEMBER OF THE NATIONAL SECURITY EDUCATION BOARD FOR A TERM OF 4 YEARS. (NEW POSITION.)

STANLEY K. SHEINBAUM, OF CALIFORNIA, TO BE A MEMBER OF THE NATIONAL SECURITY EDUCATION BOARD FOR A TERM OF 4 YEARS, VICE JOHN P. ROCHE, RESIGNED.

IN THE MARINE CORPS

THE FOLLOWING-NAMED MAJORS IN THE U.S. MARINE CORPS FOR PROMOTION TO THE PERMANENT GRADE OF LIEUTENANT COLONEL UNDER THE PROVISIONS OF SECTION 624 OF TITLE 10, UNITED STATES CODE:

To be lieutenant colonel

DUNNIGAN, RICHARD M., xx...
BRANCH, RICHARD C., xx...
WHITFIELD, WALTER V., x...
KIRK, JOHN J., JR., xx...
HUGHES, JACK M., xx...
HICKSON, ERNEST E., xx...
HARRIS, WILLIE J., xx...
JOHNSON, EDWARD L., xx...
DOLAN, MICHAEL F., xx...
VIVERETTE, LEE J., III, xx...
VAUGHT, HARVEY D., xx...
HESSLER, WILLIAM G., xx...
DECAMP, WILLIAM T., III, xx...
REED, LOYD W., xx...
MINGO, RICHARD, xx...
ROBINSON, JOSEPH R., xx...
OLSON, JEFFREY L., xx...
ELKINS, STEVEN T., xx...
TRUBA, ROY E., x...
JENNINGS, JAMES M., x...
IRLBACHER, GEORGE W., JR., xx...
SMITH, RICHARD J., xx...
BUTLER, WILLIAM G., III, xx...

MYERS, DILLARD O. [redacted]
COULTER, ALLEN [redacted]
DOZIER, ROBERT D. [redacted]
STEARNS, LEROY D., JR. [redacted]
DIGNAN, JUNE M. [redacted]
FIELDLER, EDWIN JR. [redacted]
SUMMERS, JEFFREY M. [redacted]
PRYOR, ROGER M. [redacted]
THOMAS, JAMES M. [redacted]
LONGORIA, ALFREDO, JR. [redacted]
BOWER, JOHN F. [redacted]
HUFFMAN, LARRY D. [redacted]
TURNER, PAUL F. [redacted]
MCCARTHY, KEVIN J. [redacted]
SMITH, HAROLD G., JR. [redacted]
VANDERMEER, WILLIAM S., JR. [redacted]
BRISTOW, JERRY D. [redacted]
HAND, PAUL A. [redacted]
HOLCOMB, EDDIE L. [redacted]
HASTY, BOYETTE S. [redacted]
BARKER, MICHAEL J. [redacted]
OLSON, FREDRIC M. [redacted]
GUMBEL, JOHN D. [redacted]
CONTI, EUGENE K. [redacted]
ADAMS, PAUL D. [redacted]
JAMES, JOHN W. [redacted]
VALENTINO, ANTHONY W. [redacted]
WESTERVELT, SCOTT [redacted]
LEFEBVRE, PAUL E. [redacted]
INNERST, JOSEPH P. [redacted]
REDMAN, JAMES M. [redacted]
BAIGIS, GERARD B. [redacted]
KAMPSEN, MICHAEL E. [redacted]
SWELTZ, KENNETH W. [redacted]
STRAIN, PATRICK M. [redacted]
DEWITT, JOHN D., JR. [redacted]
MECKEL, RICHARD C., JR. [redacted]
HARRIS, RODGER C. [redacted]
GIANI, VINCENT C. [redacted]
KNOBEL, MICHAEL P. [redacted]
LENAC, RANDOLPH S. [redacted]
LANGDON, LOREN K. [redacted]
SULLIVAN, DANIEL D. [redacted]
WOZNIAK, JOHN L., JR. [redacted]
STINEMETZ, KURT C. [redacted]
EDWARDS, LLOYD P. [redacted]
PACE, JAMES A. [redacted]
MCCLAREN, HARRY E. [redacted]
JENNINGS, GAIL E. [redacted]
DELAIR, CHARLES E. [redacted]
MILLS, JOHN E. [redacted]
DIAZ, GILBERT B. [redacted]
LAKE, RICHARD M. [redacted]
GUILFOYLE, WILLIAM F. [redacted]
FENSTERMACHER, STEPHEN M. [redacted]
MCARTHUR, HEINZ M. [redacted]
HUMMER, STEVEN A. [redacted]
ABBOTT, DAVID J. [redacted]
LEDOUX, JOHN L. [redacted]
DUNN, JOHN M. [redacted]
PEELER, DAVID H. [redacted]
LEE, JOHN S. [redacted]
SMITH, RANDY R. [redacted]
DIFALCO, FRANK J. [redacted]
ENOCH, JOHN T., JR. [redacted]
SHULTIS, STEVEN C. [redacted]
CUNNINGS, JOHN T. [redacted]
BILLIPS, PAUL E. [redacted]
MCGOWAN, JAMES F., III [redacted]
FERGUSON, SAMUEL E. [redacted]
PATTERSON, JEFFREY J. [redacted]
LAMBERT, KIRK S. [redacted]
KACHILLA, MICHAEL A. [redacted]
BUKAUSKAS, JOHN A. [redacted]
ANDERSON, BRUCE C. [redacted]
DEARMAN, MILTON [redacted]
COBB, CARL G. [redacted]
KERRIGAN, TERENCE K. [redacted]
DINGESS, BRIAN D. [redacted]
KOEHLER, WILLIAM C., JR. [redacted]
LESHCHYSHYN, DANIEL D. [redacted]
RYAN, SCOTT D. [redacted]
BIXLER, GLENN C. [redacted]
REUSS, GREGORY C. [redacted]
PUCKETT, NEAL A. [redacted]
NICHOLS, JAMES D. [redacted]
WEIGL, OTTO W., JR. [redacted]
LHUILLIER, THOMAS P. [redacted]
BACON, JOHN L. [redacted]
SWARD, THOMAS B. [redacted]
DAVIS, JAMES M. [redacted]
BERGSTROM, JOHN L., IV [redacted]
GARRARD, DAVID L. [redacted]
JOSEPH, STEPHEN E. [redacted]
SNYDER, MARSHALL K. [redacted]
BARNES, BRUCE M. [redacted]
STEFFANETTA, GENE A. [redacted]
BEAVERS, LARRY G. [redacted]
GREENWOOD, THOMAS C. [redacted]
ROGERS, JAMES A. [redacted]
HAMILTON, TERRY [redacted]
POWERS, JEFFREY A. [redacted]
POMFRET, JOHN J. [redacted]
KOLP, JONATHAN A. [redacted]
ODONOGUE, PATRICK M. [redacted]
FOX, RAYMOND C. [redacted]
STOCKWELL, HARMON A. [redacted]
FARRAR, JAY C. [redacted]
WHITE, JEFFREY A. [redacted]
COOK, TERRENCE P. [redacted]
ALLEN, ANDREW M. [redacted]
POLLOCK, DANIEL J. [redacted]
GARDNER, VICTOR M., III [redacted]
SUPNICK, GARY S. [redacted]
RENDON, MICHAEL P. [redacted]
MEYER, TERENCE J. [redacted]
CREAMER, ROBERT L., JR. [redacted]
TREADWAY, WILLIAM G. [redacted]
BISHOP, DEBORA K. [redacted]
COATES, ROBERT J. [redacted]
DICK, MICHAEL E. [redacted]
HOUSTON, FLOYD D. [redacted]
RODGERS, RONALD L. [redacted]
SIFFORD, MARK D. [redacted]
LISTON, WILLIAM R. [redacted]
INSERRA, GLEN A. [redacted]
BAILEY, RONALD L. [redacted]

CONFIRMATIONS

Executive nominations confirmed by the Senate March 22, 1994:

DEPARTMENT OF DEFENSE

STEPHEN C. JOSEPH, OF MINNESOTA, TO BE AN ASSISTANT SECRETARY OF DEFENSE.

HELEN THOMAS MCCOY, OF MARYLAND, TO BE AN ASSISTANT SECRETARY OF THE ARMY.

DEPARTMENT OF JUSTICE

DEVAL L. PATRICK, OF MASSACHUSETTS, TO BE AN ASSISTANT ATTORNEY GENERAL.

JAMIE S. GORELICK, OF MARYLAND, TO BE DEPUTY ATTORNEY GENERAL.

THE ABOVE NOMINATIONS WERE APPROVED SUBJECT TO THE NOMINEES' COMMITMENT TO RESPOND TO REQUESTS TO APPEAR AND TESTIFY BEFORE ANY DULY CONSTITUTED COMMITTEE OF THE SENATE.

HOUSE OF REPRESENTATIVES—*Tuesday, March 22, 1994*

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

DESIGNATION OF SPEAKER PRO TEMPORE

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

HOUSE OF REPRESENTATIVES,
Washington, DC, March 22, 1994.

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

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

MORNING BUSINESS

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

A RESPONSIBLE AND AFFORDABLE APPROACH TO HEALTH REFORM

The SPEAKER pro tempore. Under the Speaker's announced policy of February 11, 1994, the gentleman from Florida [Mr. GOSS] is recognized during morning business for 4 minutes.

Mr. GOSS. Mr. Speaker, Monday night a week ago the President pounded on his bully pulpit in Boston and decreed that the Republicans have no viable health reform alternative. He was frustrated. He was wrong. Two nights later his own party proved that by attacking the GOP health plan during the first House Oxford debate. I don't blame Democrats for not wanting to defend Clinton's plan. I sat through countless Republican meetings on the subject—and met regularly representatives from the White House last spring to present Republican ideas and concerns about health. Republicans have introduced several comprehensive health bills. Each is distinguishable from the President's plan in two respects: First, Republican plans rely much less on new taxes and new Government bureaucracies—depending much more on directly empowering individuals to make their own choices in a reformed and revitalized market. Second, Republicans seek to pay for reforms. Rather than throw new taxes and more debt at a system notorious for waste and inefficiency, Republican reform bills redirect wasteful spending to worthy purposes—and reward innovation and cost-effectiveness. The most widely supported Republican health bill is H.R. 3080, the Affordable Health Care Now Act, crafted by Members of the Republican leader's task force on health reform. We spent more than 2 years studying the problems in our current system taking testimony and developing reasonable user friendly solutions. H.R. 3080 has 142 cosponsors—more than any other reform proposal now before Congress—and many of its provisions were included in the reform bill passed by the Democratic controlled Senate in 1992. Unfortunately, the acknowledged value of H.R. 3080's provisions are summarily dismissed by critics who say the bill does not go far enough and guarantee universal coverage. In practical terms, though, what good is declaring health care a right? Ask the veterans in my area what a right entitles you to if the system you depend on is underfunded or inadequate. Rather than holding out false promises, H.R. 3080 addressed the two biggest needs we see today in our health system—making affordable insurance more accessible to those in need and attacking the rising cost of care. It does these things without creating new bureaucracies or raising huge new taxes. By comparison, CBO estimated the President's bill will increase the deficit by $136 billion over the next 8 years. Another study of the President's bill found it contains 818 new regulatory mandates, would require more than 2,000 pages of Federal regulations and would monopolize the attention of 100,000 public employees. Seeking to avoid a massive collectivization of the health sector by Government, we attempted to fix what is obviously broken by building on what works. For instance, of the 37 million uninsured, nearly 80 percent are working or are dependents of someone who is employed. And most work for small businesses, which have less market power in negotiating group insurance rates. H.R. 3080 encourages formation of larger, multiple-employer purchasing arrangements, and requires small group insurers to offer three different standardized insurance options to all small employers. Our bill then requires employers to offer, but not pay for one of the plans. To ensure affordable coverage, restrictions on premium variances between groups and limits on annual premium increases are imposed. Individuals whose employers do not pick up the tab can deduct the cost of their unsubsidized premiums. Or they can purchase a catastrophic insurance plan and establish a medical saving account—all with before-tax dollars. These tax changes and insurance market reforms should provide immediate relief to the vast majority of those who cannot access adequate care today. But the bill does more to ensure access. Recognizing recent innovations in the Medicaid Program, and broader initiatives like that now being discussed in Florida, the bill gives States the flexibility to revise Medicaid programs. Finally, the bill includes substantial new funds for community-based health centers already providing care—at cost-effective rates—for those who fall through the cracks. Our approach, unlike the Clinton plan, won't force the 80 percent of Americans who are generally satisfied with their care to give up their insurance—for some new, unproven plan. I hope the President will read H.R. 3080 and understand that there are alternatives for reform—Republicans have offered some real choices all Americans will want to consider.

THE WHITMAN WATERSHED

The SPEAKER pro tempore. Under the Speaker's announced policy of February 11, 1994, the gentleman from New Jersey [Mr. SAXTON] is recognized during morning business for 3 minutes.

Mr. SAXTON. Mr. Speaker, we spend a huge amount of our time in the House of Representatives dealing with budgets and taxes, and we can learn a lot from things that go on around this country.

Mr. Speaker, last November, the people of New Jersey voted for less government and lower taxes when they elected Christine Todd Whitman Governor of our fine State. The citizens of New Jersey believed Governor Whitman when she promised to take the measures necessary to reduce government spending and cut the massive tax burden punishing the hard workers in our State.

Just over 2 weeks ago, Governor Whitman took the first step toward fulfilling her commitment when she signed into law a measure that provides for a 5-percent reduction in the State income tax retroactive to January 1, 1994. She also repealed a business

surtax retroactive to the beginning of the year.

And just last week, Governor Whitman took the second major step needed in making good on her promise to bring financial sanity and responsibility back to New Jersey.

Speaking before the State legislature the Governor unveiled her landmark budget. This unprecedented budget actually spends less than last year's budget.

The Governor's budget was met with approval by a strong majority of citizens and opinionmakers.

Mr. Speaker, please allow me to quote from the Governor's address. Speaking to the legislature and the people of New Jersey the Governor said:

> There is only one way to cut government spending, and that is to cut the amount of tax dollars that we take out of your pocket.
>
> The more money (New Jerseyians) have to spend, the more the economy will grow. You elected me to cut taxes and government spending in order to create jobs and stimulate economic growth. And that's exactly what my tax cuts will do.

The Governor then elaborated on the evils of unchecked taxes:

> Taxes in New Jersey . . . are too high. High taxes drive jobs out . . . They make it hard for young families to buy homes and for senior citizens to keep them.

The New Jersey economy has been hit harder than most. The citizens of New Jersey have seen thousands of jobs go south in search of lower tax States.

Now, with Governor Whitman's leadership, New Jersey will be able to keep these jobs. Workers from surrounding high tax States will now flock to New Jersey.

In fact, Mr. Speaker, the Whitman budget removes more than 380,000 New Jerseyians from the tax rolls. This means that some senior citizens, students, and people working their way off of welfare rolls will pay no income tax at all.

The Governor's budget also calls for a hefty middle-class tax cut. Families with incomes under $80,000 will have their tax rates cut by 15 percent. This is much needed relief for hard-working families trying to get ahead.

Mr. Speaker, the tax reductions incorporated in the Governor's budget are fully paid for by reductions in Government.

In summary, Governor Whitman believes the only way big government can be restrained is by restricting the amount of funds available to spend on it. The Governor believes that the American people can spend their money better than government bureaucrats.

Mr. Speaker, Governor Whitman emphasizes the need to once again incorporate common sense and smart decision making into government spending.

For instance the Governor said:

> You make . . . choices every month when you pay your Mortgage or rent, buy food, and pay your utility bill. . . . Then you see if you have enough money left over to go on vacation. . . . You don't spend more money than you are taking in. Government shouldn't either.

I believe the Governor's budget provides us with an example of how Government can and should be run.

Mr. Speaker, Governor Whitman's speech is a must read for all Americans Therefore, later today I will insert the text of the Governor's budget speech into today's CONGRESSIONAL RECORD as part of the Extension of Remarks.

In closing, it would be a shame if the Federal Government could not learn a valuable lesson from the well thought-out decisions of States like New Jersey and leaders like Governor Whitman.

Two years from now, when New Jersey is once again thriving and the envy of its neighbors, people will look back to this speech given by the Governor, on March 15, 1994, as the beginning of the Whitman watershed.

□ 1040

THE URGENT NEED TO ADDRESS THE COMMON LANGUAGE ISSUE

The SPEAKER pro tempore (Mr. MONTGOMERY). Under the Speaker's announced policy of February 11, 1994, the gentleman from Missouri [Mr. EMERSON] is recognized for 3 minutes.

Mr. EMERSON. Mr. Speaker, the question of whether or not the United States has a common, official language grows more urgent each day. The longer we wait to address this issue the more polarized the positions become and the harsher the rhetoric on both sides.

There are some in this Chamber that would like to see the Government extend any and every service in any and every language; if we subscribed to their methods, before long we would have a Government functioning in over 200 languages. Why? Because invariably, when we start administering Government in the second and third most popular minority language, we are going to be requested to provide the same accessibility to the fourth on down the line. I ask my colleagues, are we not about to cross the threshold of establishing a very dangerous and costly precedent?

On the other hand, there are some in this Chamber, that subscribe to the English only philosophy. That being—everything in English; no exceptions. Unfortunately, the common language debate suffers as a result of this philosophy. This type of mentality results in fear and misperceptions that should not be associated with the common language debate or my legislation—H.R. 123, The Language of Government Act, which would designate English as our common official language.

For three consecutive Congresses now, I have been the chief sponsor of the Language of Government Act (H.R. 123). If my colleagues have analyzed this legislation over the past three Congresses, my colleagues have seen that as the issue has continued to evolve, I have changed the legislation over the course of time. If my colleagues have not analyzed my bills, then I encourage you to do so because the common language issue and the need for a coherent government language policy is not going away. I believe that my bill is a rational vehicle for addressing this issue.

I make note of the maturation of this legislation because I want every one of my colleagues to understand my strong desire to put together a bill which addresses the concerns of as many people as possible. I have listened to each Member's concerns and have attempted to work with them in order to ensure that my legislation meets those concerns. Of all fronts, I believe I have been accommodating.

Within my legislation, H.R. 123, I have included an exemption clause which ensures that no essential services—emergency, health, safety, and justice—would be restricted. It is not English only. The term "English Only" is most often used by the anti-common-language groups to promote the falsehood that The Language of Government Act is opposed to other languages.

I recognize that there are individuals living in the United States who do not know English, and we have an obligation to extend certain essential services to them to ensure that they can get by. However, it is my strong belief that we have an even greater obligation to ensure that they get the chance to learn English so that they cannot only get by but can prosper—and fully partake of all the economic, social, and political opportunities that exist in this great country of ours.

Currently, we adhere to an arbitrary decisionmaking process—every so often we decide to extend a particular Government service or function to a particular minority language group. I would argue that we often do this without first looking at the inevitable negative consequences. What we are creating are linguistic enclaves, language minority groups that are dependent on the Government to get by. Do we not owe these individuals better than that? Is not money spent on some of these services, bètter spent on creating English language instruction facilities? I do not believe it's enough to apply political expedient Band-Aids. We ought not be throwing individuals a fish and telling them to eat of it as long as they can, which is all we are doing when we keep mounting the number of services we offer them in their language. Rather, we ought to be giving individuals a fishing-pole so that they can catch all the fish they need. That fishing-pole is a proficiency in the English language.

My legislation states that the Government has an affirmative obligation

to promoting the English language—elevating that goal to official capacity. At the same time, the bill seeks to set some commonsense parameters on the number and type of Government services that will be offered in a language other than English. We do not need a full scale multilanguage Government. But, if we do not address this issue in a forward-thinking, pro-active manner, that is just what we are going to have allowed to develop.

It has been said by some that I spend too much time explaining what I am not opposed to, by focusing so much attention on my bill's exemption clause. However, I feel it is imperative that each and every Member of this Chamber understand that I am not proposing that we not offer help to those in need. My bill states that the official Government functions, official Government documents, and official Government meetings will be recorded and conducted in English. If we commit to governing in English, then we also must commit to ensuring that the citizens we govern understand the language in which we are governing—it goes hand in hand.

We must come together now, this Congress, and hammer out our differences on this issue and pass this bill. If we continue to wait, the problem is only going to continue to grow. The two sides are only going to become more polarized, and I fear what the results might be.

I appeal to each and every one of my colleagues to analyze my bill. H.R. 123, in my opinion, is the best vehicle for addressing the common language issue. We cannot continue to turn our backs on this issue. Please join me today, by becoming a cosponsor of H.R. 123.

INTRODUCTION OF THE YOUTH DEVELOPMENT BLOCK GRANT ACT

The SPEAKER pro tempore. Under the Speaker's announced policy of February 11, 1994, the gentlewoman from Maryland [Mrs. MORELLA] is recognized for 4 minutes.

Mrs. MORELLA. Mr. Speaker, I am pleased to offer my strong support for legislation just introduced with my distinguished colleague, the gentleman from New Jersey [Mr. PAYNE]. It is a youth development block grant, and the legislation would provide much needed funds to community-based organizations for the coordination and expansion of development programs for young people from 6 to 19 years of age.

Too often, we focus attention on our young people only when their behavior becomes a problem to society. Daily newspaper and broadcast reports highlight the plight of troubled youth who overdose on drugs, bring weapons to school, and get involved in robberies and carjackings. Even the President reacted to the shootings at Eastern High School in the District of Columbia recently when a student brought a gun to school and shot two classmates.

We, in Congress, are passing legislation to provide funds to local school systems for crime prevention equipment, such as metal detectors, and training programs for teachers in conflict resolution. We are introducing amendments to major education legislation to devise specific penalties for students who bring weapons to school. We are doing little, however, to find alternatives for at-risk youth that will help them grow into productive citizens.

The main goal of the Youth Development Block Grant Act is to promote and support positive programs for young people. This act would provide funds to youth clubs, sports and recreation activities, mentoring, leadership development, and community service programs through which young children and teenagers could develop the values and lifeskills they need to succeed.

Child and alcohol abuse, and fragmentation of the family also contribute to the unprecedented challenges that face our Nation's youth. These challengers often lead to emotional disorders, academic underachievement, and sometimes even suicide. According to experts, early intervention can be effective and beneficial in affording young people the opportunity to achieve a measure of success in their personal lives.

All youth development block grant funds would go to the development of nonacademic programs that promote hands-on methods to assist a broad range of youth to develop social, moral, emotional, physical, and cognitive competencies. Under the block grant programs families and communities would work together to provide youth with a foundation of experiences that will prepare them to meet the challenges of adulthood. The emphasis of these programs would be on prevention, and 95 percent of block grant funds would go directly to local communities.

The youth block grant proposal has been crafted by a collaboration of 15 community-based organizations dedicated to serving our Nation's youth. These organizations have brought a wealth of experience to this legislation and collectively serve more than 25 million children and youth each year. They include the YMCA and the YWCA, the Boys and Girls Clubs of America, the Boy Scouts and Girl Scouts, Camp Fire Boys and Girls, the 4-H Club, the American Red Cross, the Association of Junior Leagues, Child Welfare League, Girls Inc., National Network of Runaway and Youth Services, WAVE, and the Salvation Army.

Often, these organizations are competing against each other for funds to develop youth programs. This legislation builds on the strength of these community-based organizations, allowing them to coordinate their efforts to serve at-risk youth.

The biggest challenges facing our children and youth are outside of the classroom. Of the children entering school, 1 in 5 is living in poverty. Half a million children who started school this year were born to teenage mothers. Many were exposed to drugs in utero or contracted HIV disease. A combination of factors puts these children at long-term disadvantage.

Mr. Speaker, schools cannot meet the developmental needs of these challenged youth. Young people spend less than half their time in school. After-school-activities are of the utmost importance in shaping the lives of these individuals. We must take these children off the streets and out of empty houses. We can do this by providing community-based organizations with the funds and the means to collaborate and develop meaningful programs that will help young people grow into productive adults. The Youth Development Block Grant Act will enable these organizations to reach out to millions of currently unserved youth. It is an investment in our Nation's future, and I am pleased to join the gentleman from New Jersey [Mr. PAYNE] in introducing this legislation which will afford our young people with the positive opportunities that they need and deserve.

□ 1050

WHITEWATER

The SPEAKER pro tempore (Mr. LAROCCO). Under the Speaker's announced policy of February 11, 1994, the gentleman from Texas [Mr. SAM JOHNSON] is recognized during morning business for 2½ minutes.

Mr. SAM JOHNSON of Texas. Mr. Speaker, yesterday the chairman of the Banking Committee, and my colleague, the gentleman from Texas [Mr. GONZALEZ] abruptly canceled Thursday's scheduled oversight hearings involving the Resolution Trust Corporation [RTC]. As required by law, should Congress not obey the law?

Mr. GONZALEZ' decision to delay this hearing comes after several weeks of personal efforts to deny House Republicans on the Banking Committee access to documents and answers to legitimate oversight questions involving the failure of Madison Guaranty Savings & Loan in Arkansas.

In an effort to offer the carrot with the stick, Mr. GONZALEZ also wrote a letter yesterday to Speaker FOLEY, requesting that special hearings be held on the matter of Whitewater.

Within the past 2 weeks, Mr. GONZALEZ has written to Federal regulators to suggest that documents related to Madison be withheld. He also advised those same regulators in a subse-

quent letter that they need not answer questions related to Madison when they appeared at the now delayed RTC hearings.

This same delicate handling was not in evidence in the past for Silverado Savings & Loan. I have to wonder if there is an inconsistency here.

In trying to hide issues related to Whitewater, Mr. GONZALEZ has prevented the Banking Committee from conducting its regular oversight of a historically mismanaged bureaucracy—the RTC.

Mr. GONZALEZ should not allow political and partisan concerns to regulate the business of the House Banking Committee. In his job as chairman he is a conduit for the legislative process. Oversight of the RTC is needed and should not be sacrificed to protect those related to the Whitewater case—just as we have not protected others in the past.

When I learned of the effect that Whitewater rumors were having on domestic and international markets last week, I wrote the Speaker myself. If you are interested, that letter appeared in the Dallas Morning News last Friday, March 18.

I ask again for my friend from Texas to hold the oversight hearings which are legally within the Banking Committee's purview, and I submit my letter to the Speaker for the RECORD, as follows:

HOUSE OF REPRESENTATIVES,
Washington, DC, March 11, 1994.

Hon. THOMAS S. FOLEY,
Speaker, House of Representatives, Washington, DC.

DEAR MR. SPEAKER: The reaction of domestic and foreign financial markets to unsubstantiated rumors about the death of former Deputy White House Counsel Vincent W. Foster, and the Whitewater affair, prove beyond question that America's economic stability is being impacted by the failure to resolve issues involving these matters.

Today's Washington Post quotes a New York source as saying that, "Whitewater is rapidly becoming an 'investable' event". Changes occurring in foreign markets are attributed to the fact that, "Foreigners are focusing on Whitewater for the first time."

Markets, which are based on risk, are responding accordingly. Yesterday's drop in the Dow Jones industrial average of nearly 23 points, rise in the yield of 30-year Treasury bonds and flow of capital to gold and other "safe havens" all reveal a softening in the markets over Whitewater concerns.

An article in the Wall Street Journal states:

"Fallout from wild speculation regarding the suicide last year of Deputy White House Counsel Vincent Foster as well as President Clinton's past financial dealings moved from Washington to Wall Street, where stock and bond markets tumbled."

Clearly, the time is now and the responsibility is ours to restore confidence in the federal government.

Waiting on the Special Prosecutor to complete his investigation of possible criminal wrongdoing before we act is not an option. His activity will consume many months before a resolution is at hand. The extensive course of his work is not a proper excuse for our failure to fulfill our responsibilities to govern.

In 1991, in reference to allegations that Republicans had sought to delay the release of hostages in Iran, you were quoted as saying: "We have no conclusive evidence of wrongdoing, but the seriousness of the allegations, and the weight of circumstantial information, compel an effort to establish the facts."

While there is considerable disagreement about whether criminal wrongdoing is attributable to the President, there can be no doubt that the allegations are serious and the weight of circumstantial evidence is overwhelming.

For the record, the following appear to be unchallenged fact:

A member of the White House staff who was intimately involved in Whitewater is dead;

Senior staff at the White House intervened in the FBI and U.S. Park Police investigation of that death and removed records related to Whitewater from the deceased's office;

Top administration officials were involved in what the President has termed "improper" meetings with White House staff about a federal criminal referral involving Madison Guaranty Savings and Loan;

The President's counsel has resigned as a result of meetings regarding Madison Guaranty and Whitewater;

Ten individuals in this administration have been subpoenaed to appear before a federal grand jury regarding contacts about Whitewater and/or Madison Guaranty Savings and Loan;

The Secretary of the Treasury has initiated an independent investigation by the Office of Government Ethics over contacts involving Whitewater and Madison Guaranty Savings and Loan.

Evidence that officials close to the President have involved themselves in matters related to Whitewater begs the question about this administration's earlier actions and appointments involving federal law enforcement and independent regulatory organizations. Specifically:

This administration asked for the resignations of every United States Attorney shortly after taking office;

A friend of the President was appointed the United States Attorney in Little Rock;

A former law partner of Hillary Rodham Clinton was appointed to the number three position in the U.S. Justice Department before the Attorney General had been appointed;

The top positions at the Resolution Trust Corporation and the Federal Deposit Insurance Corporation have been filled for over a year by "temporary" appointments with ties to the President;

The circumstantial evidence, public allegations about the President, and admitted improper behavior by White House staff would seem to meet your above referenced standards for congressional hearings.

Vice President Al Gore, during his tenure in Congress, gave a speech on the floor of the Senate about the so-called "October Surprise". Then-Senator Gore said:

"The evidence which has thus far trickled into the public domain is still fragmentary. Much of it is circumstantial, but it is compelling. If the allegations are not true, the country needs to know they are not true."

Vice President Gore's concern about the public's need to know the truth is even more relevant now, because financial markets are reacting to unsubstantiated rumors about the President's involvement in matters involving Whitewater and Madison Guaranty Savings and Loan.

Earlier this week you dismissed calls for Congressional hearings on this matter because, as you firmly stated: "There is no evidence of any kind of wrongdoing in this matter. None."

The President and his aides have made similar statements. In fact, conventional wisdom, as reported by the press, is that the bungling by administration and White House staff has been more damaging to the President than anything he did prior to taking office.

Given your unqualified support for the President and his disavowal of any wrongdoing, it seems to me that there is every reason to hold Congressional hearings which would "clear the air" on this matter.

Despite the President's public statements and the majority party's reassurances, international and domestic financial markets and the American public are losing confidence in this President's ability to govern. Every attempt so far to dispel these concerns has been unsuccessful.

As a member of the House Committee on Banking, Finance and Urban Affairs, it is my responsibility to be aware of how these matters are affecting financial markets. As members of Congress, it is our responsibility to ensure the functioning of the federal government. We are not fulfilling our duties if we delay any longer holding formal congressional hearings on the President's involvement with Madison Guaranty, his dealings related to Whitewater, and issues surrounding the death of Vincent Foster.

As Speaker of the House of Representatives, the most senior elected official under the Constitution not in the executive branch, you must initiate congressional hearings on these matters.

I appreciate your attention to this important matter and await your response.

Sincerely,

SAM JOHNSON,
Member of Congress.

A TRIBUTE TO BISHOP JAMES ALEXANDER FORBES

The SPEAKER pro tempore. Under the Speaker's announced policy of February 11, 1994, the gentleman from New York [Mr. TOWNS] is recognized during morning business for 1 minute.

Mr. TOWNS. Mr. Speaker, I rise today to talk about the accomplishments of Bishop James Alexander Forbes, a man that has really provided leadership in this Nation, a person that dropped out of school in the sixth grade, took a correspondence course, and after finishing that, they gave him his high school diploma. He then went on to college where he received a bachelor's and a master's degree. Not only that, but he was able to motivate eight children, five girls and three boys, and all of them have at least a master's degree.

The boys all have their doctorates.

One is the pastor of the Riverside Church, James Alexander Forbes, Jr.; the other, the pastor of the Faith Christian Church in Raleigh, NC; the other, a psychiatrist in Richmond, VA.

All the girls as indicated, have a master's.

I think that that is the kind of family that should be lifted up and that

Bishop James Alexander Forbes on his 80th birthday, wherever you are, the world is indeed indebted to you for your achievements and your accomplishments.

COMMITTEE FUNDING RESOLUTION SCHEDULED FOR TODAY

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

Mr. BOEHNER. Mr. Speaker, later on today the House will consider the Committee Funding Resolution. This is an annual event and this resolution before us this year will cover the period for the remainder of 1994.

Many Members in this Chamber believe that this resolution covers all of the funding for committees when, in fact, that is not the case, not even close.

Looking at the chart next to me, the total amount of funding for committees is not the $52 million that we will debate today but it is almost $130 million. Only 41 percent of the amount that is spent on committees is actually covered by the Committee Funding Resolution. That is referred to as investigative committee, where the majority controls some 80 percent of those investigative staffers while the minority controls roughly 20 percent of those staffers.

So I bring to the attention of my colleagues that we have some problems, and I would like to point those out during the remainder of my time.

The first is that I think it is time to change the funding process. If we are going to have a committee funding process, we ought to have all of the funds for all of the committees dealt with in this committee funding resolution, not just the 41 percent that we are going to debate today.

I think it is also of note that if we look at this pie chart, we will see that the Committee on Appropriations gets 16 percent of the funds right off the top, some $21 million that we spend to fund the Committee on Appropriations. I think it might be of interest to my colleagues who sit on the other 26 standing committees when they realize that the Committee on Energy and Commerce, who most of us thought was probably the most powerful committee here in the Congress, only receives $9.6 million. The powerful Committee on Ways and Means only receives $7.9 million.

And at a time when we are trying to find ways to reduce spending, it is rather inconceivable to me and was shocking and a surprise to me to find out that the Committee on Appropriations takes $21 million.

It is not part of the committee funding resolution; it is done in the legislative appropriations bill that will come to the floor later on this spring and it is merely a line item to take care of their own staffers.

The third point I would like to make is last year during the legislative appropriations bill, the Congress voted to cut 4 percent of the staff here in the House and in the report language that accompanied the legislative appropriations bill last year where that vote occurred, it says, on page 28, and I quote,

> The Director of Nonlegislative and Financial Services, as de facto budget officials, shall prepare a plan for achieving the necessary reductions. This plan should be developed in consultation with and with the approval of the bipartisan leadership, consisting of the Speaker, the Majority Leader and the Minority Leader, and the Committee on House Administration and the House Committee on Appropriations.

There is quite a debate going on about how we are going to achieve this 4-percent reduction here in the House.

The Committee on House Administration has come to some agreement that it should not occur in Members' offices or in Members' offices staffs but should occur in committees and/or other nonlegislative areas of the House.

The reason I bring this issue to the attention of the Members is that as we look at committee funding, we see that the amount we are spending on committees has grown increasingly over the years. I believe we can cut 4 percent of our staffs and we can do it in the committee area.

I would also bring to the attention of the Chamber the plan that was brought to the Committee on House Administration by our chairman, the gentleman from North Carolina [Mr. ROSE], in consultation with the gentleman from Missouri [Mr. CLAY], and say that it really makes a sham of this process. They want to take the House restaurant workers as an example and contract the House restaurant system out and take those 188 full-time equivalent positions in the House restaurant and say they no longer work for the House and it is a reduction in the number of employees in the House.

That is just not being honest with our colleagues here in the Chamber, and it is not being honest with the American people. I think we have to look at ourselves in the mirror and say it is time to cut and it is time to find real savings in slots here in Congress.

We can do it, and we must do it, so let us not kid ourselves.

Later on this afternoon, when the committee funding resolution comes to the floor, I urge my colleagues to look closely at this chart that I have next to me and realize that only 41 percent of the cost of the committees is going to be dealt with in this committee funding resolution.

Therefore, Mr. Speaker, I urge my colleagues today to oppose that resolution as well.

□ 1100

TRANSFERRING BLM LAND BACK TO STATES

The SPEAKER pro tempore (Mr. LAROCCO). Under the Speaker's announced policy of February 11, 1994, the gentleman from Wyoming [Mr. THOMAS] is recognized during morning business for 4 minutes.

Mr. THOMAS of Wyoming. Mr. Speaker, I rise today to discuss a bill which I and a number of my colleagues plan to introduce tomorrow. This legislation would transfer the lands currently administered by the Bureau of Land Management to the State in which the lands are located.

Every year since I have been in Congress, we have become involved in a long and hard debate about management of the public lands in the West. This is especially true for the lands administered by the BLM.

Issues such as grazing fees, mining law, and oil and gas leases have become continually more contentious and there does not seem to be an end in sight.

Currently, the BLM controls nearly 270 million acres of land in the United States. Nearly 18 million acres of this land is located in my home State of Wyoming. As you can well imagine, this puts a heavy burden on the people of my State and significantly affects Wyoming's economy.

In addition, the BLM places a heavy budgetary burden on the taxpayer. The 1995 BLM budget request is $1.2 billion and payments in lieu of taxes request is $104 million. Clearly, the BLM is a massive Federal bureaucracy that costs large amounts of money to administer.

My bill to return the BLM lands back to the States would solve the Federal Government's problems. For my colleagues who claim Westerners are getting a free ride on these lands, and costing taxpayers millions—my bill has an answer to your concerns. Give it back to the States.

For my colleagues who believe the mineral industry and oil and gas companies are getting a sweet deal on BLM lands—my bill is an answer to your problems. Give it back to the States.

For my colleagues who support local control and believe government operates the best when it is closest to the people—my bill achieves that goal by giving these lands back to the State government.

No more worries about supposed grazing subsidies, timber subsidies, or oil and gas subsidies.

Under this proposal, all BLM lands except special conservation areas would be offered to the respective State, subject to valid existing rights. Each State must accept or decline the offer in total.

It is a great solution. Fair to both the Feds and the States.

This bill makes good sense for a number of reasons: In fact, here are the top 10 reasons to transfer the BLM lands over to the States:

First, the land stays public. States will keep the lands for the public good and multiple use.

Second, creates real local control and reduces Federal control. Supports the Vice President's idea of reinventing Government.

Third, would put Wyoming people in charge of Wyoming, Colorado people in charge of Colorado. Just like the States in the East.

Fourth, provides fairness and equity with other States in terms of land patterns and what they were allowed to keep as States.

Fifth, protects access for hunters, sportsmen, and recreation. State control will be more sensitive to these issues than the Feds.

Sixth, builds the States' economy and gives them control over their future.

Seventh, BLM lands were residual anyway. In fact it was a burden that was never meant to be.

Eighth, finally solves the problem of grazing, mining law reform, and other issues at the Federal level.

Ninth, it will allow the Department of Interior to focus on priority items such as National Parks, which are deteriorating faster than improvements can be made.

Tenth, bill will be a major cost savings to the Federal treasury. No more need for annual appropriations for the BLM.

Mr. Speaker, this bill makes sense. It supports the goal of good government and I urge all of my colleagues to join me in this effort to reform the way public lands are managed.

RTC OVERSIGHT HEARINGS MUST BE HELD

The SPEAKER pro tempore. Under the Speaker's announced policy of February 11, 1994, the gentleman from Ohio [Mr. HOKE] is recognized for 3½ minutes.

Mr. HOKE. Mr. Speaker, I have been here in the House now for about a year and a quarter, and I thought that I began to understand things and how things work. Occasionally then something will come about and happen, and I am just nonplused. Today was one of those days.

In 1989, Congress passed the Resolution Trust Corporation Act. Among other things, what that did was establish a statutory obligation to hold semiannual oversight hearings to oversee and to manage and look into what the RTC, the Resolution Trust Corporation, was doing with respect to the failed savings and loans.

Those oversight hearings are supposed to be held in the House Committee on Banking, Finance and Urban Affairs every 6 months, semiannually. The last one was supposed to have occurred in December. In fact, it was scheduled for December 3 and postponed until March 24, which is just a couple of days from now.

I look in the paper this morning and read the Washington Post, only to find out that in fact the chairman of the House Committee on Banking, Finance and Urban Affairs has indefinitely postponed those hearings. One can only ask why.

Well, it is obvious, I suppose, why. But what is not obvious and what ought to be stated is that the law does not state that those hearings only can be held if there will not be any embarrassing witnesses that might bring up facts which are embarrassing either to the chairman or to the administration. It does not say that they are only going to be held in the absence of a scandal or potential scandal. It does not say that those hearings are held only when everything is going along swimmingly. In fact, is not the whole purpose of having oversight hearings with respect to the RTC to ferret out and find out if there have been improprieties, if in fact the taxpayers' dollars have not been used in the way they are supposed to be used?

Apparently, from what I understand, there are some people from Kansas City, from the office of the Resolution Trust Corporation in Kansas City, who want to testify to exactly that. Now they are not going to be allowed to do that.

It really brings into question the whole issue of allegiance to politics or allegiance to principles. It makes you wonder where is the allegiance in this House? Is it to politics? Is it to the Democratic Party, or the Republican Party? Is it to the President? Is it to the leadership? Or is it to principles, that is, the Constitution, the laws that we pass, the laws that this Congress itself has passed.

We cannot simply obey the law only when it is convenient. It seems to me that there should be no wonder that in terms of public confidence, the public ranks Congressmen 24th out of 25. We are just ahead of used car salesmen when it comes to public trust and confidence. It surely ought to be obvious why the public overwhelmingly supports term limits.

I urge the chairman of the Committee on Banking, Finance and Urban Affairs to immediately schedule the hearings that he has a statutory obligation to schedule, and to immediately carry on with that oversight responsibility that was given to the Committee on Banking, Finance and Urban Affairs, so that we can restore some modicum of public trust in this institution, that we might do the things that we are charged constitutionally and by dint of law, passed by this Congress, to do.

DENY MOST-FAVORED-NATION TREATMENT FOR CHINA

The SPEAKER pro tempore. Under the Speaker's announced policy of February 11, 1994, the gentlewoman from California [Ms. PELOSI] is recognized during morning business for 5 minutes.

Ms. PELOSI. Mr. Speaker, last evening a number of our colleagues, the gentleman from New York [Mr. GILMAN], the ranking Republican on the Foreign Affairs Committee, the gentleman from North Carolina [Mr. ROSE], chair of the House Administration Committee, and leading voice for Tibet in this body, both of them, the gentleman from Massachusetts [Mr. MARKEY], a person with great knowledge and concern about the proliferation of weapons, both nuclear and nonconventional, as well as women on the streets of America sent in by the Chinese Government and Chinese Army, we joined together to have a special order to congratulate Secretary of State Christopher for standing firm when he went to Beijing presenting the President's policy and presenting the terms of his Executive order.

As you may recall, Mr. Speaker, last year Congress was poised to pass legislation putting stern conditions on the renewal of most-favored-nation status to China. Those conditions included improvement in human rights, addressed proliferation of weapons, and other trade issues. The President in his wisdom chose instead to issue an Executive order with reasonable and achievable conditions calibrated to be met by the Chinese within a 12-month period under which we could continue our trade. They would continue to have preferential access to the U.S. market, and we would have made a difference by using the leverage we have.

Why do we think we have this leverage? We do believe it because the Chinese need access to the United States market to fuel their economic growth at home. Nearly 40 percent of all Chinese exports come to the United States. This nets for the Chinese Government, last year, $25 billion in trade surplus. That is why we believe that we have an opportunity, while we have something they wanted, preferential access to our markets, and we have something they wanted, access to their markets as well, but also an improvement in human rights.

Unfortunately, Mr. Speaker, even since last night, the situation as far as trade and the surplus is concerned has worsened. The figures are out this morning and saying that America's second biggest deficit—we hear a lot of talk about the deficit with Japan, and with China a great deal of the focus has been on human rights and proliferation. But the second biggest deficit is with China, and the second biggest deficit for January was $2.19 billion, a giant 69 percent larger than the month of December.

□ 1110

This is all happening at a time when we are arguing for more access to United States products to go into China, because most United States products are barred from China, a grave disservice to the American worker, as well as addressing other trade violations in our relationship by the Chinese.

Ironically, Mr. Speaker, when our Secretary went there and was treated with great discourtesy by the Chinese Government, it was ironic, I think, that when he later met with the American business community in Beijing that they did not stand in solidarity with our Secretary of State.

How refreshing it would have been if their statement coming out of Beijing to America as well as to the authorities in Beijing that "Mr. Secretary, while we may not agree on your approach or the use of MFN for improving human rights, we stand with you in your effort to promote democratic values in China. We stand with you because they are America's values, and we stand with you because, frankly, it is good for business."

Do not take it just from me, Mr. Speaker. I was pleased to see that when the Secretary came back it was ironic, again, that instead of people rallying to him, some in the press decided that they would criticize his trip and say that he should not have delivered the message; while, at the same time, they had been criticizing the administration for not delivering a clear enough message. So we all know that you get criticized for whatever you do, and the Secretary is a capable, long distance runner. He understands that criticism follow actions, and he has to stick by his policy.

I was pleased to see that in spite of all the public-relations-generated articles that appeared in some of the newspapers inside the beltway, China spends a great deal of money here on lawyers and PR firms to effect policy, that in Los Angeles, a businesswriter for the Los Angeles Times wrote:

> Right now China's leaders are pushing American companies to lobby the United States Government. And U.S. business people seem a bit too ready to cooperate. Some of them lectured Christopher at the U.S. Chamber of Commerce in Beijing, criticizing his emphasis on human rights.

Mr. Flanigan called this action by the business community there distasteful, disloyal, and dumb.

Mr. Speaker, since the 5 minutes went by so fast for me, I will be sending out some of these other articles which praise the Secretary for his courage and the clarity of his message and rally to his side as he promotes democratic values while promoting United States trade in a very fair way with China.

RECESS

The SPEAKER pro tempore (Mr. LAROCCO). Pursuant to clause 12, rule I, the Chair declares the House in recess until 12 noon.

Accordingly (at 11 o'clock and 13 minutes a.m.) the House stood in recess until 12 noon.

□ 1200

AFTER RECESS

The recess having expired, the House was called to order by the Speaker pro tempore [Mr. MCNULTY] at 12 noon.

PRAYER

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

We know gracious God, that we have been given this day to serve people in their need and to nurture both life and love, and so we pray that we will respond to this brief time with all good grace and with thankful hearts. With gratefulness for all Your gifts to us and with appreciation for the occasions that this time presents, we offer this word of gratitude and praise. Amen.

THE JOURNAL

The SPEAKER pro tempore. 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 pro tempore. The gentleman from California [Mr. TUCKER] will please come forward and lead the House in the Pledge of Allegiance.

Mr. TUCKER 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.

REPORT FROM EL SALVADOR

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

Mr. MEEHAN. Mr. Speaker, I just returned from El Salvador, where I was an official observer in this weekend's elections. I was impressed by the fact that parties from across the political spectrum cooperated closely at the polling places I visited. The absence of violence was remarkable considering that they were fighting each other in a bitter civil war only 2 years ago.

There were, however, problems with the elections. An undetermined number of voters never received registration cards, and I saw many people turned away from the polls because their names did not appear on official lists even though they had voting cards.

These administrative snafus are especially troubling because of their disparate impact on the opposition. The likelihood of a runoff presents an opportunity to straighten out procedural problems. We should press for better organization and a complete review of the electoral registry before the final election.

The United States should also press for full implementation of the peace accords, including land transfers, reform of the judicial system, and the resolution of investigations into political violence. El Salvador has come a long way fast, but we have an obligation to help avoid a slide back into chaos.

APRIL 15

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

Mr. BALLENGER. Mr. Speaker, spring is here. Soon the leaves will be on the trees, baseball will be on the field, and taxes will be on our minds.

Yes, April 15 is coming quickly, and for many people that means higher taxes. Thanks to the Clinton budget, we can all expect to pay more in taxes to support more of the President's social welfare programs.

Is it not interesting that the First Family has spent so much time trying not to pay their own taxes?

From underwear deductions to underreported tax returns, the Clintons have a history of tax avoidance.

We all know the Clintons have what it takes to take what you've got, but apparently they also have what it takes to keep what they have got.

I urge the American people to think about the First Family when they pay their taxes this April 15. Bill Clinton is very good at raising taxes, but he is not so good at paying them.

REMOVAL OF NAME OF MEMBER AS COSPONSOR OF H.R. 4041

Mr. BLILEY. Mr. Speaker, I introduced H.R. 4041 on March 17. Unfortunately, the original bill contained a typographical error which resulted in the gentleman from New York [Mr. PAXON] being listed as a cosponsor. I therefore ask unanimous consent that the name of the gentleman from New York [Mr. PAXON] be removed as a cosponsor of H.R. 4041.

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

There was no objection.

BALANCED APPROACH URGED TO OMNIBUS CRIME BILL

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

minute and to revise and extend his remarks.)

Mr. TUCKER. Mr. Speaker, this week we are going to address the important issue of a crime bill across this country, an omnibus crime bill.

Mr. Speaker, all of us know that crime is perhaps the number one issue that faces this country, but as we debate and as we discuss this issue this week, Mr. Speaker, let us be smart and intelligent about a crime bill for this country. Let us not just be reactionary and say that the answer to the problem is putting everyone in prison.

Yes, we have to create more prisons; yes, we have to have stiffer penalties, but at the same time we have to realize, Mr. Speaker, that crime is not the sickness that is plaguing this country. Crime is the symptom. And we have to understand that unemployment, undereducation, miseducation are still problems that plague this country.

We built more prisons in the 1980's than any country in the world and we still have the highest crime rate.

Mr. Speaker, when are we going to get educated and when are we going to learn that crime is just the symptom? Let us have a balanced approach to the omnibus crime bill this week.

ACTIVITIES OF THE BANKING COMMITTEE

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

Mrs. ROUKEMA. Mr. Speaker, I am perplexed and saddened.

I have been a member of the Banking Committee of this House now going on 14 years. During those years we have always had comity and mutual respect among our members. By tradition and temperament we have never been among the bitterly partisan crowd here in Washington—not even when we had sharp differences on the issues.

But that tradition has now been broken.

Mr. Speaker, the chairman of the committee, my friend, HENRY GONZALEZ, and I have always worked together for the good of the people.

But I stand here today in disbelief at his abrupt cancellation of our Banking Committee oversight hearing. The chairman's letter yesterday used intemperate language and harshly impugned the integrity of our colleague, JIM LEACH, one of the least partisan and most respected statesmen of this body.

I would beg our chairman to reconsider these oversight hearings on the Resolution Trust Corporation and our committee's statutory and constitutional obligation.

The S&L bailout cost taxpayers $150 billion—$60 million in one single Arkansas thrift.

Mr. Speaker, this is a sad day. The chairman of the Banking Committee is questioning our motives. Newspaper editorials are calling it the cancellation stonewalling. The call for a select committee is beside the point. The cancellation of the RTC oversight hearings is being seen as a play for time.

But this will not wash. Yesterday's development further tarnishes the reputation of Congress. As E.J. Dionne writes in this morning's Washington Post on the Whitewater handling, "if there is nothing to hide, then why do they seem to be hiding things?"

DISTURBING EFFECTS FELT FROM NAFTA

(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, NAFTA is 10 weeks old, and already workers from 50 plants have filed for job training and displacement services. That is 50 plants, 10 weeks, 5 plants a week—9 in Pennsylvania, 8 in Washington, 7 in New Jersey, 5 in New York, 4 in Massachusetts.

What do we say to those families of workers without jobs? Sorry? Good luck? Hope you make it?

What are the jobs they are being retrained for, I ask the Members of Congress. Burger flippers? Corn cob pipe assemblers?

Mr. Speaker, NAFTA was a treaty, and in fact I say it is unconstitutional. With layoffs like this, NAFTA means free trade for Mexico all right and stone-cold unemployment and separation from work for American workers.

Mr. Speaker, the Congress had better start looking for jobs in our own country.

WHITEWATERGATE—ANOTHER TYPE OF MARCH MADNESS

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

Mr. HORN. Mr. Speaker, March Madness is here. No, I am not talking about the NCAA College Basketball Tournament; I am talking about the Democratic Party's strange aversion to open hearings on the Whitewatergate affair.

The latest majority party escapade regarding Whitewater occurred when the chairman of the Banking Committee first decided not to hold legally required oversight hearings on the Resolution Trust Corporation and then dramatically, no doubt due to pressure, changed his mind.

He has now called for a select committee to investigate this sordid affair. He would rather have someone else do the dirty work.

But even that is progress. But when, when, when?

I agree with those who say we need to put the whole scandal behind us so we can work on the issues in which the voters are interested. But first, we need to find out the facts.

Mr. Speaker, support full disclosure. If the President and his agents and staff did nothing wrong, then they should have nothing to fear. Let this House—and the American public—have full disclosure.

□ 1210

COMMEMORATIVE STAMP OF NINETEENTH AMENDMENT

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

Mrs. KENNELLY. Mr. Speaker, next year this Nation will celebrate a milestone: the 75th anniversary of women winning the constitutional right to vote.

It is hard to imagine a time when women were not allowed to vote. It is especially difficult to believe for the 49 women who sit in this Chamber.

But just as we wonder today about the delay in granting this right, men and women in the future will wonder why we did not enact the equal rights amendment sooner.

Twenty-two years ago today, Congress passed the ERA. Unfortunately, it is still not the law of the land. The passage of the 19th amendment was the result of almost 75 years of steadfast work. It is my profound hope that we can add the ERA to the Constitution much quicker than that.

The Congressional Caucus for Women's Issues has sent a letter to the Postal Service, asking them to commission a stamp to commemorate the 19th amendment. I hope we get that. But an even better celebration would be the final ratification of the ERA.

I hope my colleagues will support our request for a commemorative stamp. And I also hope we can one day soon complete the work of 22 years ago today.

THE TRUTH

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

Mr. KNOLLENBERG. Mr. Speaker, the Banking Committee chairman has finally seen the light. He has endorsed the concept of hearings on Whitewater, despite earlier condemning Republicans for trying to get the facts on the whole affair.

The Chairman said: "It is time for Democrats to use the truth, the weapon Republicans fear the most."

Of course, if Republicans feared the truth, we would not have been calling for hearings. Indeed, searching for the truth has been our only mission all along.

We Republicans do not seek to destroy the Presidency. It is preposterous to think that we even have that power.

We simply want what the American people want—the truth.

It is too bad that some in this House and the administration have been so reluctant to let us examine the facts. It is too bad that our only hearing scheduled to date has been yanked.

Let us show that none of us in this House fear the truth. Let us have hearings and set the truth free.

UNITED STATES SHOULD SIGN U.N. CONVENTION ON RIGHTS OF THE CHILD

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

Mr. SANDERS. Mr. Speaker, 171 nations have signed the U.N. Convention on the Rights of the Child. Only 19 have not—including the United States of America.

Mr. Speaker, the United States is the only industrialized nation on Earth which has not signed the U.N. Convention on the Rights of the Child.

Mr. Speaker, the United States today, at 22 percent, has double the rate of childhood poverty of any other industrialized country. Today in America, 5 million children go hungry; over 100,000 sleep out on the streets; 10 million kids lack health insurance; and we rank 19th in the world in infant mortality.

Mr. Speaker, I am happy to tell you that President Clinton has recently informed me that he has taken the positive step of asking the Departments of Justice, State, and Health and Human Services to conduct a comprehensive review of the convention. Further, at a conference last week that I organized, Dr. William Galston, Deputy Assistant to the President for Domestic Policy, indicated that this task force would make a recommendation to the President this spring.

I am delighted that we are finally making some important progress on this issue, and am cautiously optimistic that President Clinton, unlike his predecessor, will soon sign this treaty and send it to the Senate for ratification.

Mr. Speaker, let us join the rest of the world and sign the U.N. Convention on the Rights of the Child. Future generations will remember us less for the number of nuclear weapons that we possess, for the guns and tanks that we build, than for the happiness and well-being of the most vulnerable and fragile members of our society, our children.

BIPARTISAN HEARINGS NECESSARY ON WHITEWATER

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

Mr. EWING. Mr. Speaker, there is a great deal of debate about whether the Congress should conduct hearings and an investigation of the Whitewater affair. I believe the Congress should fulfill its constitutional duties to oversee the executive branch in this matter. The Democratic Congress did that at least 12 times in the last decade, and now that same Democratic-controlled Congress should take that responsibility, even though we have a Democrat President. Party should play no role in this event.

Mr. Speaker, I believe that the leadership of this Congress now believes that they can have an investigation of Whitewater and related events without interfering with the ongoing criminal investigation and without providing immunity to witnesses. We can do this and still conduct a good hearing.

The fact is, if it were not for the RTC oversight hearings in the Senate, we would not have known about the meetings between the White House and the Treasury Department.

Clearly Congress has a role to play in this matter. It is time we held bipartisan hearings on this very important issue.

PROPOSED LEGISLATION WOULD GIVE RELIEF TO EMPLOYERS ON SUPPLYING DETAILED HEALTH CARE DATA

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

Mrs. FOWLER. Mr. Speaker, yesterday I introduced legislation to repeal yet another expensive and burdensome Federal mandate placed upon American Business. My legislation would repeal section 13581 of the Omnibus Budget Reconciliation Act of 1993, which established the Medicare/Medicaid data bank.

This onerous provision—which took effect January 1 of this year—requires employers who provide health care coverage to send detailed information on current and past employees to a central data bank. This information includes names, social security numbers, health care plans and period of coverage, and failure to comply with the requirement would result in a substantial fine. In my view, this new mandate actually penalizes employers who provide health care, which hardly seems logical.

No funding was provided in the bill for either employers or the health care financing administration to implement this difficult and expensive project.

This databank is just another unfunded mandate placed on the backs of those who provide America's jobs. HCFA cannot administer the data bank and working America cannot afford it. I urge my colleagues to join me in cosponsoring H.R. 4095.

NO COMMON SENSE EPA

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

Mr. ALLARD. Mr. Speaker, recently I spoke to the House concerning an enforcement action by the Environmental Protection Agency against the town of Fort Morgan, CO.

This town of only 9,600 residents continues to be the victim of a Federal bureaucracy that is out of control. The EPA has taken the city to Federal court, alleging a failure to properly enforce the Clean Water Act. The problem is—there is nothing wrong with the water in Fort Morgan. There has been no harm done to the people or the environment. The fine is being assessed simply because the EPA does not like the way the city has chosen to enforce the law.

What makes this case particularly bizarre is the fact that the city is willing to fix any problems the EPA has. The city is even willing to build a new $13 million waste water facility.

Despite all this, the EPA insists on punishing the city of Fort Morgan. It is now insisting on a fine of $675,000, or more than $70 for every resident of Fort Morgan. This is way out of line—past fines to small and medium-size communities have ranged from 13 cents per person to a high of $7.89 per person, but never anything approaching $70 per person.

This is a classic case of the Federal Government trying to impose its will on a small community and accomplishing nothing in the process.

DUCKING RESPONSIBILITY

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

Mr. ROTH. Mr. Speaker, yesterday the chairman of the Banking Committee ducked his responsibility to this House and to the American people.

Required by law to hold RTC oversight hearings twice a year, the chairman said no.

The cancer of the Whitewater/Madison scandal, Mr. Speaker, is robbing the Presidency of what little integrity it has left. But the chairman passed the buck to the Democrat leadership, which to this point has done nothing but stonewall and run interference for the Clintons.

In all fairness, Mr. Speaker, the chairman must be under incredible pressure.

After all, Chairman GONZALEZ introduced three impeachment resolutions during the Reagan and Bush administrations, and cosponsored a fourth.

For his strength to whither at a critical moment such as this is a testament

to the partisan desperation of the White House.

Whether it is the Banking Committee, where the responsibility belongs, Mr. Speaker, or a select committee, the Clintons and the Democrat leadership are going to have to face an unhappy fact: The American people are going to get to the bottom of Whitewater.

□ 1220

IN SEARCH OF THE TRUTH

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

Mr. HOKE. Mr. Speaker, yesterday the chairman of the House Committee on Banking, Finance and Urban Affairs, the gentleman from Texas [Mr. GONZALEZ] sent the following letter to House Speaker FOLEY. I quote, in part:

DEAR MR. SPEAKER: It is time for Democrats to use the truth. I recommend that the House leadership draft and endorse a resolution calling for full hearings on the Whitewater affair. I note that the Senate has already committed itself to hearings. I suggest that House hearings be held in a forum of broad reach, possibly a select committee, that can explore all the charges. We have a responsibility to set the record straight, which is possible only through a full public hearing of every aspect of this matter.

Sincerely,

HENRY B. GONZALEZ.

The gentleman from Texas [Mr. GONZALEZ] is absolutely right. I support him in an unqualified way. We do need to have a committee. I support the idea of a select committee. And the only thing that I would add is that we ought to pay for it in a fiscally responsible way. We ought to cut 1 percent or one-half percent from every committee in this House in order to pay for it so that we are not going to increase the deficit to do it.

IN PRAISE OF THE MARYLAND TERPS

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

Mr. HOYER. Mr. Speaker, how sweet it is! This past weekend Exree Hipp hopped, Johnny Rhodes romped, Duane Simpkins soared, Keith Booth bolted, Joe Smith slam-dunked, and coach Gary Williams and the mighty Maryland Terrapins roared into the Sweet 16 of the NCAA tournament.

This has not been an easy road back to prominence, Mr. Speaker. The drug overdose death of Maryland basketball star Len Bias in June 1986 rocked the campus and the basketball program which, until now, seemed unable to recover from that tragic incident.

But the patient and the program are fully recovered. Last Thursday against St. Louis and Saturday against Massachusetts, the young Terrapins showed strength and maturity in beating the number seven and number two seeds in their bracket, thereby advancing the Terps to the Sweet 16 for the first time since 1985.

I stand before you today with the support of the entire State of Maryland in praising the mighty Terrapins team, Coach Gary Williams and Athletic Director Andy Gieger, and I encourage all in the Washington metropolitan area to join in saluting the Maryland Terps and wishing them success this weekend in Dallas.

Mr. Speaker, let me also say that Georgetown and George Mason and George Washington distinguished themselves as well. But we who went to Maryland are particularly proud of our Terps.

WHITE HOUSE CAN'T "WHITEOUT" WHITEWATER

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

Mr. SMITH of Texas. Mr. Speaker, the White House would like to whiteout Whitewater and the suspicious stories surfacing daily about the President's investments.

The administration's strategy for dealing with Whitewater is twofold. It claims Whitewater is a partisan attack by Republicans and that it is being used to hold up health care.

The reality is that we are not the hold up. We are moving ahead on health care, welfare, crime, and illegal immigration reform.

All Republicans are asking for is what Americans are asking for: Full disclosure from the White House. Republicans want to get on with the business of government.

If the President shares our desire to get back to governing, only he can remove the roadblocks that stand in the way.

The fastest way to get beyond Whitewater would be for the White House to allow congressional hearings immediately and just tell the American people the truth.

There are no substitutes for full disclosure and straight answers. The American people want the truth. They deserve it now.

CANCELLATION OF RTC OVERSIGHT HEARINGS

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

Mr. GRAMS. Mr. Speaker, yesterday House Banking Committee Chairman GONZALEZ accused Republicans of "using an array of half truths, old rumors, half-baked conspiracy theories, and outright lies" in our efforts to hold RTC oversight hearings, and ask some important questions on Whitewater.

He also postponed the statutorily mandated RTC oversight hearings set for this Thursday, citing Republican inability to discuss the matter in a calm and dispassionate manner. This is outrageous.

Mr. Speaker, Republicans did not create Whitewater. In seeking hearings we are simply trying to apply the same standards that were unceasingly and vigorously applied to recent Republican administrations.

Americans are tired of finger pointing, name calling, and abdication of responsibility. As long as the White House and the Democrat leadership persist in passing the buck on Whitewater, Americans can rightfully remain disgusted with how their Government deals with important national issues.

The saddest part of this issue is that the American people are getting shortchanged, losing faith in our ability to address serious social and economic issues. Until we effectively put Whitewater behind us this feeling will persist.

Under the leadership of Representative JIM LEACH, Republicans are trying to restore faith in Government. We are trying to get to the bottom of Whitewater and its RTC implications before it overflows the banks of the river and cripples the White House and Congress.

WHEN PR GOES TOO FAR

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

Mr. GOSS. Mr. Speaker, even as the Democrat leaders in Congress are running from the President's health care and cranking out their own plans, the White House PR machine is in overdrive. Last week the Washington Post front page reported on health care news from the President's recent carefully orchestrated swing to Connecticut. The report had more to do with press attention than it did with health care: 65 articles, 10 local newscasts, 6 radio broadcasts and repeated network coverage, a pretty good take for a few hours of the President's time and tens of thousands of the taxpayers' dollars, and conclusive evidence that the White House spin doctors care more about press coverage than health care coverage.

The White House road show is going everywhere, Colorado, Florida, and onward in a similar PR boost, but how much is too much?

The White House is too busy reading its own press clips to hear what the American people are saying. They are saying that Government-run health care is bad news. It does not work, and they want something else.

Let us go to work on H.R. 3080. It is good medicine, and it is medicine we can swallow.

THE WHITEWATER FIASCO

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

Mr. GOODLATTE. Mr. Speaker, it is springtime in Washington, and that means sunshine, unless, of course, we are talking about shining a little light on Whitewater. The Whitewater fiasco continues.

Yesterday, the chairman of the House Committee on Banking, Finance and Urban Affairs canceled RTC oversight hearings. These hearings, which are already most overdue, are required by the rules of the House and the law of the land. Yet they were canceled, because the Democrat leadership found them inconvenient.

It would appear that they do not want the American people to hear what officials at the Resolution Trust Corporation have to say about Madison and the Whitewater Development Corp.

Mr. Speaker, what about Madison and Whitewater is so profound that the American people must be kept in the dark about the entire affair. More importantly, when will we be able to dispose of this issue and get on with doing the people's business.

All that anyone has asked for is that matters concerning Whitewater be dealt with in an open and honest manner. Evidently, this is too much to ask.

THE PRESIDENT'S HEALTH CARE PLAN

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

Mr. BAKER of California. Mr. Speaker, as we begin our debate on the President's health care plan, we must keep in mind what will happen without the Clinton health care plan. First, half of 37 million uninsured Americans will get health care insurance in less than 4 months. In less than 1 year, 72 percent will get it without the Clinton health care plan.

Second, the rise in the health inflation rate is beginning to grind to a halt, as companies impose their own cost control measures. And it is about time. Pharmaceuticals, which have been growing at 14 percent, are now barely 3 percent in their inflation rate. Other costs are falling in line because of the hard work and competition between the various health care providers.

Do we need a national health board of seven appointed individuals that will have a global budget? Do we need regional health alliances which will select our doctors and other providers and enforce the global budget?

□ 1230

The Clinton health care plan will result in employee mandates, employee taxes, rationing, and shortages of quality health care, loss of choice of doctor and other providers, and a burgeoning bureaucratic system.

Ontario closed its hospital for 3 weeks at Christmastime. There are more MRIs in Philadelphia than all of Canada. There are long lines in Canada and Great Britain. Do not let it happen here. Stop nationalized health care.

CRISIS ON THE KOREAN PENINSULA

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

Mr. TORRICELLI. Mr. Speaker, a crisis potentially of enormous proportions is taking place on the Korean Peninsula, indeed with the potential to be the most serious military confrontation of our time. The consequences are enormous. North Korea, defying international law and all logic, is proceeding with the possibility of the development of nuclear weapons, and prohibiting proper inspections.

It needs to be understood that the audience in this crisis is larger than those in Seoul, Washington, Tokoyo, or Beijing. Regimes from Iran and Iraq, from South America to South Asia, will be watching. If international law can be defied, if the United Nations can be ignored, if American will can be broken, the entire international system of controlling nuclear weapons and of inspections will be broken.

Mr. Speaker, I urge the administration to stand firm, to stand steady. Do not allow this moment to pass to keep the order in maintaining inspections.

CONGRATULATIONS TO STEVEN SPIELBERG FOR ACADEMY AWARD

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

Mr. BURTON of Indiana. Mr. Speaker, I normally do not do this. I am not from California, I am not from Hollywood, and I have never met Steven Spielberg, but I want tell the Members that last night I was extremely happy that he won the Academy Award for best director and for best picture.

Mr. Speaker, listen to this list of movies he has made: E.T., Empire of the Sun, Jaws, Close Encounters of the Third Kind, Raiders of the Lost Ark, the Color Purple, Schindler's List; fantastic movies, great entertainment for the family, and they really tell a story.

He is one of the most talented, intelligent, and gifted movemakers of our time; in fact, of all time. I am very happy he won the Academy Award last night. He has made us laugh, he has made us cry, he has made America think, and he has made us understand. I think Steven Spielberg is truly a great American, a great director, and I think he is a national treasure and he deserves national recognition.

COMMEMORATING EQUAL RIGHTS FOR WOMEN

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

Mrs. SCHROEDER. Mr. Speaker, today is a particularly special day for the House of Representatives and for Americans. March 22 marks the day in 1972 when Congress passed the equal rights amendment, clearing it for ratification by the States.

As you may know, the ERA was first introduced in 1923, 3 years after the 19th amendment was ratified—finally, granting women the right to vote. It is difficult to comprehend that women gained the right to vote only 74 years ago. Women have made tremendous gains over the years and we cherish those many victories. While we have many unmet goals, today is a day of remembrance for the millions of Americans who have helped us get to this point in history.

This week, the Caucus for Women's Issues will be asking the U.S. Postmaster to issue a commemorative stamp in celebration of the 75th anniversary of the 19th amendment. August 26, 1995 marks that day. I ask all my colleagues to join in support of our request.

We have been trying to lick problems facing women for years, maybe this is one request that we can lick right away.

WE NEED REAL WELFARE REFORM

(Mr. STEARNS asked and was given permission to revise and extend his remarks.)

Mr. STEARNS. Mr. Speaker, last week the administration presented its welfare reform package to Congress. It appears that Mr. Clinton's plan to end welfare as we know it will only move a fraction of all parents on welfare onto the work rolls over a 5-year period. Reports indicate that the President calls for $15 billion in new social services spending.

Instead of matching his promise to move all able-bodied recipients from welfare to work, the Clinton administration would exempt two-thirds of the 5 million families on welfare from any time limits or work requirements. Where is the reform, Mr. Speaker?

Working class families were promised a middle-class tax cut by Bill Clinton. What happened? The President ended up increasing taxes.

The President also promised the American people health care reform that would change things for the better. Yet his plan would end up costing jobs, reducing wages, and increasing taxes.

Mr. Speaker, in each of these cases, Republicans have real reform plans that will produce results.

IN SUPPORT OF INCLUSION OF FULL REPRODUCTIVE HEALTH SERVICES AS PART OF UNIFORM HEALTH BENEFITS PACKAGE

(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, I rise today to urge my colleagues to support the inclusion of full reproductive health care services for women in any uniform national health benefits package that is mandated as part of health care reform.

All women should have the opportunity to make decisions about their own reproductive health. They must also have the ability to act on such decisions through access to the full range of reproductive health services including contraception, prenatal care, and abortion.

Most private health insurance plans and health maintenance organizations currently cover abortion services as part of reproductive health care for women. In fact, over 78 million women now have insurance coverage for abortion services, including Members of Congress, their spouses and all Federal workers, under the Federal Employee Health Benefit Plan. We are not talking about adding a new health benefit for women; we are continuing coverage of a health benefit that most women already have. To eliminate any component of reproductive health care for women is discriminatory.

Abortion is one of the most commonly performed and safest surgical procedures performed on women in this country. According to insurance industry analysts, unlike experimental drugs and new medical treatments, abortion is a safe and proven procedure. It is neither a social nor a political issue for the health insurance industry and it should stay that way. Increased access to safe and legal abortions has resulted in unquestioned health benefits for women.

Exclusion of abortion from a uniform health benefits package will deny many women access to safe and legal abortion services. Only women who can afford to purchase services outside of the benefits package will have access to abortion services.

Universal access to abortion services is one of the most controversial and emotional issues in the debate on health care reform. Regardless of our individual beliefs about abortion, it is unconscionable that Congress should impede any woman from making what is a difficult, highly personal and private decision.

I also respect the right of all individuals to make informed choices, including the right of health care providers to choose not to participate in interventions that conflict with their own religious, moral, or ethical beliefs.

I urge Members to consider this resolution and support it.

COMPARING WHITEWATER AND WATERGATE

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

Mr. ROHRABACHER. Mr. Speaker, I do not address the House today to make the obvious comparisons between Whitewater and Watergate. I think it would be wrong for me to continue on this vein, because many other people have spoken about that today, and continue to speak about that, but I would like to make another historical comparison that I think a lot of people are missing today.

Mr. Speaker, one of the reasons that Whitewater is not being compared to Watergate is because the economy seems to be doing so well today that the President is able to talk about the economy. I would just like the American people to note that it takes about 1½ to 2 years for any President's policies to actually impact on the economy of the United States of America.

□ 1240

The first 2 years of the Jimmy Carter administration were relatively good years because, of course, he was living on the policies in those 2 years, the economy that was dictated by the policies prior to Jimmy Carter becoming President. That is what we have today under Bill Clinton.

I would just predict that once the increase in regulation, the increase in taxation, the Democratic policies that this administration has put into place actually impact on the economy, this economy will go down, people will suffer, and then they will really be interested in hearing the comparisons between Whitewater and Watergate.

LEWIS GRIZZARD: A GREAT SOUTHERNER AND GREAT AMERICAN

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

Mr. DARDEN. Mr. Speaker, today hundreds are gathering for a memorial service in Moreland, GA to pay their respects to a great Southerner and great American; a man who follows in the tradition of Mark Twain and Will Rogers. That man is Lewis Grizzard. On behalf of the House, I would like to offer my respects as well.

Lewis Grizzard was everyman's champion. His wit, humor, and love of life in the South tickled the funny bones and touched the hearts of millions. Even readers he sometimes infuriated are going to miss him.

Born in Fort Benning, GA, Lewis Grizzard became a national celebrity and one of Georgia's favorite sons. In his short life of 47 years, he authored 20 books, produced several records, and wrote a thrice-weekly column that originated at the Atlanta Journal-Constitution and was syndicated in 450 newspapers across the country. Through his writings, we have all gotten a lot of laughs from Lewis Grizzard over the years.

But, Lewis imparted a lot of wisdom in his writings as well. He was a keen observer of the changing South and he was fiercely proud of his southern roots. Lewis Grizzard reminded us in his writings of the simple yet meaningful things in life, like small towns, church on Sundays, and the Georgia Bulldogs.

Mr. Speaker, I can offer no higher praise than this: Lewis Grizzard made life for all of us more enjoyable.

FULL DISCLOSURE ON WHITEWATER

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

Mr. BOEHNER. Mr. Speaker, the stonewalling by the Democrat majority in the House has subsided, at least for now. Earlier this morning the bipartisan leadership of the House has come to some agreement that there will be hearings on the Whitewater matter, and their related intricate dealings with regard to the administration and others in Arkansas.

This is a very important step because it is only through hearings and public disclosure and full disclosure that the House can meet its constitutional responsibility to provide oversight over the executive branch of government.

We have heard a lot over these last few weeks, we have a special prosecutor, a special counsel who is looking at criminal activity, civil problems that may have occurred. The Congress has a responsible role, and I am glad to see that we have come to some agreement today, which is the first step in putting together a structure that will bring hearings to this House and full disclosure to the American people.

IMPROVING AMERICA'S SCHOOLS ACT OF 1994

The SPEAKER pro tempore (Mr. FIELDS of Louisiana). Pursuant to House Resolution 366 and rule XXIII,

the Chair declares the House in the Committee of the Whole House on the State of the Union for the further consideration of the bill, H.R. 6.

□ 1244

IN THE COMMITTEE OF THE WHOLE

Accordingly, the House resolved itself into the Committee of the Whole House on the State of the Union for the further consideration of the bill (H.R. 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 Mrs. KENNELLY Chairman pro tempore in the chair.

The Clerk read the title of the bill.

The CHAIRMAN pro tempore. When the Committee of the Whole rose on Monday, March 21, 1994, title IX of the proposed Elementary and Secondary Education Act was open for amendment at any point.

Are there further amendments to title IX?

AMENDMENT OFFERED BY MR. ROHRABACHER

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

The Clerk read as follows:

Amendment offered by Mr. ROHRABACHER: Page 762, after line 8, insert the following:

"SEC. 9508. PROHIBITING BENEFITS FOR ILLEGAL ALIENS.

"No funds authorized in this Act may be used to provide any benefit or assistance to any individual who is not—

"(1) a citizen or national of the United States;

"(2) a permanent resident alien; or

"(3) an alien who is a parolee, asylee, or refugee under the Immigration and Nationality Act.".

Mr. ROHRABACHER. Madam Chairman, this amendment is one of a series of amendments that I intend to offer to end the practice of providing Federal benefits to illegal aliens. Each of these amendments will have the effect of stemming the huge drain on the Federal budget caused by opening the Federal treasury without restriction to people who have violated the laws of our country by coming here.

In this case, my amendment will also eliminate one of the largest unfunded Federal mandates in existence. This mandate has come about through a combination of the Player versus Doe Supreme Court decision and a lack of congressional policy in this area.

In 1982, the Supreme Court decided by a 5 to 4 vote that, in the absence of congressional policy to the contrary, States must provide a free education to illegal aliens. Let me repeat that, Madam Chairman. This Supreme Court decision was not only decided by one vote, in a more liberal Supreme Court than we have today, but even by its terms, it is a mandate on the States, not the Federal Government.

And, as is obvious to anyone who actually reads the majority opinion in this case, the only reason the State of Texas was not allowed to make the distinction between citizens and legal residents on the one hand, and illegal aliens on the other, was because Congress had made no such distinction.

What I am proposing today, Madam Chairman, is for Congress to make that distinction—so that the States can then constitutionally make the decision that citizens and legal residents from all racial and ethnic backgrounds shall come first; that those who have entered our country in violation of our laws are not entitled to the same benefits as our own citizens and legal residents. Once Congress makes this delineation, Plyler versus Doe will no longer keep States from making the same decision.

In my State of California, the most popular initiative currently being circulated for placement on the ballot is the SOS initiative. This initiative ends State-funded benefits, including education benefits, to illegal aliens. The only way this initiative can be fully effective, the only way California taxpayers and the taxpayers of other States will be able to lift this burden from their backs, is for Congress to adopt this amendment.

Yes, Madam Chairman, it is tough to tell parents that their children will not receive a free education, if those children are not here legally. And it is tough to tell them they won't receive long-term disaster aid, or other Federal benefits. And it is probably even tougher to tell them that they, and their children, will be deported because they came here illegally.

But just because it is tough to do doesn't mean it shouldn't be done, Madam Chairman. Just because it is tough to say "no" doesn't mean we should entice everyone in the world with the promise that if they can make it here illegally, they will get every benefit Federal, State, and local governments provide to citizens and legal residents, including educating their children, and in their own native language, no less.

Madam Chairman, continuing to provide the current panoply of taxpayer-paid benefits to anyone who can make it here illegally is fueling our deficit, and will eventually bankrupt this Nation, and its State and local governments, as well. I ask my colleagues to support this step toward fiscal sanity for all levels of government.

□ 1250

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

Madam Chairman, this amendment is counterproductive, shortsighted, and an unconstitutional attempt to build upon anti-immigrant sentiment. Not only does the amendment deprive children of receiving an education, but it is also an unfunded Federal mandate that places a huge financial burden on every local school in every district in this Nation. Local schools would be forced to investigate the immigration status of its students and their parents without receiving any money from the Federal Government. In short, this amendment harms schools, and sends the message to some children that they are different and not good enough to receive the same education as other children who, for some reason, are considered better than they are.

As proposed, this amendment would expose innocent individuals who are U.S. citizens or otherwise legally admitted into this country to widespread discrimination. It is likely that only those who look different than someone like Mr. ROHRABACHER will be asked by untrained school officials to produce proof of citizenship when they are detained or questioned. In fact, innocent individuals have been mistakenly deported, and under this amendment, cases of mistaken identity will be enormously increased. This amendment will force teachers to single out and discriminate against students in order to receive the funds they desperately need.

Furthermore, school administrators and teachers who are already overwhelmed with the educational system would have to enforce complex immigration laws. As an unfunded Federal mandate, this amendment would place unreasonable administrative and costly burdens on every district in this country including those with little immigration. The fact is that this amendment will not prevent illegal immigration. Instead, the result will be a country where children will grow up poorly educated and will be unable to compete in a global economy.

The amendment also forces Federal, State, and local jurisdictions to act against the principles of our constitution. The Supreme Court has ruled that all children are allowed access to public education. More importantly, the Court determined that children of undocumented individuals eventually acquire legal status. Therefore, if these children are denied an education, we will be creating an underclass of individuals who will be ill-prepared to take on their roles as future workers and contributors to society.

Madam Chairman, school boards as well as the Immigration and Naturalization Service oppose this amendment. They do so because they understand that our focus needs to be on the enhancement of our educational system for all children. By discriminating against our children and by adding more burdens and costs to our local schools, we would be harming all Americans. We as a Congress, including a majority of Republican Members, overwhelmingly voted against an effort to force school officials to become INS agents. Let's take the next positive step and help schools focus not on additional paperwork and more redtape,

but on the education of all our children.

Mr. GOODLING. Madam Chairman, I move to strike the penultimate word.

Madam Chairman, I have one concern about the amendment, and that concern is that it would appear to me to be broad enough that it would include children of migrant laborers who come in from other countries. If that is true, they are probably the most needy and their parents are the most needed because, being in the orchard business myself, to try to hire locally you might as well let the fruit rot and drop because it is too expensive to get it harvested. But after you let it rot and drop, you have to go out and pick it up anyway in order to protect the soil.

So I would hope that it does not include children of migrant workers who begin, when they come in and start harvesting in Florida, then they move up through the South, come into Pennsylvania and Ohio and end up in California generally. The youngsters have it difficult enough because they are being moved from school district to school district to school district. So I am concerned that the language would be broad enough that they would not have an exemption because I do not read an exemption for them in the legislation.

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

Madam Chairman, if you will recall, about a week and a half ago we defeated an amendment that was somewhat similar to the amendment we face today by the gentleman from California [Mr. ROHRABACHER]. At that point the amendment would have imposed upon schools a requirement that they report the number of children in their schools who did not have documents to be in this country, as well as to also document the number of children who had a parent who did not have documents to be in this country.

That was an amendment which had no funding behind it and would have required schools to become INS agents, teachers to spy on the children, children to snitch on their parents as well.

What we found was that it would have been unworkable and unfundable, and it would have cost us millions, if not billions, of dollars to try to enforce.

That amendment was defeated, defeated soundly, I must say, by a vote of 78 in favor and 329 against. There were more Republicans who voted against that amendment than there were Republicans who supported that amendment.

This amendment does implicitly what that previous amendment did explicitly; that is, require schools to document what their children's status is, whether or not a child looks as Anglo as any other child in this Nation, white or Latino or Africa-American or Asian, it would make no difference. A school cannot discriminate and say, "You look foreign-born, and therefore I am going to find out if in fact you are here with documentation." You would have to go to every child in every school and document that this person somehow is not here legally. You would have to undertake, if you are a school district, the same type of action that the INS is required to take in order to deport someone, because if you do not, then you are, in essence, admitting that you are discriminating because you are somehow selectively deciding who to choose to administer some type of examination to find out if this person is here legally or not.

The worst part about this particular amendment, I would say, is that the person whom we are choosing to go after is a child, a child who is trying to receive an education.

I would hope that we keep in mind in this particular debate that we are talking about imposing upon a school district, upon administrators, and upon teachers and upon children and their parents a requirement that they determine somehow what the INS is obligated by law to do—and that is, if someone is here, legally or not—and here we are pinpointing children.

What is the biggest problem with this particular amendment? Besides the cost and the Federal Government here is providing not a single cent to pay for the cost of a school to try to determine the status of a child, but the worst part about this is that we are talking about a bill, an amendment here that would have virtually no effect, if any at all, on those who are coming into this country without documentation. Think about it, a person who crosses the borders without documentation is coming, for the most part, without children. The person is coming to find a job. If someone is coming across these borders without documentation and bringing a family, chances are the reason he or she is bringing family is to flee conditions which are worse than they are here in the United States.

Chances are the child of that particular immigrant without documents will not be afforded education in that home country. Chances are the health care for that child is going to be no better than the health care in a country like the United States if we were to exclude any funding for health care. But in terms of education, we are talking about trying to educate a young mind, whether the mind is of a child who came with parents, completely innocently, because the parents came across this border without documentation, is completely ignored by this amendment. What it says is that we will discipline, we will penalize a child who is in the school to learn because his or her parent may have come across the border without documentation. And I say may because you have to prove it. You cannot deny someone access to something or the benefit of something without proving he or she is not entitled to it. You are innocent in this country until proven guilty. This would require schools to determine that someone is guilty, something that requires a judicial process.

So we are not only causing States and school districts to incur tremendous costs through this amendment but we have no guarantees that it will do anything to reduce the number of people who are coming into our borders without documents because people certainly will not leave if they hear that their child all of a sudden does not have access to education, because what they truly are looking for is a way to provide for their family. A lot of these immigrants were not heavily educated themselves. They never were expected to have their child get educated heavily in their own country. So, depriving the child of a decent education probably will have very little effect, deterrent effect on people who wish to come into this country without documents.

□ 1300

It is an unfunded mandate, a heavy burden on school districts, and I would urge my colleagues to vote against this particular amendment because it does nothing to address the issue of immigration which we should do through immigration laws.

Mr. BOEHNER. Madam Chairman, I ask unanimous consent to limit debate on this amendment to 30 minutes, to be equally divided between both sides.

The CHAIRMAN pro tempore. Does the gentleman desire to include in his unanimous-consent request all amendments thereto?

Mr. BOEHNER. Yes, Madam Chairman, to include all amendments thereto.

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

There was no objection.

The CHAIRMAN pro tempore. The gentleman from California [Mr. ROHRABACHER] will be recognized for 15 minutes, and the gentleman from Michigan [Mr. KILDEE] will be recognized for 15 minutes.

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

Mr. SERRANO. Madam Chairman, I guess the best way to start this discussion this time, as I look at the gentleman from California [Mr. ROHRABACHER], is to quote a Member of his party some years ago and simply say: "Here you go again."

Madam Chairman, I have no understanding why the gentleman from California continues to believe that this kind of an amendment can have any real effect on the issue that he wishes to address, an issue of whether or not we have an immigration problem or an

immigration situation in the country. If, in fact, it is a problem for some of us, the time to deal with that is not when a child enters school. As the gentleman from California on our side clearly stated, Madam Chairman, this amendment is no different than the gentleman's original amendment because that amendment stated that we had to count everyone. It said:

For this amendment to be carried out you have to count everyone, and, if you make a mistake in counting, a district runs the risk under this amendment of losing its funding.

Now we are not talking about funding only for undocumented children, Madam Chairman. We are talking about funding for all children. So technically, my colleagues, take a district anywhere in California, a district anywhere in Michigan, in Illinois, in New York, in Florida. I can say as a former school employee of a school district, what you have to go through to find out who these children are takes weeks, months, perhaps half a year, and the gentleman doesn't speak at all to what happens to those funds during that time. So technically anyone, under this amendment, could then sue in any court in the land to say "Don't allow New York City, San Diego, Pasadena, or anyplace in Hawaii, wherever, to receive funding this fiscal year because they still have not completed their study," and we would be in violation of the law.

Then we go to the point that we bring up every time which is: How the heck do you get around finding out who is documented and who is not?

Well, the first unfair part of this continues to be, and it is like, as my colleague knows, we are repeating ourselves all the time, but the gentleman keeps coming up with these amendments. The first thing is that only those who look foreign will be asked to prove that they are citizens, and only those who look foreign will be asked to ask their parents if they are citizens or not, and I think that that is, first of all, improper, it is unfair, and it creates a problem because, as the gentleman well knows, someone that would go in with my first name would be asked to prove that he is a citizen, and, having been born an American citizen, I have no proof, and I carry no proof with me, that I am an American citizen.

So, I continue to implore the gentleman who every other time of the day is one of the nicest people I know in this country, but the minute he gets behind these amendments, Madam Chairman, he becomes an individual that is so hard to understand. I implore the gentleman to reconsider these kinds of amendments. I know he is going to come up with one on every single bill every time we are allocating any dollars to any area of this country. I ask him to reconsider what he is doing and say, If you, in fact, believe that there is an immigration problem in this country, then deal with it under an immigration package of bills that deals with that issue. Once a child is here, once a person is in a flood, once a person is in an earthquake, do not single them out to be the only ones in the society that have to prove that they are citizens.

Madam Chairman, this is costly. This is going to cost the local districts a lot of money, and for a person who is known to be a fiscal conservative I am surprised that the gentleman from California [Mr. ROHRABACHER] would put on different districts of the Nation such difficult costs.

I say to the gentleman, Don't pass it on. Don't even consider going through with this amendment today. Our rules allow us to pull the amendments back, and you would get a standing ovation from this side if you did so.

Mr. ROHRABACHER. Madam Chairman, I yield 2 minutes to the gentleman from Florida [Mr. STEARNS].

Mr. STEARNS. Madam Chairman, I would just like to have a colloquy with my friend, the gentleman from California [Mr. ROHRABACHER]. This particular amendment, and other amendments that he has had, have brought up the question from the other side in terms of Federal mandates, and I thought we might explore that a little bit because I think there is some misinformation out here. I think this side recognizes that we have an immigration problem, a situation, as the colleague who just spoke, and we have to get to the heart of this matter.

Another area I would like to explore with him is the idea of how the Supreme Court's decision on this has been and how the gentleman's amendment would tie in with the Supreme Court, and I think there has been some statements by the Supreme Court on this matter.

So I think we should try and talk about the fact, and I would like to yield to my colleague from California to talk about this, two areas, in terms of the Federal mandates, what that means in the schools, and the idea of what the Supreme Court has said on this, and how the gentleman's legislation would affect that decision.

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

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

Mr. ROHRABACHER. Madam Chairman, the requirement, or the mandate, that local school districts provide education for illegal aliens just as they provide education for legal residents and U.S. citizens was dictated by Pyler versus Doe. However a reading of Pyler versus Doe, which was only a 5-to-4 decision in a court that was much more liberal than it is today, a reading of that decision makes very clear that the States are not mandated if the Federal Government sets a policy. What I am attempting to do today and with the amendments which I will offer on other bills in the future is for us to state the policy, which is what the justices of the Supreme Court asked us to do, in terms of whether or not benefits should be made available or be mandated for States to be made available to illegal immigrants. If we indeed pass resolutions and amendments like the one I am suggesting today, it complies with what the Supreme Court suggested was necessary, for us to take the mandate off of the local government and the local schools.

In other words, Madam Chairman, when we are talking about mandated education costing billions of dollars, that is not mandated if the Congress acts. It is very clear in that Supreme Court decision.

So, those on the other side of the aisle who are suggesting that the mandate will be held if we indeed set the policy are wrong. In fact, we are talking about saving the taxpayers billions of dollars by eliminating that mandate on our local schools and our States.

Mr. STEARNS. So, to emphasize what the gentleman is saying here, Madam Chairman, the Pyler versus Doe Supreme Court decision said States are not mandated if the Federal Government sets a policy, and in this amendment, the one that the gentleman had yesterday on striking the provisions in dealing with bilingual education and in many of his amendments, they have been shown to be setting the policy by the Federal Government in the gentleman's amendment. So that precludes the idea that there is any Federal mandates, so I think my colleagues should realize this whole argument on the basis of this is that all Federal mandates on the States is erroneous if we in Congress set the policy. Is that not true?

Mr. ROHRABACHER. The gentleman is correct. The purpose of my amendment is to eliminate the Federal mandate on the State and the local government, a mandate that today costs the taxpayers of this country billions of dollars in order to provide benefits for people who may not have contributed at all to the tax base—which may or may not have contributed to the tax base which is being taxed in order to provide that benefit.

□ 1310

Mr. STEARNS. So in this case there are going to be extra funds required, there is a stipulation, and we are setting the policy. We hear on the other side that we are forcing children to spy on their parents and things like that. The gentleman might want to address that because we hear that continually from the other side.

Mr. ROHRABACHER. Madam Chairman, the amendment which would have required the schools to count the number of illegal aliens at no time sug-

gested that those schools turn any name of anyone over to any Federal authority. It is understood the amendment, of course, was a tactic used to obfuscate the central point, and the purpose of that amendment was to get a count. The amendment was very clear and the newspaper accounts of my amendment were very clear that at no time did I require, suggest, or in any way make any type of hint that local school districts should be taking the names of the children and turning them over to the INS. We specifically by that amendment wanted a count. All we needed to do was to get a count of the problem.

In California we have millions of people who have come there from other countries, not just from Latin America and Mexico but from other countries of the world as well, who are now receiving educational benefits for their children. It is breaking the budget.

Governor Chiles from the gentleman's own State of Florida complained that the same thing is happening in Florida. The budgets of States are being broken by the fact that people naturally want to come here. Good and decent people want to come here from all over the world, but we have to determine this today: Where does our allegiance lie? With the people who have been here legally and are U.S. citizens, at a time of a budget crunch, should we be spending the money, our limited dollars, for their benefit, or shall we open it up to everybody in the world who can come here illegally and thus hurt our own people?

Mr. STEARNS. Madam Chairman, taking back my own time, I have just one other point. In Florida we have a number of illegal immigrants who are in prisons, and we are trying to prevent that. Governor Chiles is suing the Federal Government because of the illegal immigrants who are in Florida.

I would just like to say in summary that all the gentleman is trying to do is get information so we can have a handle on this problem. So the gentleman's amendment is specifically saying, "Let's find out how many children there are."

Mr. ROHRABACHER. Madam Chairman, the first thing is to set the principle and then let us get the numbers, and then let us try to find the enforcement mechanism.

Mr. STEARNS. Madam Chairman, I thank the gentleman.

Mr. KILDEE. Madam Chairman, I yield 4 minutes to the gentlewoman from Hawaii [Mrs. MINK].

Mrs. MINK of Hawaii. Madam Chairman, I thank the gentleman for yielding time to me, and I yield to the gentleman from California [Mr. BECERRA].

Mr. BECERRA. Madam Chairman, I thank the gentlewoman for yielding.

I only wish to speak for just a short moment for the purpose of clarifying the colloquy that went on between the 2 gentleman on the other side of the aisle.

I do not think anyone is saying that if the Federal Government could—and it can at this stage—tell States they do not have to provide education to a particular individual, that therefore there would be some demand upon a State. Clearly there would not if in fact there were no requirement by the Federal Government to do so.

But what the 2 gentleman forget completely in their colloquy is that there has to be a determination made that someone is here without documentation. Someone has to adjudicate that a child or an adult is not legally here.

I say to the gentleman from California [Mr. ROHRABACHER] that his amendment does nothing to provide school districts the money they need to go through the adjudicatory process to determine that. The gentleman leaves it up to the States and the school districts, the schools themselves, to pay for the cost of adjudication, and, therefore, that is a heavy, large unfunded mandate.

What some of us on this side of the aisle are saying is, "Let's deal with those immigration issues, but let's deal with the issues in the immigration law, not in education law, where we are going to impact tremendous numbers of children."

We do not know who we are going to attack, if we are not attacking those who are here with or without documentation. So let us not fool anyone. This is a magnificent unfunded Federal mandate the gentleman is proposing. It may not be an unfunded mandate the way the gentleman has explained it, but it certainly is an unfunded mandate that will require schools to do something they are not right now required to do.

Mrs. MINK of Hawaii. Madam Chairman, I thank the gentleman for his comments.

Madam Chairman, I think that this amendment is an egregious attempt to alter what has been the basic philosophy of this country, and that is to assume the fundamental responsibility of educating our children in our public school systems by those who do not want to be in the public school systems to preserve the integrity of the private schools.

But we have always felt undergirded by the Supreme Court decision that the responsibility of all of us in our communities through our local school boards, in our States, and indeed through the Congress, is to afford educational opportunity to our children.

The mischief of this amendment is to say that there are some children in our society that ought not to be educated, and that if a school system does not segregate out from its population those who are not entitled to an education, it could suffer the harm of losing Federal funds, and that is a very, very difficult predicament that school systems are going to find themselves in.

There is no doubt that there is an illegal immigration problem in this country, but why use the children of our country to enforce the laws that ought to be enforced by the Justice Department and by all the other law enforcement agencies that we have put this responsibility upon? Why do we want to do this to our children and to our school systems that now have to segregate among our children to try to determine whether indeed any one of them is receiving an education that they ought not to receive because of this prohibition?

This is a very harmful amendment. It will divide our children, it will divide our families, and it will cause egregious harm in our communities.

Madam Chairman, I beg this House not to use the children of America or our schools to enforce the laws with regard to immigration, and I hope that this amendment will be defeated.

Mr. ROHRABACHER. Madam Chairman, I yield myself 3 minutes.

Madam Chairman, we do not want to use our children, that is right. We are not talking about setting up a policy for our children. We are talking about setting a policy for the children of the world and the parents of the world. Let the word go forth from this Congress to anyone in the world who wants to improve the life of their children if they can make it across the borders of the United States legally or illegally. The Members on that side of the aisle who are making that argument at this time want to provide those children with all their educational benefits.

Is that a threat to the well-being of the people of the United States of America, to our children? Darned straight, it is a threat. We have only limited funds in this country to provide education and health benefits for our people. We are not talking about our children. We are talking about all the people who would bring their children to our country, good people, decent people, who are concerned about their families. But we cannot afford to take care of them because it is going to hurt the quality of education for our own children.

Let us not kid ourselves. The people out there who are listening to this debate are not being kidded by this. We cannot afford to do this. We say that anyone from far-off foreign lands, whether it is Latin America, Asia, Africa, Europe, or wherever they are, do not have the right to these benefits because we cannot afford to take care of everybody in the world. They know that is a threat.

The fact is that there have been some legitimate arguments presented today. Let me take care of one argument. This ends the mandate. Here is the Supreme Court decision. We can read the

Supreme Court decision. We are talking about lifting the mandate that costs billions of dollars. That is what we are talking about right now. The Supreme Court said that Federal policy will determine whether or not there is a mandate to educate illegal alien children, and until the Congress acts, the States must educate those children.

Now what we are asking right now is to end that mandate in the way the Supreme Court asks us to end the mandate.

Yes, our friends on the other side of the aisle have made these arguments. They say people of color may feel humiliated because they, more than other people, will be asked to provide identification, and that, I think, is a legitimate argument, and one of legitimate concern. It is not a concern, however, that cannot be met. We are trying to set the principle down, and we can find enforcement methods once that principle has been set down on how to do this without violating the rights of our own people or humiliating our own citizens, of whatever color or racial background.

For example, once we set the principle down, perhaps the American people will go along with creating a tamperproof Social Security card with a chip in it which will permit all citizens to identify themselves without any racial or ethnic humiliation whatsoever, because it will let everyone be able to prove their citizenship and their legal status right there on the spot. That is one thing we are moving to once we get down and recognize the problem.

Madam Chairman, in California and in many other States this is a major problem and a major threat to the well-being of our people.

□ 1320

The CHAIRMAN pro tempore (Mrs. KENNELLY). The Chair would announce that the gentleman from California [Mr. ROHRABACHER] has 6 minutes remaining, and the gentleman from Michigan [Mr. KILDEE] has 6 minutes remaining.

Mr. KILDEE. Madam Chairman, I yield such time as he may consume to the gentleman from Michigan [Mr. BONIOR].

Mr. BONIOR. Madam Chairman, I rise in strong opposition to this amendment.

Madam Chairman, we expect a lot out of our teachers in America today.

We expect them to be educators and role models, counselors and motivators, babysitters, and disciplinarians.

And we ask them to do all that in the face of budget cuts and metal detectors, turf wars and teenage angst, decreasing resources, and increasing diversity.

And even with all that, most of them do a wonderful job.

But the supporters of this amendment feel that our teachers do not do enough.

That they do not have enough responsibility.

So supporters of this amendment want teachers and school districts to get into the Perry Mason business.

They do not just want teachers to be trained in reading, writing, and arithmetic.

They want them to be trained as agents of the INS.

Instead of spending money on computers and books, supporters of this amendment want to require schools to set up INS offices next to the lunchroom.

Make no mistake about it, that is what this amendment does.

It not only requires local schools to police Federal immigration laws. But it requires schools to conduct investigations of their own students to make sure they are legal.

Madam Chairman, this is not what schools are for and that is why the House overwhelmingly rejected a similar amendment a few weeks ago.

What is more, this amendment requires all of this—the investigations, the background checks, the constant monitoring by teachers—without providing so much as a dime of Federal money to help.

Madam Chairman, talk about redtape.

Talk about unfunded mandates.

This amendment is the mother load of all unfunded mandates.

But above everything else, this amendment does one substantial, unforgivable thing, one thing that no government should ever be a party to, this amendment codifies discrimination.

Ask yourself this: How are teachers supposed to decide who to check and who not to check?

Will it be based strictly on appearances?

Will every student who doesn't have blond hair and blue eyes be forced to line up in the gym and flash their papers?

Or will teachers just randomly pick students out of study halls and recess lines who do not look quite right?

Is that how it works?

Madam Chairman, what kind of message does that send to the other students? That it is OK to discriminate?

That it is OK to suspect somebody is guilty of wrongdoing just because they look different or sound different?

Madam Chairman, maybe I come from the old school.

I believe teachers should focus on report cards, not green cards.

I believe they should prepare all of our students for the future, not just a select few.

Let us be honest: This amendment will not improve schools or increase test scores.

All this amendment will do is divert our teachers away from teaching and burden schools with more redtape.

Madam Chairman, a first grade classroom is not the place to interrogate students and enforce immigration laws.

We have other agencies to do that.

Yes, we need realistic approaches to solve our immigration problems.

But this amendment is nothing but a cost-shifting, teacher-exploiting, student-discriminating amendment, and just as we did a few weeks ago with an equally hateful amendment, I urge my colleagues to reject it.

Mr. KILDEE. Madam Chairman, I yield 30 seconds to the gentleman from New York [Mr. SERRANO].

Mr. SERRANO. Madam Chairman, just to make a clarification, I asked the city of New York to let me know how much it would cost just to count 1 million school children, and they said $5 to $10 a head. That is $5 to $10 million in New York City. In New York State it would be from $15 to $30 million. In California, where there are 5 million students, it would be $25 to $50 million just to count. Before a hearing, any court case, any cleaning up of the system, just to count the children, it would cost in California from $25 to $50 million.

Mr. ROHRABACHER. Madam Chairman, I yield 1 minute to the gentleman from California [Mr. STEARNS].

Mr. STEARNS. Madam Chairman, just a question. It costs $5 to $10 just to count a child. Let me ask you this question: When a child comes into school, do they not register and provide lots of identification when they do this? Why could this not be done at the same time? So that maybe the estimate that was given to you was on the basis of going out separately and doing this. But this all could be done simultaneously.

First of all, I cannot believe it is going to cost $10 to count. But let us set that aside. Let us talk about the idea, when you collect all this other information when a child comes in, can you not at the same time establish their citizenship and at that point have the information?

Second, would not the gentleman concede that once this information is provided that my colleague's amendment is offering, we might be able to save money in the long-term, because we will have a handle on a very significant problem, and we can come back here and actually tackle the problem of what are we going to do about these large number of illegal immigrants and how to correct this situation.

Mr. KILDEE. Madam Chairman, I yield 1 minute to the gentleman from New York [Mr. FISH].

Mr. FISH. Madam Chairman, many of us are growing increasingly concerned with two trends in Federal aid to education. The first is the creation of unfunded mandates and the second is the erosion of local control and flexibility in determining such matters as curriculum, textbooks, and teacher certification.

There are far too many examples of unfunded mandates. The Asbestos Schools Hazard Abatement Act once again has not been funded. Public Law 94–142, the Education for All Handicapped Children Act promised a 40-percent Federal share. This year the Federal share is only 8 percent.

Goals 2000 for all its virtues is clearly more prescriptive than necessary to meet the desirable national standards.

Madam Chairman, amendments we are considering to H.R. 6 attempt to dictate to school authorities who they should teach and not teach despite State laws to the contrary—the case in my State of New York. We are asked to prohibit Federal funding if certain life styles are presented in a positive way.

Madam Chairman, it is hard to imagine a deeper or more subjective intrusion into curriculum decisions than what is before us.

I urge my colleagues to place the higher principle of local control of what is taught in our classrooms over their particular bias.

Mr. KILDEE. Madam Chairman, I yield 4 minutes to the gentleman from Ohio [Mr. SAWYER].

Mr. SAWYER. Madam Chairman, I thank the gentleman for yielding.

Madam Chairman, I apologize to this body for coming late to this argument.

I rise in opposition to the Rohrabacher amendment for two reasons. First, in trying to implement the amendment, we risk damaging the entire learning environment and undermining the purpose of the amendment. Second, the amendment imposes unworkable requirements on schools.

We had this debate nearly 5 years ago. I would like to think I know something or have had some involvement with the counting of the population of this country.

In the fall of 1989 we confronted the question of whether or not we were going to try to distinguish between legal and illegal residents in the broader sense.

We came to the conclusion it would undermine public confidence in the entire undertaking, that citizens and noncitizens alike would be affected, that accuracy of the overall count would go out the window, and the same arguments apply here.

These were not just my arguments. These were the arguments of the Secretary of Commerce of the Bush administration and a very bipartisan majority of this body.

In trying to implement the amendment we have before us, we risk damaging the learning environment and undermining the purpose of the amendment.

The purpose of the amendment is to target resources at entitled students. But what we are talking about here is disturbing an entire classroom by our effort. In doing so, we affect not only those children who would be denied education, but our children as well, the majority of children in that classroom that is so disturbed. The teacher's relationships to students, parents, and the community would be affected as a whole.

The real problem, however, is that the undertaking will not work. The amendment assumes that schools know the students' immigration status or that they will be able to find out. The fact is that there are dozens of categories that range from seasonal agricultural workers, to refugees, and parents and students can move from one category to another without realizing it.

Students and teachers would need extensive training simply to carry out the duties mandated by the requirement. According to the National Academy of Sciences, even highly trained statisticians find categories complex and confusing, and the same problem applied in the census. Temporary enumerators cannot know the intricacies of immigration law and carry out the normal duties.

As a result, accuracy goes out the window. After disrupting the school environment, we would have, at best, flawed information, students categorized by untrained personnel, miscategorized students being denied benefits, and policymakers who will want to use these numbers for a wide variety of additional purposes according to the argument of the sponsors of the amendment.

Madam Chairman, for these reasons, and so many more that have been laid here before us today, I hope that we can reject this amendment on bipartisan grounds.

Mr. ROHRABACHER. Madam Chairman, I yield myself 3 minutes.

Madam Chairman, what we have got to determine here is do we have a problem? And the fact is, I believe we have a problem. And I believe that no matter what happens in the votes on this floor, the people of the United States understand we have a problem when we are providing a benefit level to illegal aliens to such a degree that it is attracting people from all over the world to come here.

This is a major threat to the well-being of the people of my State. I want Members to know that those illegal aliens coming to my State, the people providing those services are taxpayers from all over the country. And the flood of illegal aliens we have experienced will continue to grow and grow until it affects every State, if we send the message to the world that anyone who can come here is going to get the same benefits as an American citizen or a legal resident.

It is a giant, 100-mile-high welcome home or welcome here sign to anybody who wants to improve the well-being of their family. Most of the people in the world who want to come here and most of the people who come here are good and decent people, people we can respect and identify with. If we were in their position, we would do exactly the same thing.

But we cannot afford to take care of everyone in the world. This, what we are determining today and by the amendments I will present in the future, is whether or not the scarce resources that are paid for by the taxpayers of our country will be first used to provide benefits and services at the very least to our own citizens and legal residents.

Yes, we have a problem. This is immigration policy. Anybody who tells the American people that we can solve this flood of illegal immigration that is coming into our country now and still provide those benefits simply by reinforcing the border, I do not believe that they are giving an answer to the American people that the people will believe.

If there is an unworkable solution to trying to solve the immigration problem, it is giving thousands of dollars worth of benefits to anybody who can sneak across the border, and then claiming that the INS is going to solve the problem at the border.

We also hear that asking, just asking, this is supposedly a unsolvable problem, just asking someone to prove their citizenship or legal residency is some type of a violation. Yet there is a vast, vast majority of people in this hall, including on the other side of the aisle, that believe employers should do this.

What we have now, and what has changed in our country in the last few years, in the last 10 years, is illegal immigrants did not apply in the past for these services because they were afraid they would be deported and they would be reported by those people who run these services. That is not the way it is now. In fact, what we have said is that an employer must determine this status, must go through these procedures, so we give a disincentive for illegal aliens to come here to work and provide them an incentive not to work, but instead to apply for Government services and programs.

What a travesty that is.

□ 1330

Mr. KILDEE. Madam Chairman, I yield such time as she may consume to the gentlewoman from California [Ms. PELOSI].

Ms. PELOSI. Madam Chairman, I rise in strong opposition to the Rohrabacher amendment, because I believe it undermines the constitutional principle which guarantees education to all children regardless of their citizen status.

Madam Chairman, I rise in strong opposition to the Rohrabacher amendment which would deny the use of Federal funds to educate undocumented students.

The Rohrabacher amendment would impose unfunded mandates on local school districts by requiring all schools which receive Federal funding to identify and collect data on the citizenship status of every student. The mission of our public schools is to educate our children—all of our children. Our schools have neither the capacity nor the desire to track their students' immigration status. Forcing our educators to serve as agents of the Immigration and Naturalization Service [INS] diverts them from their appropriate mission.

In addition, this provision would undermine a constitutional principle which guarantees the right of all children, regardless of their citizenship status, access to a public education. The 1982 Supreme Court decision, Plyer versus Doe, requires that States provide a public education to all children. By prohibiting Federal money from being used for undocumented students, the Rohrabacher amendment would shift the costs of educating these children to State and local governments.

Madam Chairman, the Rohrabacher amendment would not serve any legitimate public policy purpose. Denying students an education will not prevent or discourage undocumented immigrants from entering the United States. Rather, this provision would result in discrimination of U.S. citizens and documented residents who look or sound foreign.

This amendment would perpetuate an undereducated population in our country. Uneducated children will likely grow up as illiterate adults, unable to function in society and contribute to our tax base. This provision would ultimately have a negative affect on all our children and our society as a whole.

Immigration is an issue which need not and should not be addressed in this bill. The Rohrabacher amendment would do no good and much harm to our schools, our students, and our country.

Madam Chairman, I urge my colleagues to join in voting against this amendment to H.R. 6.

Mr. KILDEE. Madam Chairman, I yield such time as she may consume to the gentlewoman from California [Ms. ROYBAL-ALLARD].

Ms. ROYBAL-ALLARD. Madam Chairman, I rise in opposition to the Rohrabacher amendment, because I believe it would threaten the very fabric of our society by creating a permanent subclass of undereducated children in this country.

Madam Chairman, I rise in opposition to the Rohrabacher amendment. Over the past few weeks, this House has overwhelmingly defeated amendments to H.R. 6 which would have imposed unreasonable administrative burdens on our public schools and denied Federal funding for essential educational programs. In both cases, the amendments unfairly impacted the most vulnerable members of our society—our children.

The Rohrabacher amendment would be even more harmful to our schools and to our children by denying the use of Federal funds for any benefit to undocumented children. Apart from violating the basic, constitutionally guaranteed right of all children to a public education, this amendment would have the devastating effect of denying school districts a critical source of funding unless they assume the role of the INS and somehow determine the immigration status of all students. Clearly, this is a function our already overburdened schools are neither equipped for nor should be required to undertake.

Perhaps even more tragically, this amendment, if adopted, would threaten the very fabric of our society by creating a permanent subclass of undereducated children in our country. The Federal Government must not sanction a two-tiered educational system where the quality of a child's education is determined by his or her parentage.

This amendment will do nothing toward either improving our schools or addressing immigration policy and must be soundly defeated.

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

Mr. ROHRABACHER. Madam Chairman, I yield myself the balance of my time.

Madam Chairman, this is not a debate between Members on one side who are a bunch of scrooges, who do not like people who come here from other countries. In fact, the fact is that immigrants have played an important role in the development of our country. They continue to play a positive role in our country, as we bring in more legal immigrants into the United States of America than all the rest of the nations combined.

If Members look at my voting record, they will see that I support a high level of positive legal immigration, because legal immigrants who come here are required to take care of themselves and required not to be people who are dependent on government services for their lives when they get here. That is what differentiates legal immigration from illegal immigration.

Illegal immigration now is threatening the well-being of the people of the United States. We have a responsibility to watch out for them. This includes legal residents and immigrants who have come here, gone through the system, immigrants who have gone through the process.

They are the ones, by the way, who are the most insulted by this argument that we have got to provide the same services to illegal immigrants that we provide to them, after they have waited years and gone through the process and obeyed the law.

This is a decision, what we are deciding on today and will be deciding on with future amendments that I will propose, whether or not this is the principle we will want to operate under, whether or not this Government should accept that principle, that benefits and services should be provided by Government only to those people who are here legally and U.S. citizens and that people who come here illegally are not, do not have the right to those same benefits.

If we continue to accept the principle that is being espoused by the Members on the other side of the aisle, our country is going to go broke. We are going to go broke in the fast lane. There is nothing, nothing that we can do to afford to pay for all of the services that will be needed to provide benefits for everyone in the world who can come here, even if they come here legally.

The CHAIRMAN pro tempore (Mrs. KENNELLY). The question is on the amendment offered by the gentleman from California [Mr. ROHRABACHER].

The amendment was rejected.

AMENDMENT OFFERED BY MR. DOOLITTLE

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

The Clerk read as follows:

Amendment offered by Mr. DOOLITTLE: Page 762, after line 8, insert the following:

SEC. 9506. 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.

Mr. DOOLITTLE (during the reading). Madam Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

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

There was no objection.

Mr. DOOLITTLE. Madam Chairman, we face today a crisis of family disruption due, among other things, to the explosion in out-of-wedlock teenage pregnancies.

As this chart shows, teenager out-of-wedlock pregnancies have nearly doubled over the past two decades, and this development is causing an enormous problem that we confront every day as a country, when we talk about the problems of criminal activity, of drug abuse, of underachievement in school, etc.

In my opinion, and in the opinion of experts who have examined it, these things all tie back into the problem of family disruption, much of which is due to, in addition to separation or divorce or death of a parent, out-of-wedlock pregnancies.

Illegitimate births have increased more than 400 percent since 1960. We know that we can do something that makes a difference, and that something is to give teenagers the skills that they need in order to refuse early sexual activity.

Now, for decades we have tried the approach of teaching about sexuality and about the pregnancies and sexually transmitted diseases and so forth. And it has not had any impact.

In Atlanta, one prominent gynecologist in the mid-1970's, who instituted these programs, discovered that it was not having an impact in terms of people reducing their sexual activity as teenagers or in terms of increasing birth control efforts. And so this gynecologist, in a program for junior high school students added to the existing curriculum an element that taught people skills to resist advances for sexual activity, to do some role playing, to give people some practical reasons why abstinence was a good thing, not preaching, but simply to explain to people why abstinence helped them avoid certain very serious problems, among which were, of course, pregnancies or sexually transmitted diseases or the reality of caring for an infant when they are not financially equipped to do so or the impact that a baby can have on a teenager's life.

These were the sorts of things that were added to the curriculum. And lo and behold, it made quite a difference. This chart here illustrates this difference.

In this program in Atlanta, which applied to the junior high grades, Members can see at the end of the eighth grade for those who were in the program, 4 percent initiated sexual activity. Whereas for those who did not have the program, 20 percent did so.

Of course, as my colleagues can see, the older they get, the closer these bars get. But they can still see, even here at the end of the ninth grade, 24 percent of the students in this program, initiated sexual activity versus 39 percent of the students initiated sexual activity who did not have the abstinence-based sex education program.

□ 1340

Madam Chairman, this translates for our purposes into many, many billions of dollars that we can avoid spending on emotionally crippled young people who got that way because they were born out of wedlock. We can prevent this by undertaking measures which demonstrably work.

For that reason, I bring this amendment to the floor of the House, feeling that we are genuinely in a crisis of family deterioration.

The CHAIRMAN pro tempore (Mrs. KENNELLY). The time of the gentleman from California [Mr. DOOLITTLE] has expired.

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

Mr. DOOLITTLE. Madam Chairman, it is costing the taxpayers of this country billions and billions of dollars. Any time we pick up the papers and we read about the crime in the District of Columbia or any other urban area across the United States, we ask ourselves, "What can we do about this situation? How are we going to change this?" This is one of the ways, I would submit, that we can begin to change the deteriorating social conditions within the United States.

Yes, building prisons and having tougher laws are part of one approach that we need to have, I stipulate to that, but we will never build enough prisons or have laws Draconian enough that in and of themselves they are going to stem this problem. We need to start right at the beginning, on the other end of things, before we spend money to build those expensive prisons and deal with people, equip our young people to live better lives, to avoid the pitfalls of promiscuous sexual activity, and the results from that will be much fewer problems that we are going to have to deal with later on as a society, when all we know to do ultimately is to lock people up and keep them locked up. That is really not a very good solution. It may be part of the solution, because we have to have some immediate answer, but the long-term answer is to deal with this side of the equation.

Madam Chairman, this chart shows that abstinence-based sex education works. I offer this amendment today in the hopes of encouraging more districts, all districts who get Federal funds, to begin to incorporate abstinence-based sex education into their programs.

AMENDMENT OFFERED BY MRS. UNSOELD TO THE AMENDMENT OFFERED BY MR. DOOLITTLE

Mrs. UNSOELD. Madam Chairman, I offer an amendment to the amendment.

The Clerk read as follows:

Amendment offered by Mrs. UNSOELD to the amendment offered by Mr. DOOLITTLE:

In the subsection (a) of the amendment made to page 762, strike "in classes that teach" and insert "which use such funds to teach".

In subsection (b) of the amendment made to page 762, strike "shall satisfy" and insert "may use".

Add at the end of the amendment made to page 762, after line 8, add the following:

"(c) NO FEDERAL CONTROL OF CURRICULUM.—Nothing in this section shall be construed—

"(1) to authorize an officer or employee of the Federal Government to mandate, direct, or control a State, local educational agency, or schools' instructional content, curriculum, or related activities;

"(2) to limit the application of the General Education Provisions Act;

"(3) to require the distribution of scientifically or medically false or inaccurate materials or to prohibit the distribution of scientifically or medically true or accurate materials; or

"(4) to create any legally enforceable right.

"(d) RULE OF CONSTRUCTION.—In carrying out the provisions of this section, the Secretary shall not—

"(1) review any curricula or instructional materials;

"(2) promulgate regulations; or

"(3) take any administrative or legal action against a State or local educational agency or school.

Mrs. UNSOELD (during the reading). Madam Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN pro tempore. Is there objection to the request of the gentlewoman from Washington?

There was no objection.

Mrs. UNSOELD. Madam Chairman, although some Members have insisted that they support the local control of education, the Doolittle amendment would for the first time in history establish a Federal curriculum that all schools would be required to follow. This unprecedented and unwarranted Federal intrusion into the classrooms of America must be opposed. The Doolittle amendment would establish several pages of detailed requirement that every sex education class in the country would be required to follow, even if the instruction was paid for entirely by local funds.

The adoption of this amendment would subject every school in the country to curriculum policing by the Department of Education to maintain Federal funding. State and local educational agencies will end up submitting textbooks and instructional materials to the department for approval or evaluating them, again, checklists set

out in Federal regulations. Federal auditors may also be deployed to monitor classroom instruction.

Madam Chairman, is it appropriate to request that the chart be removed while I am speaking?

The CHAIRMAN pro tempore. Yes, it is. The Chair would request that someone please remove the chart while a new amendment is on the floor.

Mrs. UNSOELD. Madam Chairman, the issues raised by the Doolittle amendment are important, but they are ones that parents and local communities are more than capable of deciding for themselves. They do not want, nor do they need, Congress to tell them what to do, nor do they wish to see the U.S. Congress become a national school board that usurps the right of local communities.

My amendment clarifies that nothing in the section shall interfere with the right of local communities to select curricula appropriate to the needs of the children in their communities. My amendment preserves local autonomy and acknowledges that local communities have the right and the ability to determine what is taught in their schools.

Madam Chairman, I urge adoption of my amendment to the Doolittle amendment.

Mr. DOOLITTLE. Madam Chairman, I rise in opposition to this amendment.

Madam Chairman, I oppose this amendment. It would substantially dilute the amendment which I have offered. To hear the talk about local control, that "we cannot have Congress becoming a national school board," Congress is a national legislature to bail out people around the country, to pay for welfare benefits and medical benefits of people who are poor, and to provide for housing assistance for people who are poor, to help States fight crime, so come on, these are the social problems we are trying to avoid.

That is what my amendment goes to, by taking an approach that works, and it has been proven that it works in various places across the country, and it is helping young people to resist the pressures for early sex.

When I contrast the benefits of that approach versus the supposed negative, that Congress is mandating to local school districts, violating something that is supposedly sacrosanct, we dictate to local school districts all the time what they can and cannot do in various programs in the Federal Government.

Madam Chairman, I just cannot see sitting here as a Congress and year in and year out, borrowing money we do not have in order to fund programs that do not work, remedial programs, that deal with people who are already hardened criminals, or people who have been born out of wedlock, and they are living in poverty, and trying to help them somehow, and generally failing.

It just seems to me that my amendment is a better way to go, Madam Chairman. This amendment is a proactive approach, to deal with the problem before it is a problem, rather than taking the reactive or the reactionary approach and simply dealing with the results of teenagers' promiscuous sexual activity, results that in many cases could have been avoided if we had taken an aggressive stand before real trouble happened.

The California Legislature, of which I was a part a few years go, passed a bipartisan program that basically stresses abstinence and we are seeing positive results. There are positive results in the program in Maryland, and in other programs around the country. I described with the chart the program in Atlanta. It does work.

The Unsoeld amendment represents business as usual; throw in a word or two about the virtues of abstinence, but just keep passing out the condoms and keep the old traditional approach, which is not working.

We know what works. Traditional sex education, overlaid with abstinence-based education, actually works. Interestingly enough, even when the young people initiate sexual contacts, when they have come out of this program the numbers of contacts are fewer and the rate of condom use is higher, so it is a complete program. It does work, and for that reason, in order to take what we know and give it to the Nation as a whole, we need to defeat the Unsoeld amendment because, basically, it will dilute the effect of the amendment which I have offered.

Mr. GUNDERSON. Madam Chairman, will the gentleman yield for some questions?

Mr. DOOLITTLE. I am happy to yield to the gentleman from Wisconsin.

Mr. GUNDERSON. Madam Chairman, there are questions meant in all sincerity, because I frankly think some of the goals of what the gentleman is trying to pursue here are not all bad.

I am a little confused as to the enforcement mechanism. How would this operate, if the gentleman's amendment is passed? It is a requirement that any school, any LEA in America, before they teach a sex education course, would submit a study plan or a curriculum or a textbook to the Department for approval? How do we accomplish that, No. 1?

No. 2, if a school should teach a sex education course that does not comply, then what are the penalties in enforcement mechanisms? I am asking these questions in good faith.

Mr. DOOLITTLE. Madam Chairman, I think the gentleman will find the requirements are set forth in the amendment, setting forth that course material and instructions shall emphasize abstinence and emphasize a variety of things pertaining thereto.

Mr. GUNDERSON. If the gentleman will continue to yield, does the State education agency, under the gentleman's amendment, approve this? Does the Federal Department of Education approve it?

Who determines whether small town school district America complies with the standards of the gentleman's amendment?

Mr. DOOLITTLE. It would be consistent with the process we have now where these standards have been set forth in the bill, and the districts receiving the funds from the Federal Government are obligated to abide by them.

Mr. GUNDERSON. But under most of the plans what is done right now is the State develops a plan and that State plan is approved by the Federal Government, and then the States implement that within their State.

Is it the gentleman's intent under this amendment that States would be the enforcement tool, or is it your intent that LEA's must apply to the Federal Department of Education for approval of a particular curricula before they can teach it?

Mr. DOOLITTLE. I anticipate it would work the way it does now with the planning going to the State and then that plan being approved by the Government.

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

Madam Chairman, I would like to just continue the discussion because I did not have any time of my own previously.

What happens if a school does not comply under the gentleman's amendment? What is the intent? Is it the gentleman's intent that all funds in that school, all Federal funds from school lunch to chapter 1 to chapter 2, to bilingual to handicapped education, that all of those would be eliminated? I am just asking, is that the intent?

Mr. DOOLITTLE. The intent, of course, is to get the abstinence-based sex education in their existing sex education or sexually transmitted disease programs, and we use money as the enforcement mechanism for this, like so many other things around here.

Mr. GUNDERSON. But that gets back to my question, because I do not think, I hope there is no Member of Congress who disagrees with at least the sense of Congress that we ought to promote abstinence. I am not arguing that at all. I am just trying to figure out how this works in the real today world of education. Where is the enforcement section of your amendment that would say that the Department of Education shall monitor or the States are monitors, and if schools fail to comply with this curriculum, that that language would require the elimination of any Federal funds?

This is a good faith discussion. I am honestly asking questions.

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

Mr. GUNDERSON. I yield to the gentleman from Missouri.

Mr. HANCOCK. I realize there has to be certain enforcement mechanisms, but can we not rely on the schools to enforce the law, the schools themselves to enforce the law? And then if they do not, rely on the parents to bring it to the attention of either the Federal Department of Education or to the proper officials to enforce the law? I did not realize that we have to come up with all types of mechanisms to force our public schools to comply with the laws that are written in the U.S. Congress.

Mr. GUNDERSON. There are a number of laws written that have no penalty provisions. It is sort of like a sense of the Congress. They are there, but if you do not comply, so what?

What I am trying to find out is if this is intended to be a sense of the Congress, along that line, then hopefully the department will encourage the States to encourage the local education agencies who pursue sexual education courses to include and emphasize abstinence. I mean if that is the goal, that is fine. The gentleman has a number of criteria here in the course. I can only tell the gentleman from my general discussions I think with most people, the No. 1 problem in sex education courses in America is, frankly, the training of the teacher. In all due respect, we have too many retired football coaches teaching sex education in this country who do not know anything about it.

Mr. HANCOCK. If the gentleman will yield, I think one of the major problems in all education in the United States is the training of the teachers.

Mr. GUNDERSON. That might be. And frankly, I was tempted to offer an amendment to the Doolittle amendment that has some kind of requirement that the person teaching the course knew what they were talking about. We dealt with the teacher certification issue 2 weeks ago, and I do not think anybody wants to get back to that issue on the Federal level. I am simply trying to figure out if this is mainly a sense of the Congress, if it is our goal that States and the Federal Government would encourage local education agencies to do these things.

Mr. DOOLITTLE. If the gentleman will yield again, I will respond that this would all be done, as I understand it, through the existing plans that are put together by the States, and then sent to the Secretary of Education where I guess they are approved. And the enforcement mechanism for that would be similar to what is done in other parts of the bill relative to making sure that money is spent. In order to get districts to pay attention to some of the successes around the country, we would like to have the enforcement mechanism. I did not draft a separate enforcement mechanism other than what already exists for other moneys.

Mr. GUNDERSON. Perhaps the chairman of the subcommittee can help us on this, because there are a number of sections in the bill where, as a condition of receiving chapter 1 funds or chapter 2 funds, you have to do certain things. And I am not attacking the amendment. I am honestly trying to figure out where we are. I do not see that in this amendment. The gentleman may want to offer that as an amendment to it.

Is there any enforcement tool? Does the chairman see any enforcement tools in the amendment as written? What happens if the Osseo school district in Wisconsin has a sex education course but does not comply?

Mr. KILDEE. If the gentleman will yield, I would suggest he address that question to the author of the amendment.

Mr. GUNDERSON. The gentleman is suggesting that there may be an ordinary enforcement tool for the entire Elementary and Secondary Education Act that would apply. But I am not sure that there is such a thing.

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

Madam Chairman, let me say that I find, and most Members in this Chamber find the goal of the gentleman from California [Mr. DOOLITTLE] very laudable. I raised three children. They are all young adults now, and I certainly tried to install that goal in my efforts to teach them about the wonderful gift of sexuality. I think his goal is wonderful. But I am wondering whether the Federal Government should get involved in that goal.

We have voted on several amendments in the last few weeks during consideration of H.R. 6 that would have limited local control of curriculum, and all those amendments were defeated, and rightfully so. Both in GEPA and in the act which established the Department of Education, Members may recall that was a very hotly debated issue. We put strict provisions into that legislation establishing the Department to make sure that the Federal Government would not get involved in matters of curriculum.

Very often all of us are tempted, because of some priority we may have, to ignore that and try to inject ourselves into the local or State curriculum, but we are forbidden to do that. And I think it is a dangerous step, once we start moving into the area of curriculum, that we open the door and more and more the Federal Government will be dictating to the local school districts what their curriculum should contain.

Let me read the language that was written in that law in 1979:

> 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 the curriculum, program of instruction, administration or personnel of any educational institution, school or school system, or over the selection of library resources, textbooks and other printed or published instructional materials.

I submit we take that language very carefully. That language was for many an essential ingredient in their voting for the establishment of the Department of Education. And I think while many of us on both sides of the aisle are tempted to skirt around that, that we create a very dangerous path when we do that.

Mrs. UNSOELD. Mr. Chairman, will the gentleman yield?

Mr. KILDEE. I yield to the gentlewoman from Washington.

Mrs. UNSOELD. Mr. Chairman, I thank the gentleman for yielding. The programs about which the gentleman from California [Mr. DOOLITTLE] was speaking, that is funding and also congressional Federal requirements that went with them were federally funded programs. But the Doolittle amendment imposes a Federal curriculum on how local school boards can use their own dollars. It has not been done before in our history, and it is not appropriate now for the Federal Government to dictate to local governments how they would use their own education funding money.

Mr. KILDEE. Many of my colleagues heard me state many times that education is a local function, a State responsibility and a very important Federal concern, and I think that balance is very important.

□ 1400

But with this amendment we make education a Federal function. We are getting involved in the nitty-gritty of curricula, and again, all of us from time to time have had something we would like to inject in that. I think we are always safer when we avoid that path.

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

Madam Chairman, this amendment to the amendment is as good a time as any to express some very basic concerns about H.R. 6 and the amendments proposed to it.

I would urge that my colleagues who want to be educational activists for elementary and secondary education run for the State legislatures or the local school boards, or that they go back to those bodies, because that is primarily where the responsibility for elementary and secondary public education lies.

Madam Chairman, like the overwhelming majority of my constituents, this Member has strong concerns regarding the intrusion of the Federal Government in State and local education policy which is contained in H.R. 6. For the same reason I am also

especially concerned about a number of amendments to be offered to this legislation. I agree with the sentiment expressed in most of those amendments; however, the Federal Government has no constitutional role in determining local school policy or curriculum. The basic legislation before us, H.R. 6, is similarly flawed by mandates of all kinds—regardless of the subject matter or motives of the authors.

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.

Madam Chairman, again for these reasons this Member urges his colleagues to reject H.R. 6 as a usurpation of the education responsibilities of the States and their school districts.

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.

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.

First 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 this Member, is to act in a few cases where there is compellingly large public concern across the Nation about some important aspect of education and encourage appropriate actions by the States and their school districts to meet that concern of high public priority.

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

Madam Chairman, 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 justified in H.R. 6 or in well-intended amendments.

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

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Madam Chairman, I rise in support of the clarifying amendment offered by the gentlewoman from Washington [Mrs. UNSOELD] to the Doolittle amendment to H.R. 6.

Quite frankly, I am very surprised and appalled by some of the statements from my friends on the other side of the aisle who have always professed to be opposed to Federal mandates, to be opposed to the Federal bureaucracy, who say they are for States' rights and for local control and against the heavy-handedness of Washington coming down and telling the States and localities what to do, and here we have just such an attempt to try to do that, to mandate local education policy from Washington.

I do not think we ought to do that. I do not think the American people want us to do that.

I think the American people understand that the communities themselves should decide what is appropriate, and that Washington should not be saying, "We are smarter than everyone. We are going to tell you back, Mr. and Mrs. Hometown Person, what your schools ought to be doing. We know better in Washington than you do back home." I do not think we do.

I do not think that is what we want to do.

The Unsoeld amendment modifies the Doolittle language to make it consistent with the prohibitions against Federal control of education set forth in the GEPA in the Department of Education Organization Act.

If the Unsoeld amendment is not adopted, the Doolittle provision would essentially direct Department of Education employees to perform duties to which they are prohibited from doing by two other statutes. The curriculum mandate that would be established by the Doolittle amendment would involve the making of subjective judgments by Federal bureaucrats about the extent to which curricula and the resources of local schools comply with its requirements.

If a school's sex education curriculum included 5 days of instruction and discussion of abstinence, is it meeting the Doolittle amendment's mandate to stress abstinence, or are 2 days required, or are 20 days required?

Under the Doolittle amendment as originally introduced, a bureaucrat in Washington, not the parents and the local school boards, would make this decision. The Unsoeld amendment would ensure that all of these subjective decisions will continue to be made at the local level where it ought to be made.

Finally, the Unsoeld amendment includes provisions which are identical to provisions included in amendments offered by some of our Republican colleagues regarding content, student performance, and opportunity-to-learn standards. The purpose of the Unsoeld amendment, as with these earlier Republican amendments is to ensure that States and localities retain exclusive control over the content of curricula and that the Federal Government does not impose any mandates on the content of instruction in our schools.

I urge my colleagues to adopt the Unsoeld amendment.

The Federal Government does not have the authority to mandate sex education curriculum. I would also say those of us on the Education Committee have labored long and hard to make H.R. 6 the document that it should be.

During the course of the past several days, we have time and time again seen amendments come before this body that, in my opinion, have no place here. It certainly tries our patience in terms of open rules when amendments get defeated by more than hundreds of votes, and here they are again and again.

I think that this amendment should be defeated, and the Unsoeld clarifying amendment to the Doolittle amendment should be supported.

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

Madam Chairman, I rise in strong opposition to the gutting Unsoeld substitute and in strong support of the Doolittle amendment, which would encourage teenagers to practice abstinence as the best method of birth control and avoiding sexually transmitted diseases such as AIDS.

Our antidrug education programs tell young people that drug abuse is dangerous and that alcohol use is inappropriate for minors, who do not have the judgment or maturity to make responsible decisions in this area. We tell kids to just say no to drugs and alcohol abuse. It is a simple, clear message that young people can understand. It conveys the values we want to transmit about drug abuse.

Why then, in the face of an AIDS epidemic, and with the explosion of teenage pregnancy and illegitimacy, don't we use the same message in our sex education classes? What's wrong with telling young people to just say no to sexual activity when they are too young to engage in it responsibly?

This is not an issue of attempting to force one sectarian viewpoint on our public schools. Virtually every major religious tradition I can think of discourages premarital sex.

Why? Because it makes sense. Teenagers who engage in early sexual activity are far more likely to become pregnant. They are more likely to drop out of school. They become vulnerable to deadly killer diseases like AIDS.

Sex education programs that do not stress abstinence in essence give students permission to engage in sexual activity. They tell them "if it feels good, do it, but do it with a condom."

Where has this led? First of all, it has led to the explosion of illegitimate

births in this country. Since the permissive let it all hang out decade of the 1960's illegitimacy has increased more than 400 percent.

The percentage of unmarried teenagers getting pregnant has nearly doubled in the last 20 years. We have a welfare crisis in this country as a result.

We also have an increasingly violent generation of virtually parentless youths who carry guns and kill people for their sneakers. The system is not working, and the failure to instill positive values in our young people is the main cause of this misery.

The Doolittle amendment takes a step toward promoting positive values that young people will respect. Sure, it will not be 100 percent effective, but it is bound to be more effective than our current policy of doing nothing to promote sound values. It will give young people the power to resist peer pressure, and a reason not to do something they are not ready to do.

The school systems that have tried abstinence education find that it works. In the State of Washington, for example, students who participated in the abstinence-based teen-aid program are 27 percent less likely to begin sexual activity than those who do not take the course once. When teen sexual activity could mean contracting AIDS, that means young lives are being saved.

Let us do something positive to restore values in our school systems.

□ 1410

Let us defeat the Unsoeld gutting amendment and adopt the Doolittle amendment.

Miss COLLINS of Michigan. Madam Chairman, I move to strike the requisite number of words, and I rise to support the Unsoeld amendment and oppose the Doolittle amendment.

Many people think that ignorance is bliss. They think if you just do not teach about sex education, that sex will just go away. They think that if you just say "no," that what you want will prevail. But we know that that is simplistic at best.

The Federal Government has absolutely no right and no business to legislate curriculum. Yes, I believe abstinence is best, yes, our churches believe abstinence is best, our parents and schools believe abstinence is best, but you do not legislate abstinence.

If you could do that, then it would have worked a long time ago. But since biblical times it does not work.

What we have to do is educate our young children. Our young children need to know about sex education, they need to know about birth control, they need to know exactly what is fact and what is fantasy.

Yes, it is good to just say no; it is good to emphasize abstinence, but what does emphasis mean, Madam Chairman? Does emphasis mean that the instructor should mention it once and no more? Does it mean that for every day of sex education the instructor should start off with abstinence?

I think we are going into deep waters, Madam Chairman. I think that the gentleman's motives are probably very good, but I think his message is wrong.

I yield to the gentlewoman from the State of Washington [Mrs. UNSOELD].

Mrs. UNSOELD. I thank the gentlewoman for yielding to me.

Madam Chairman, some speeches coming from across the aisle would be much more appropriately made before a local school board. This is not an amendment about values, it is not an amendment about abstinence, it is not an amendment about those things that we feel would better our teenagers. What it is about is who makes the decisions for local school boards, the men and women from the community who run for the school board or who work with the school officials, who work with the parents on a daily basis? Are they rightly the ones to make the decisions about what will be in their curricula and how their local money will be used?

I submit that that is where these decisions should be made, and not imposed by a big-brother government that is drafting a curriculum at the Federal level and imposing it on local schools.

For gosh sakes, get Government off their backs.

Mrs. MORELLA. Madam Chairman, I move to strike the requisite number of words.

Madam Chairman, I rise in opposition to the Doolittle amendment and in support of the second degree amendment offered by Representative UNSOELD.

Regardless of the intent of Mr. DOOLITTLE and Mr. HANCOCK whose amendments will be offered subsequently, these amendments place Federal control over local school matters. Congress has always uniformly and consistently deferred all decisions with respect to curriculum content to State and local officials.

The amendments would interfere with the authority of local school boards to determine the content of their programs. In my own district in Montgomery County, MD, the schoolboard is in the process of debating some controversial changes in the sex education program in the local schools. Members of the school board know the local community well. They have received input from parents, teachers, and principals regarding what is appropriate to address the needs of the children who live in the county.

Madam Chairman, I believe abstinence should be emphasized as the most effective means of preventing unwanted pregnancies, but the Federal Government should not usurp the local government.

I have received numerous calls from constituents asking me to please make sure that this important education bill does not interfere with the decision-making powers of local education agencies. The Hancock and Doolittle amendments would involve the making of subjective judgements by Federal officials about the extend to which curricula and resources of local schools comply with Federal mandates.

The Doolittle and Hancock amendments would burden Federal, State, and local education officials with massive administrative requirements. The Department of Education would be required to issue detailed regulations setting forth what is and is not permissible. Local schools would have to evaluate their curricula, school library resources, and instructional materials to determine whether or not they meet these new requirements.

The amendments could entangle our courts with new litigation cases. Any citizen or advocacy group could file suit against a school charging that elements of its curricula or the remarks of a classroom teacher violated the provisions of the Hancock and Doolittle amendments.

The Unsoeld amendment limits the administrative burden imposed by the Hancock amendment on Federal, State, and local governments. They would prohibit the Federal Government from issuing regulations setting out what can and cannot be taught in our schools. The Unsoeld amendment would prevent Federal employees from monitoring and approving the contents of instruction in our schools. The Unsoeld amendment would protect local schools against having to refund Federal assistance whenever department employees objected to the content of their curriculum.

For these reasons, I urge my colleagues to vote in favor of the second degree amendment offered by Congresswoman UNSOELD and preserve the right of local school boards to develop programs that conform to local community standards.

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

Madam Chairman, I rise in support of the Unsoeld amendment. I do not want to be redundant, but this is not an amendment about values, this is an amendment about micromanaging and local control. Monstrous, monumental micromanagement would have to take place in order carry out the Doolittle amendment. The Doolittle amendment invades the prerogatives of the local school boards as very few other amendments have done. Throughout all of our debate on Goals 2000, where the Federal Government seeks to set certain standards in content and curricula and standards in performance, everything has been voluntary, everything has been in terms of, We will state certain

models and the States, in the final analysis, will decide what they want to do. Local control in curriculum has not been violated in any of the legislation for education that we have pursued so far. If there are people who really want to have the Federal Government have a greater role in promoting values and preventing teenage pregnancies and providing more positive sex education, then there are many things the Federal Government can do.

□ 1420

Madam Chairman, let us be brave enough to take on the media, be brave enough to use the power of the Federal Government through the Federal Communications Commission. The No. 1 problem in America with respect to the values of young people is the influence of the media, television, radio, and motion pictures. The Federal Government has direct control over the airwaves either through the FCC broadcast regulations or through the FCC regulation of cable.

I say to my colleagues, if you are interested in having this body do what this body can do best and what local school boards cannot do, then try to promote more stringent requirements on the manner in which sex and the wanton participation in sex is encouraged via our media via the radio, television, and motion picture formats.

We have the power to regulate interstate commerce, the movement of pornographic magazines. There are a number of things we can do. Corporations are responsible for most of the programming that appears on broadcast television and much of the programming that appears on cable television. We have power with respect to the regulation of corporate activity. We have power with respect to regulation of how they spend their advertising dollars.

If you want to be brave and do something about trying to influence teenage values, then why not take on a greater regulation role with respect to the FCC, with respect to corporate power and the kinds of things they finance? Why not take on a greater regulation role with respect to the motion picture industry, the magazine industry? There are a number of ways in which you can deal with, and deal more effectively with, your agenda to better promote more positive attitudes among teenagers with respect to sex education. We have no business in interfering, and we hope that they will take the necessary steps to provide enough sex education to guarantee that the youngsters know how to protect their own health to guarantee they know how to survive.

Madam Chairman, AIDS is a very deadly disease. Schools must not ignore teaching about AIDS in a way which helps teenagers to survive. Everybody is in favor of that. Nobody in America, no responsible adult, and certainly nobody in this House, no school board in America, is against teaching abstinence, and my colleagues will probably find no school board in America where abstinence is not already a major part of this concern. Everybody does it. We do not need to have regulations handed down by the Federal Government to do what has been embedded in our tradition and our culture. All the religions, as some have pointed out, all the religions promote abstinence.

I say to my colleagues, If you want to do something about the degrading influences of sex on teenagers, do what we can do best. Deal with the FCC. Deal with those agencies that are under the Federal Government that we do have power to regulate. Leave the school boards alone. Leave local control of education alone.

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

Madam Chairman, I feel it is critical that my colleagues understand the meaning of the Doolittle amendment to the children of our Nation.

The Centers for Disease Control estimates that over 1 million Americans are infected with HIV. This same agency estimates there are 12 million other cases of sexually transmitted diseases occurring each year in the United States.

If sex education is going to be taught in school, it is apparent that the lesson plan should include teaching abstinence. This is the practice in my State of California, and that is why 180,000 teenagers are learning to resist the message of rap lyrics by choosing education and future success rather than settling for pregnancy and future poverty.

The Doolittle amendment will ensure that all public elementary and secondary school classes on sex education shall continuously stress that abstinence is the only protection that is 100 percent effective against unwanted teenage pregnancy, sexually transmitted diseases, and acquired immune deficiency syndrome.

After decades of programs which emphasized contraception—the so-called experts can look at their dismal results. The percentage of teenagers getting pregnant has nearly doubled in 20 years and illegitimate births have increased more than 400 percent in the last 30 years. Each year one in nine girls ages 15 to 19 become pregnant.

We as a nation should not be proud of these numbers. We need to make changes. We need to find another way. The Doolittle amendment is clearly a step in the right direction.

In the last 10 years some schools have been including abstinence in their sex education curriculum. And the results have been clearly positive.

I ask my fellow colleagues, if you believe we should reduce the spread of sexual transmitted disease vote in favor of the Doolittle amendment.

If you believe we should reduce the number of unwanted pregnancy in this country vote for the Doolittle amendment.

It is time to go back to the basics. It is time to embrace the virtue of chastity. Support the Doolittle amendment and give our children an opportunity for a better life.

Madam Chairman, I yield to the gentleman from California [Mr. DOOLITTLE].

Mr. DOOLITTLE. Madam Chairman, in 1940 teachers named the top problems in public schools as talking out of turn, chewing gum, making noise, and running in halls. In 1990 teachers named the top problems as drug abuse, alcohol abuse, pregnancy, suicide, and rape.

A recent Roper Starch Worldwide poll amongst 12- to 17-year-olds and parents found that pressure to have sex at too young an age tops the list of issues that both see as a threat to children. The pollsters found that 46 percent of the parents and 44 percent of the children ranked pressure for early sex as somewhat or extremely threatening to young people. AIDS was ranked as the next biggest threat to young people.

Madam Chairman, my amendment will ensure that all public elementary and secondary school classes that teach sex education shall stress that abstinence is the only protection that is 100 percent effective. It is just that simple.

I believe in local control, too, and I do not believe this in any way infringes on local control, but this goes right to the heart of the issue. By passing my amendment and defeating the Unsoeld amendment we are going to help young people help themselves.

Madam Chairman, we know abstinence-based sex education works. It has been proven, so I ask my colleagues to vote no on the amendment offered by the gentlewoman from Washington [Mrs. UNSOELD] and yes on the Doolittle amendment.

The CHAIRMAN pro tempore (Mrs. KENNELLY). The question is on the amendment offered by the gentlewoman from Washington [Mrs. UNSOELD] to the amendment offered by the gentleman from California [Mr. DOOLITTLE].

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

RECORDED VOTE

Mr. DOOLITTLE. Madam Chairman, I demand a recorded vote.

A recorded vote was ordered.

The CHAIRMAN pro tempore. Pursuant to rule XXIII, clause 2(c), the Chair will reduce to a minimum of 5 minutes the recorded vote following the vote on the amendment offered by the gentlewoman from Washington [Mrs.

UNSOELD] if there is no intervening debate.

The vote was taken by electronic device, and there were—ayes 262, noes 166, not voting 10, as follows:

[Roll No. 76]

AYES—262

Abercrombie
Ackerman
Andrews (ME)
Andrews (NJ)
Bacchus (FL)
Baesler
Barca
Barcia
Barlow
Barrett (NE)
Barrett (WI)
Bateman
Becerra
Beilenson
Bentley
Bereuter
Berman
Bilbray
Bishop
Blackwell
Blute
Boehlert
Bonilla
Bonior
Boucher
Brooks
Brown (CA)
Brown (FL)
Brown (OH)
Byrne
Cantwell
Cardin
Carr
Castle
Chapman
Clayton
Clement
Clinger
Clyburn
Coleman
Collins (IL)
Collins (MI)
Conyers
Coppersmith
Cox
Coyne
Darden
de la Garza
de Lugo (VI)
DeFazio
DeLauro
Dellums
Derrick
Deutsch
Diaz-Balart
Dicks
Dingell
Dixon
Dooley
Dreier
Dunn
Durbin
Edwards (CA)
Edwards (TX)
Engel
English
Eshoo
Evans
Faleomavaega (AS)
Farr
Fazio
Fields (LA)
Filner
Fingerhut
Fish
Flake
Ford (MI)
Ford (TN)
Frank (MA)
Franks (NJ)
Frost
Furse
Gejdenson
Gekas
Gephardt
Gibbons
Gilchrest
Gilman
Gonzalez
Goodling
Gordon
Goss
Green
Greenwood
Gunderson
Gutierrez
Hall (OH)
Hamburg
Hamilton
Harman
Hefner
Hilliard
Hinchey
Hoagland
Hobson
Hochbrueckner
Hoke
Holden
Houghton
Hoyer
Huffington
Hughes
Inslee
Istook
Jacobs
Jefferson
Johnson (CT)
Johnson (GA)
Johnson (SD)
Johnson, E. B.
Johnston
Kanjorski
Kaptur
Kennelly
Kildee
Kim
Kleczka
Klein
Klink
Klug
Kolbe
Kopetski
Kreidler
Lambert
Lantos
LaRocco
Laughlin
Leach
Lehman
Levin
Lewis (GA)
Long
Lowey
Machtley
Maloney
Mann
Manton
Margolies-Mezvinsky
Markey
Martinez
Matsui
Mazzoli
McCandless
McCloskey
McCurdy
McDade
McDermott
McHale
McInnis
McKinney
Meehan
Menendez
Mfume
Miller (CA)
Miller (FL)
Mineta
Minge
Mink
Moakley
Molinari
Mollohan
Moran
Morella
Murphy
Murtha
Nadler
Neal (MA)
Neal (NC)
Norton (DC)
Oberstar
Obey
Orton
Owens
Pallone
Pastor
Payne (NJ)
Pelosi
Penny
Peterson (FL)
Pickle
Pomeroy
Porter
Price (NC)
Pryce (OH)
Rangel
Reed
Reynolds
Richardson
Ridge
Roemer
Rohrabacher
Romero-Barcelo (PR)
Ros-Lehtinen
Rose
Rostenkowski
Roukema
Roybal-Allard
Rush
Sabo
Sanders
Sangmeister
Santorum
Sawyer
Schenk
Schiff
Schroeder
Schumer
Scott
Serrano
Sharp
Shays
Shepherd
Skaggs
Slaughter
Smith (IA)
Snowe
Spratt
Stark
Stokes
Strickland
Studds
Stupak
Swift
Synar
Tanner
Thomas (CA)
Thomas (WY)
Thornton
Thurman
Torkildsen
Torres
Torricelli
Towns
Tucker
Underwood (GU)
Unsoeld
Velazquez
Vento
Visclosky
Washington
Waters
Watt
Waxman
Weldon
Wheat
Whitten
Williams
Wise
Woolsey
Wyden
Wynn
Yates

NOES—166

Allard
Andrews (TX)
Applegate
Archer
Armey
Bachus (AL)
Baker (CA)
Baker (LA)
Ballenger
Bartlett
Barton
Bevill
Bilirakis
Bliley
Boehner
Borski
Brewster
Browder
Bryant
Bunning
Burton
Buyer
Callahan
Calvert
Camp
Canady
Coble
Collins (GA)
Combest
Condit
Cooper
Costello
Cramer
Crane
Crapo
Cunningham
Danner
Deal
DeLay
Dickey
Doolittle
Dornan
Duncan
Ehlers
Emerson
Everett
Ewing
Fawell
Fields (TX)
Foglietta
Fowler
Franks (CT)
Gallegly
Geren
Gingrich
Glickman
Goodlatte
Grams
Hall (TX)
Hancock
Hansen
Hastert
Hayes
Hefley
Herger
Hoekstra
Horn
Hunter
Hutchinson
Hutto
Hyde
Inglis
Inhofe
Johnson, Sam
Kasich
Kennedy
King
Kingston
Knollenberg
Kyl
LaFalce
Lancaster
Lazio
Levy
Lewis (CA)
Lewis (FL)
Lightfoot
Linder
Lipinski
Livingston
Lloyd
Manzullo
McCollum
McCrery
McHugh
McKeon
McMillan
McNulty
Meyers
Mica
Michel
Montgomery
Moorhead
Myers
Nussle
Ortiz
Oxley
Packard
Parker
Paxon
Payne (VA)
Peterson (MN)
Petri
Pickett
Pombo
Portman
Poshard
Quillen
Quinn
Rahall
Ramstad
Ravenel
Regula
Roberts
Rogers
Roth
Rowland
Royce
Sarpalius
Saxton
Schaefer
Sensenbrenner
Shaw
Shuster
Sisisky
Skeen
Skelton
Slattery
Smith (MI)
Smith (NJ)
Smith (OR)
Smith (TX)
Solomon
Spence
Stearns
Stenholm
Stump
Swett
Talent
Tauzin
Taylor (MS)
Taylor (NC)
Tejeda
Traficant
Upton
Valentine
Volkmer
Vucanovich
Walker
Walsh
Wilson
Wolf
Young (AK)
Young (FL)
Zeliff
Zimmer

NOT VOTING—10

Clay
Gallo
Gillmor
Grandy
Hastings
Meek
Natcher
Olver
Sundquist
Thompson

□ 1450

Messrs. APPLEGATE, BORSKI, PAYNE of Virginia, VOLKMER, and BRYANT, Mrs. LLOYD, Mrs. MEYERS of Kansas, Mr. RAHALL, and Mr. QUILLEN changed their vote from "aye" to "no."

Mr. KIM and Mr. JOHNSON of South Dakota changed their vote from "no" to "aye."

So the amendment to the amendment was agreed to.

The result of the vote was announced as above recorded.

The CHAIRMAN pro tempore (Mr. DARDEN). The question is on the amendment offered by the gentleman from California [Mr. DOOLITTLE], as amended.

The question was taken; and the Chairman pro tempore 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 CHAIRMAN pro tempore. This is a 5-minute vote.

The vote was taken by electronic device, and there were—ayes 407, noes 20, not voting 11, as follows:

[Roll No. 77]

AYES—407

Ackerman
Allard
Andrews (ME)
Andrews (NJ)
Andrews (TX)
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 (FL)
Brown (OH)
Bryant
Bunning
Burton
Buyer
Byrne
Callahan
Calvert
Camp
Canady
Cantwell
Cardin
Carr
Castle
Chapman
Clement
Clinger
Clyburn
Coble
Coleman
Collins (GA)
Combest
Condit
Conyers
Cooper
Coppersmith
Costello
Cox
Coyne
Cramer
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
Foglietta
Ford (TN)
Fowler
Franks (CT)
Franks (NJ)
Frost
Furse
Gallegly
Gejdenson
Gekas
Gephardt
Geren
Gibbons
Gilchrest
Gilman
Gingrich
Glickman
Gonzalez
Goodlatte
Goodling
Gordon
Goss
Grams
Green
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
Kennedy
Kennelly
Kildee
Kim
King
Kingston
Kleczka
Klein
Klink
Klug
Knollenberg
Kolbe
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
McDermott
McHale
McHugh
McInnis

McKeon
McKinney
McMillan
McNulty
Meehan
Menendez
Meyers
Mfume
Mica
Michel
Miller (CA)
Miller (FL)
Mineta
Minge
Moakley
Molinari
Mollohan
Montgomery
Moorhead
Moran
Morella
Murphy
Murtha
Myers
Neal (MA)
Neal (NC)
Norton (DC)
Nussle
Oberstar
Obey
Olver
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
Rangel
Ravenel
Reed
Regula
Reynolds
Richardson
Ridge
Roberts
Roemer
Rogers
Rohrabacher
Romero-Barcelo (PR)
Ros-Lehtinen
Rose
Rostenkowski
Roth
Roukema
Rowland
Roybal-Allard
Royce
Rush
Sabo
Sanders
Sangmeister
Santorum
Sarpalius
Sawyer
Saxton
Schaefer
Schenk
Schiff
Schroeder
Schumer
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
Swett
Swift
Synar
Talent
Tanner
Tauzin
Taylor (MS)
Taylor (NC)
Tejeda
Thomas (CA)
Thomas (WY)
Thornton
Thurman
Torkildsen
Torres
Torricelli
Towns
Traficant
Tucker
Unsoeld
Upton
Valentine
Velazquez
Vento
Visclosky
Vucanovich
Walker
Walsh
Washington
Waxman
Weldon
Wheat
Whitten
Williams
Wilson
Wise
Wolf
Woolsey
Wyden
Wynn
Yates
Young (AK)
Young (FL)
Zeliff
Zimmer

NOES—20

Abercrombie
Clayton
Collins (IL)
Collins (MI)
Crane
Dellums
Dingell
Edwards (CA)
Ford (MI)
Frank (MA)
Kopetski
Mink
Nadler
Owens
Payne (NJ)
Scott
Thompson
Underwood (GU)
Waters
Watt

NOT VOTING—11

Brown (CA)
Clay
de Lugo (VI)
Gallo
Gillmor
Grandy
Hastings
Meek
Natcher
Sundquist
Volkmer

□ 1458

Ms. WATERS, Mrs. COLLINS of Illinois, Mr. PAYNE of New Jersey, and Mr. EDWARDS of California changed their vote from "aye" to "no."

Mr. SAWYER and Mr. MILLER of California changed their vote from "no" to "aye."

□ 1508

So the amendment, as amended, was agreed to.

The result of the vote was announced as above recorded.

Mr. KILDEE. Mr. Chairman, I ask unanimous consent that the remainder of the bill be printed in the RECORD and open to amendment at any point, and that the debate on the remainder of the bill and all amendments be limited to 3 hours.

Mr. WALKER. Mr. Chairman, reserving the right to object, I do so to ask a couple of questions. Would the gentleman tell us how many more amendments there are to the bill?

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

Mr. WALKER. I yield to the gentleman from Michigan.

Mr. KILDEE. Mr. Chairman, there are five more amendments on the Clerk's desk.

Mr. WALKER. There are five amendments left for consideration. There is no doubt that this has become kind of the forever bill on the floor.

Mr. KILDEE. The continuing saga of H.R. 6, right.

Mr. WALKER. I know of a number of our colleagues who have literally hung around for days waiting for their amendments to come up. It seems to me that by placing a limitation on five amendments, we could reach a time where a couple of those amendments would literally have no time at all for debate.

Mr. KILDEE. If the gentleman will continue to yield, I would ask the gentleman if he would be willing to have 1 hour of debate on each amendment?

Mr. WALKER. I wish the gentleman would withhold the request until we have had a chance to check that out with the Members who offered the various amendments. It may well be that when we come back into session the next time, we could agree to that and agree to a time limitation at that point. I am concerned that we do not understand at this point whether or not that would be sufficient time for various Members to debate their amendments.

Mr. KILDEE. We may very well not come back until after the Easter recess. The gentleman understands that?

Mr. WALKER. However, at that point, certainly, the gentleman at that time could raise a time limit request that would have been thoroughly talked through with the Members who have potential amendments on the floor.

Mr. KILDEE. If the gentleman will continue to yield, my only point would be that it would be easier to go back to the floor if we know how much time was to be consumed so the leadership could make plans accordingly.

□ 1510

Mr. WALKER. Mr. Chairman, as I would understand it, you could in fact get permission in the full House at some other time to do that kind of time limitation, once it is agreed to. But as far as I know, we have not consulted with the Members on our side of the aisle as to whether or not an hour of time would be sufficient for them. It may well be in some cases that is more than enough time. But I do not know that to be the case and so, therefore, at this time I would have to object.

Mr. KILDEE. I understand.

The Chairman pro tempore (Mr. DARDEN). Objection is heard.

Ms. LONG. Mr. Chairman, we are all aware of the link between education and earning potential—the more you learn, the more you earn. In order to increase the potential that the youth of our Nation complete high school, we need to take preventive steps to ensure that those most at-risk of dropping out—pregnant teens—are given the support they need to stay in school.

A program currently operating in Indiana has successfully addressed the needs of pregnant teens and, as a result, has increased the birthweight of their babies and improves the potential that they will return to high school after they give birth. This program, the "Have a Healthy Baby" program, focuses on prenatal nutrition and wise lifestyle choices for pregnant teens and adults. It is taught in 138 high schools in Indiana and is designed to address the issues of daily nutritional choices and the relationship of life-style choices, such as drugs, alcohol and smoking, which affect the health of the baby. Only 2.6 percent of the 1,716 females enrolled in the program gave birth to low birthweight infants, compared to Indiana's average of 6.7 percent of births being low birthweight. The savings to the Medicaid system from this program are estimated at over $4 million. In addition, these teens are more likely to stay in school while pregnant and return to school after they give birth, giving them a better chance of obtaining a job that would make them self-sufficient.

We cannot ignore the fact that teen pregnancy is a serious problem in our country. However, it can be addressed constructively by improving their chances of having healthy babies, staying in school and becoming contributing members of society. Everyone benefits from programs such as this and I am pleased to support the inclusion of programs like "Have a Healthy Baby" in H.R. 6.

Mr. KILDEE. 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. DE LA GARZA) having assumed the chair, Mr. DARDEN, Chairman pro tempore of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the 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.

SENSE OF THE HOUSE REGARDING CONSTITUTIONAL OBLIGATION TO CONDUCT OVERSIGHT OF MATTERS RELATING TO OPERATIONS OF THE GOVERNMENT

Mr. GEPHARDT. Mr. Speaker, I move to suspend the rules and agree to the resolution (H. Res. 394) to express the sense of the House that Congress has a constitutional obligation to con-

duct oversight of matters relating to the operations of the Government.

The Clerk read as follows:

H. RES. 394

Resolved, That it is the Sense of the House of Representatives that—

(a) Congress has a Constitutional obligation to conduct oversight of matters relating to the operations of the government, including matters related to any governmental investigations which may, from time to time, be undertaken.

(b) The Speaker, Majority and Minority Leaders should meet to determine the appropriate timetable, procedures, and forum for appropriate Congressional oversight, including hearings on all matters related to "Madison Guaranty Savings and Loan Association ('MGS&L'), Whitewater Development Corporation and Capital Management Services Inc. ('CMS')."

(c) No witness called to testify at these hearings shall be granted immunity under sections 6002 and 6005 of Title 18, United States Code, over the objection of Special Counsel Robert B. Fiske, Jr.

(d) The hearings should be structured and sequenced in such a manner that in the judgment of the Leaders they would not interfere with the ongoing investigation of Special Counsel Robert B. Fiske, Jr.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Missouri [Mr. GEPHARDT] will be recognized for 20 minutes, and the gentleman from Illinois [Mr. MICHEL] will be recognized for 20 minutes.

The Chair recognizes the gentleman from Missouri [Mr. GEPHARDT].

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

Mr. Speaker, this is a resolution presented by the gentleman from Illinois [Mr. MICHEL] and myself. It is a sense-of-the-House resolution. It says that the Congress has a constitutional obligation to conduct oversight of matters relating to the operations of the Government, including matters relating to any governmental investigations which may from time to time be undertaken.

It states that the Speaker, the majority and the minority leader should meet to determine the appropriate timetable, procedures, and forum for appropriate congressional oversight, including hearings on all matters related to Madison Guaranty Savings & Loan Association, Whitewater Development Corp., and Capital Management Services, Inc.

It further states that no witness called to testify shall be granted immunity under certain sections of the United States Code over the objections of the special counsel, Robert Fiske.

Finally, it says that the hearings should be structured and sequenced in such a manner that in the judgment of the leaders, they would not interfere with the ongoing investigation of the special counsel, Mr. Fiske.

Over the past days and weeks, there have been a number of allegations lodged, there has been a great deal of speculation about the Whitewater Development Corp. and the facts surrounding that corporation. And I might add that that speculation is not unimportant. The American people have the right to know the facts. Congress has an obligation to try to provide those facts.

But we also have an obligation to ensure that our three-branch Government does not become a three-ring circus.

We have an obligation to ensure that we find the facts without all the partisan fingerpointing that only distracts us from the real business of the people.

That is why the minority leader and I have submitted this resolution. Because while we cannot ignore Whitewater, neither can we allow it to flood this Chamber.

There is a special counsel in place. An independent, objective, and seemingly Republican-leaning special counsel.

He is doing his work, carefully and thoughtfully, and I think in quick time.

And there is a role for congressional oversight as well. Congressional oversight that does not interfere with the special counsel's work. Congressional oversight that is vigilant about the facts, and fair in its methods.

Both parties have now agreed to sit down, and try to find the best way to structure such oversight hearings—without compromising the work of the special counsel—without granting immunity to those who testify—and without crossing the line that separates the people's priorities from party politics.

I believe we will reach such an agreement, in good faith and with due speed.

Then we can get back and now we should get back to the real work we were sent here to do—guaranteeing health care for all Americans; keeping our economy on the path to growth and progress; and improving the general welfare, not of a handful of would-be prosecutors, but of the good people we were elected to serve.

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

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

Mr. Speaker, as the distinguished majority leader indicated, we are cosponsoring this resolution today. Originally I had intended to offer a motion to recommit the committee funding resolution to provide for an investigation and hold appropriate hearings on Whitewater. But after discussions this morning in the Speaker's office, we agreed on this resolution which is in the same language as was adopted in the other body some time ago.

Today the House is expressing the need for oversight and hearings, and today the House is expressing its right and the public's right to know the workings of its Government. This is but the first step in establishing procedures and guidelines for congressional oversight hearings, but it is very meaningful that we are here at this point.

Congress has a constitutional mandate to oversee the programs that it enacts into law. Serious allegations have been raised about the potential misuse of Government funds in various Federal programs as well as other ethical improprieties.

The New York Times in the Sunday edition stated the case well:

> Whitewater raises at least two important policy issues that fall within the oversight authority of the House and Senate Banking Committees. One involves the integrity of the banking system, the other the integrity of its regulators.

That is what congressional oversight is all about, and that is the intent here.

Let me be clear about one point. Special Prosecutor Fiske is investigating potential criminal wrongdoing. That is his job and not ours. These congressional hearings are not about criminal liability but about the proper, legitimate role of Congress is oversight.

And may I say, finally, that we all owe a deep debt of gratitude to one of our own Members, the gentleman from Iowa [Mr. LEACH], our ranking member on the Committee on Banking, Finance and Urban Affairs, who has done so much to pursue the constitutional duty of congressional oversight when no one was interested and when many obstacles were placed in his way. The gentleman from Iowa [Mr. LEACH] has brought dignity, intelligence, and fairness to the process for which we are indebted to him.

Mr. Speaker, I include with my remarks a list of the number of congressional investigations that have taken place since 1981, as follows:

CONGRESSIONAL INVESTIGATIONS

1981: William Casey, CIA.

1982: EPA, Superfund; EPA, private meetings.

1983: John Fedders, SEC; OSHA, Office of VP.

1984: Hugh Reilly, NLRB; Charles Wick, USIA.

1985: Victor Thompson, Synthetic Fuels Corporation, Synthetic Fuels Corporation; Charles Wick, USIA "Blacklist".

1986: HUD Influence Peddling; EPA, Superfund; Walter Lenaham, Textile Imports; Robert Buford, BLM; Iran Contra.

1987: Michael Deaver; Joseph Wright, OMB; Iran Contra.

1988: Ambassador Faith Whittlesey; Edwin Meese, DOJ.

1989: June Koch, HUD.

1990: Wedtech Corporation; Silverado Banking.

1992: October Surprise; Competitiveness Council; Columbus Quincentenary Commission.

Mr. Speaker, if I might at this time ask the distinguished majority leader several questions to be perfectly clear here, is the Democratic leadership committed to holding the previous RTC oversight hearing that is mandated by law?

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

Mr. MICHEL. I yield to the gentleman from Missouri.

Mr. GEPHARDT. Mr. Speaker, the answer is yes.

Mr. MICHEL. Do we have any idea of when that might be scheduled?

Mr. GEPHARDT. I would say to the gentleman that it would be scheduled as soon as practicable, in consultation with all of the people on the committee, and the chairman of the committee, and the ranking member and the Members on both sides.

Mr. MICHEL. And it is my understanding from previous conversations that we have had that the minority will be allowed a day of witnesses as provided under rule XI, is that correct?

Mr. GEPHARDT. The gentleman is correct.

Mr. MICHEL. I thank the distinguished majority leader.

Does this resolution therefore then, I would ask the majority leader, put the House on record as being committed to holding hearings, realizing that the timing, procedure, and other matters still have to be worked out?

Mr. GEPHARDT. As the Speaker I believe stated in the meeting, and probably later in the press conference that the gentleman was able to have with him, our commitment is in good faith, and in consultation with the minority leadership and others in the minority to try to find the right way of having hearings, the right schedule, and in conjunction with Mr. Fiske. So that is our commitment. Our commitment is to in good faith try to find a way to have the kind of hearings that would be reasonable with regard to this matter.

□ 1520

Mr. MICHEL. Mr. Speaker, I thank the distinguished gentleman.

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

Mr. GEPHARDT. Mr. Speaker, I yield 3 minutes to the gentleman from New York [Mr. SCHUMER].

Mr. SCHUMER. Mr. Speaker, I thank the majority leader for yielding me this time, and I thank the majority leader and the minority leader for working this out.

Let me just say that obviously a resolution like this involves issues where there are some conflicting crosscurrents. The most important conflicting crosscurrents are the right of the public to know and the obligation of Mr. Fiske to conduct a full and fair investigation. And those do conflict at times, not just on the issue of immunity which the resolution handles, but as any prosecutor can tell you, he certainly does not want his witnesses to state their full point of view before the public before he gets a chance to present the case, examine them, et cetera. So you have that conflicting, and then you have another conflict here, and that is the public's certain right, a right which we all support, to find out what is going on.

But at the same time, the conflict being the political overtones to this where the motives of both sides are doubted. And I think this resolution deals with those two conflicts very well.

The public will have the right to find out what goes on, and yet it will not interfere with Mr. Fiske's obligation to turn over every stone and prosecute or investigate this case to the fullest and take it where it leads.

Second, by allowing that to happen, I think we also clear the air of some of the partisan overtones that have occurred in the last few days, and really do not bring credit not only to this House but do not affirm the public's view that everything will be unveiled.

So I would salute the majority leader and the minority leader and the House leadership on both sides of the aisle for coming together with this resolution, as was mentioned, very similar to the Senate resolution, which does, I think, ably deal with both sets of conflicts.

I urge support for it.

Mr. MICHEL. Mr. Speaker, I yield 3 minutes to the distinguished gentleman from Iowa [Mr. LEACH].

Mr. LEACH. Mr. Speaker, I thank the distinguished leader for yielding me this time.

Mr. Speaker, I rise for several purposes. One, I would like to commend the leadership of the majority for reaching the conclusion it did.

I would stress here that the first and major request that the minority made last November was for a full and open hearing. That was all it was. And it was only after that request was turned down that this issue escalated in magnitude. What this represents today is the first bipartisan commitment to a bipartisan hearing. And that is all the minority initially requested.

One of the real traumas of this issue is how to bring it to resolution. In this Member's view, it cannot be brought to resolution without full public disclosure. That is what the minority is seeking, public disclosure. Then the issue can be put behind.

I happen to concur totally with the view of the President of the United States that this country wants to get on with the health care debate, they want to get on with the business of welfare reform, with crime legislation.

The most propitious way to do that is to put this issue behind, bringing witnesses, letting the public draw what conclusions it may wish, and then we are through.

Let me conclude by noting that the minority is very sensitive to the rights of potential witnesses. We have no desire whatsoever to put people through a more difficult process than that which would be understandable and reasonable under the circumstance. I would also say the minority has bent over backwards to be sensitive to the legitimate concerns of the special counsel. We have provided him witness lists in advance. We have provided him a great deal of material.

We have no intent nor power to offer immunity, which is the issue that causes hearings to be difficult for potential prosecutors. With regard to learning the minority pledges decency of temper, it pledges a strict adherence to the rules of the House, and it pledges to do everything possible to be respectful of the operation of the special counsel's office.

Mr. MICHEL. Mr. Speaker, I yield 3 minutes to the gentleman from Pennsylvania [Mr. CLINGER], the distinguished ranking member on our Committee on Government Operations, a committee which also has jurisdiction in this regard.

Mr. CLINGER. Mr. Speaker, I thank my leader for yielding me this time.

I also wish to commend the majority and the minority leaders for working out this accommodation in recognition that we do as a Congress have a constitutional duty to conduct effective, aggressive oversight of the executive branch.

Under the committee funding resolution which will be before us later today, literally millions of taxpayer dollars are being allocated to the various congressional oversight committees for the express purpose of conducting oversight of these activities, and despite the acceptance of these funds, we have not been perhaps as vigorous in this regard as we should be in bringing to closure an issue that has kept the country involved for way too many weeks.

The current Whitewater affairs has clearly raised serious questions which need to be considered by the Congress and that go beyond frankly Whitewater itself. For example, through my position as ranking Republican on the Committee on Government Operations, which is principal oversight committee of the Congress, I have been reviewing some disturbing circumstances surrounding the investigation of Vince Foster's death, not to determine the cause of death or not even, frankly, to determine whether that death had any involvement with the Whitewater situation or not, but really to try and determine if there was in fact an improper impediment or interference with that investigation by the White House.

So I think that the Committee on Government Operations may well have a vital role to play in the conduct of any hearing on general Whitewater topics and should be included in the hearings called for by this resolution unless, or course, there is a select committee designated as a result of further discussions between the majority and minority.

Let me now also mention what I really believe to be a dangerous patter I see emerging wherein the executive branch has increasingly denied information to Republican Members of Congress conducting legitimate oversight

responsibilities. In turn, senior congressional Democrats have used their committee positions to assist the executive in blocking effective oversight of the executive branch which it has been my observation increasingly is necessary. So, Mr. Speaker, we abandon our responsibilities and turn our backs on the Constitution when we allow this to happen.

The American people expect us to do our jobs. I think this resolution commits us to a pattern that it will see that our job is done and effective oversight is carried out.

Mr. MICHEL. Mr. Speaker, I yield 3 minutes to the distinguished gentleman from Louisiana [Mr. LIVINGSTON], a member of the Committee on Appropriations.

Mr. LIVINGSTON. Mr. Speaker, I am grateful we are here, but I am at a loss to understand what the controversy has been about over these last several months.

A resolution like this should have passed without discussion months ago. This really is not a partisan issue.

But unfortunately with the stonewalling of the administration and the majority party, it has become one. The mere oversight of the Madison Savings and Loan should have been routine, just as the oversight of Neil Bush and the Silverado Savings and Loan was. There is no difference, except that because of the constant refusal by the White House and the Democrats to investigate this matter, we now see extraneous issues rising to the surface, like suggestions of shredding of documents, improper SBA loans, sweetheart deals, withholding of information from the RTC, from the FBI, and from the IRS, sealed autopsy and death investigation documents regarding a prominent administration counsel who was alleged to have been working on private affairs of the President.

□ 1530

We are bothered by the fact that the No. 2 and No. 3 attorneys at the Justice Department have resigned, one in the wake of suggestions of questionable billings at his former law firm, the same firm to which the First Lady belonged, possibly for billing American taxpayers too much. He being one of the best friends of the President, we are concerned the case in which he is suggested to have overbilled, lists the First Lady as co-counsel. Now we hear the President may have underpaid his taxes, but that he took extraordinary writeoffs.

We worry that the First Lady qualified herself in court as a Federal employee, but neglected to put her assets in a blind trust during the first 7 months of the Presidency, she being heralded as one of the most astute attorneys in the country.

Mr. Speaker, Neil Bush's role as a passive director in a failed savings-and-loan prompted congressional hearings, and so should Madison Savings and Loan, for it is all that the Bush deal was and so very much more.

We should have full disclosure and full hearings, and we should not complete those hearings until every single question has been answered.

Mr. GEPHARDT. Mr. Speaker, I reserve my time. We have one additional speaker remaining, and I would like to have that speaker close.

Mr. MICHEL. Mr. Speaker, I yield such time as she may consume to the gentlewoman from New Jersey [Mrs. ROUKEMA] to propound several questions.

Mrs. ROUKEMA. I thank the gentleman from Illinois for yielding to me.

I want to say I want to ask these questions as a member of the Committee on Banking, Finance and Urban Affairs, and I want to preface my questions by saying that I want to be sure that there is no inference here that either Mr. LEACH or any of us members, Republican members of the committee, had intruded on the proper procedures with our original request on these oversight hearings.

There was certainly nothing in the requests made by Mr. LEACH that would violate the authority or the responsibilities of the special prosecutor. I want to be sure there is nothing here that has an inference as to that; but since, as I understand it—I was not in the negotiations—as I understand it from this discussion, there are now proposals in this resolution that commit this House to two hearings, that that is an iron-clad commitment; that at least one hearing or a series of hearings that is going to be our proper oversight role as the Banking Committee oversight over both the integrity of the system as well as the integrity of the regulators, I believe was mentioned by one of the speakers, the previous speaker.

Now, would the majority leader respond, please?

Mr. GEPHARDT. If the gentlewoman would yield, there is a commitment here to carry out as soon as practicable the legally authorized and required hearing in the Committee on Banking on oversight of the Resolution Trust Corporation. It is my understanding that that is probably a 2-day event. There is a hearing that is held by the majority, and then under rule XI, as I understand it, the minority has the right to conduct a hearing according to the rules of the House and the Banking Committee. And the commitment is as soon as practicable to have both of those hearings.

Mrs. ROUKEMA. Is the gentleman thereby saying that the authority over the calling of witnesses will be separated according to majority and minority, or will it follow the normal practice of the committee?

Mr. GEPHARDT. If the gentlewoman would yield, it is my understanding that the witnesses in this type hearing are invited, that the minority has the ability to invite people to come. And then the questions and the appropriateness of the questions as you go through the hearings is determined by the procedures of the committee.

Mrs. ROUKEMA. That is fine. And then the second part of the resolution makes a total commitment subject to further negotiations as to further hearings of either a special committee or some other committee designated by the House. It is very unclear as to the discussion thus far as to the composition of that committee.

Mr. GEPHARDT. If the gentlewoman would yield, she is quite right. It is unclear at this point the forum, it is unclear exactly how these could be structured, it is unclear as to exactly what would be included. These are all issues that have to be discussed and decided. But there is a commitment to make every attempt in good faith between the parties to work out those issues. We are not concerned about whether or not there are hearings; what we are concerned about, and the minority is concerned about, is how it is done, that it is done properly so that it does not interfere, as the resolution says, with what is the job and the responsibility of the special counsel.

Mr. MICHEL. Mr. Speaker, I simply want to remind the gentlewoman from New Jersey [Mrs. ROUKEMA] that we are operating under strict time limitations, and I have obligated my time here, I hope the answers have satisfied the gentlewoman's questions. If not, we will try as soon as we can to supply more information.

Mrs. ROUKEMA. If the answer concurs with what the gentleman understands.

The SPEAKER pro tempore (Mr. DE LA GARZA). The Chair would advise the gentlewoman from New Jersey [Mrs. ROUKEMA] that the gentleman from Illinois [Mr. MICHEL] has control of the time.

Mr. MICHEL. Mr. Speaker, I yield 2 minutes to the gentleman from Pennsylvania [Mr. WALKER].

Mr. WALKER. I thank the gentleman for yielding.

Let me say that everybody on both sides of this question are acting in good faith and I think we just need to clarify what the situation is, because the legislative history on this resolution becomes extremely important. I have heard a number of caveats in what the gentleman from Missouri [Mr. GEPHARDT] was telling us. We are operating with an AP story here that says, after your meeting today, that the Speaker insisted he was not making a concession that hearings were going to take place. Now, in my view, it seems to met that we have conceded, for purposes of this resolution, that we do not know enough to know when these hearings are going to be held, we do not

know enough to know how they are going to be held.

But what I want to be assured of is that hearings are going to be held, comprehensive hearings are going to be held on Whitewater. Can the gentleman give me that——

Mr. GEPHARDT. If the gentleman would yield.

Mr. WALKER. I certainly do yield.

Mr. GEPHARDT. What the Speaker was saying earlier today and what we are trying to say now is that there is a commitment to try in good faith to find the right, the appropriate way, to have hearings on Whitewater. Obviously implicit in that statement is the understanding that even after we both try in good faith to do that, that we may not be able to agree on how to do that.

Mr. WALKER. If the gentleman would allow me to reclaim my time.

Mr. GEPHARDT. Well, let me finish and I will give you more time.

Let me finish.

If that were to happen, obviously there is nothing that precludes the minority at that point, if that unforeseen thing happens, to come to the floor and ask for a resolution that would call for hearings under the circumstances which you would want to have the hearings. But you and all the Members of the House have a commitment that we will do everything in our power to try to work out those hearings appropriately.

Mr. Speaker, I would like to yield to the gentleman from Pennsylvania [Mr. WALKER] 2 additional minutes.

Mr. WALKER. I thank the gentleman for yielding. I appreciate that. But from my perspective, the committees of the Congress with jurisdiction in the areas mentioned in this resolution already have all the powers they need to hold hearings. There is no doubt those hearings can be held. The Committee on Banking, Finance and Urban Affairs can schedule hearings tomorrow, the committee on Small Business can hold hearings tomorrow; all of the processes and procedures are in place already in the rules. We know, because during the 1980's there are literally dozens of hearings held during oversight of possible misfeasance or malfeasance in the administrations. So we know these things can take place.

What we are seeking in this resolution is an assurance that, given all of those things, that we are going to have those hearings, that they are no longer going to be blocked by consultations with the administration; that these hearings are going to go ahead and be held. I have not heard that yet. I would be happy to yield.

Mr. GEPHARDT. If the gentleman would yield, there has been no attempt on this side to block hearings by the leadership of the House. What we have attempted to do is to figure out how to do this appropriately in coordination with the special counsel, now that we have a special counsel.

Mr. WALKER. I would say to the gentleman that the chairman of the Committee on Banking, Finance and Urban Affairs came to the floor one day and assured this gentleman in a colloquy on the floor that there were going to be hearings held in his committee. Within a matter of hours he had backed off of that.

□ 1540

The newspaper stories at that time said that he backed off it after consultations with the leadership on the gentleman's side. Now maybe the stories were completely wrong, but I have to assume that somewhere that kind of dialogue took place. But he backed off on what he promised this gentleman on the floor that day.

Mr. GEPHARDT. Mr. Speaker, if the gentleman would yield, let me review again what I think is being committed in this resolution:

First, that the hearings which the gentleman just talked about in the Committee on Banking, Finance and Urban Affairs will take place as soon as practicable——

Mr. WALKER. No, we were going to have those hearings, and then he also promised comprehensive hearings on Whitewater would be held.

Mr. GEPHARDT. I am reviewing now what is in the resolution. That is first.

Second, the gentleman is right, that there are other committees that have other fragments and pieces of this fact situation that will be dealt with in other committees under their own rules. As the gentleman stated, the Committee on Small Business has already taken something with regard to a GAO report today.

Finally, there is a commitment again to try to find a way to have a more comprehensive set of hearings in an appropriate way, hopefully in one forum, but we have not addressed that question yet, but in one forum that can go forward under a time schedule and under a procedure that is agreeable, and makes sense to both sides, and makes sense to the special prosecutor.

Mr. WALKER. So the gentleman is telling me that the newspaper story here is wrong, that the Speaker was not saying when he said, "a concession, that he was not making, a concession that hearings are going to take place." He is saying that that is a misstatement of the situation and that in fact this resolution is predicated on a good-faith belief that hearings will be held.

Mr. GEPHARDT. If the gentleman will continue to yield, maybe it is a difference of interpretation.

The SPEAKER pro tempore (Mr. DE LA GARZA). The time of the gentleman from Pennsylvania [Mr. WALKER] has expired.

Mr. GEPHARDT. Mr. Speaker, I yield myself 1 minute.

Mr. Speaker, I would say to the gentleman that perhaps it is a difference in interpretation of the words of the Speaker. I believe, again, the commitment is ironclad that there will be an attempt made, a very serious attempt in good faith, to try to find a way in the proper forum, at the proper time, in the proper sequencing, in coordination with the special prosecutor, to have comprehensive hearings that will put all the facts on the table.

Mr. WALKER. Mr. Speaker, I thank the gentleman from Missouri [Mr. GEPHARDT].

Mr. MICHEL. Mr. Speaker, I yield the balance of our time to the distinguished gentleman from Illinois [Mr. HYDE].

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

Mr. HYDE. Mr. Speaker, I am going to support this resolution, but I just want to say I regret keenly that we are giving up in this resolution the right to immunize witnesses. We should be very jealous of our prerogatives and the right of oversight by Congress rests in the constitution. It may well be to properly fulfill our constitutional duty of oversight we might have to give immunity to some witness. I hope not, and I think that can be agreed upon by people on this investigating committee. But why do we yield to Mr. Fiske whose job is to prosecute, search out, investigate and report on whether criminal activity has occurred? Our job is to oversee how this institution worked and how the people worked it, and it may be that we will need to grant immunity to somebody.

Mr. Speaker, we should be jealous of our powers just as the President is jealous of executive privilege. All Presidents have resisted the War Powers Act. I say to my colleagues, you don't diminish the office during your tenure, and we shouldn't diminish the power of any and every investigating committee of the House by yielding in the beginning before we get into hearings a power that may well be necessary for us to fulfill our responsibility for proper oversight.

That may be just a slight point, but I wanted to make it.

Mr. GEPHARDT. Mr. Speaker, I yield 5 minutes to the gentleman from Massachusetts [Mr. FRANK].

Mr. FRANK of Massachusetts. Mr. Speaker, I support the resolution, and I would like to make clear the basis.

First, we have had two sets of accusations. Many of us felt that the first set really did not—really rise to the level requiring a full investigation. We have been talking to some extent about events involving regulations of a savings and loan institution during the mid-1980's. We ought to be very clear when people talk about whether there has been any abuse within the administration, that with regard to those

events, Madison Savings and Loan, Whitewater, et cetera, that no member of the Clinton administration was then holding Federal office. Any failure at that time to protect the interests of the Federal Government presumably will be laid at the door of the hearings of the people then in office, the appointees of President Reagan and, subsequently, the appointees of President Bush. I did believe that we have had in this Congress sufficient airing of those periods. If people want to go back to them later, I see no harm to it.

It did seem to me that a new set of issues arose when people alleged that there may have been at the White House some interference with the regulatory process. I have seen no suggestion that anything adverse happened, but I do agree that when allegations reach a certain level of decibel that it becomes important to have the hearings.

Now we ought to be very clear. Hearings are not a sign that something definitely has gone wrong. I think an analogy of the independent counsel statute is important. I have always felt that was important, both to find out where there was wrongdoing and to give the appropriate exoneration where wrongdoing was inaccurately charged, and one of the advantages of the independent counsel is that the independent counsel can give that exoneration with a degree of credibility that the President's own party could not give. I regard hearings now as a similar opportunity. I welcome the chance to have hearings.

Frankly we have heard even on the floor today references to two people resigning in the Justice Department when obviously one has nothing to do with anything remotely comparable here. An innuendo, an inference perhaps, because of billing practices that happened because the First Lady was in the same firm. I welcome the chance to set these straight. But I do think we have to talk about the role of the special counsel.

Many of us believe that there was not a sufficient legal basis to trigger the appointment of a special counsel, but the administration, I think sensibly to lean over backwards, appointed one at the request of the Republican leadership, and now the special counsel, a Republican, an appointee, a would-be appointee of Republican administrations, having said, "It will interfere with the investigation you asked me to have if you have a certain kind of hearing"; I think we are on to that, and I would differ with my friend, the gentleman from Illinois. We appointed the special counsel. The President asked that a special counsel be appointed because the Republicans asked that we have him. To interfere now with the special counsel to do things that the special counsel said would be an interference with his ability to do his job lays down the groundwork later on for discrediting the special counsel. Having asked for one, having gotten one, it seems to me that consistency and fairness require that the special counsel be allowed to do his job without any interference.

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

Mr. FRANK of Massachusetts. I yield to the gentleman from Illinois.

Mr. HYDE. Mr. Speaker, I agree perfectly with everything the gentleman from Massachusetts said. I just formally do not like to yield a prerogative that is ours.

Mr. FRANK of Massachusetts. Mr. Speaker, I acknowledge what the gentleman from Illinois said. He might not disagree in a specific instance, but let me say to my friend, by making that decision about immunity in a resolution on which we vote I don't think we give away any of our prerogatives. I don't think we're suggesting we give them to anybody else, and I gather we do agree in the given instance given the circumstances of the appointment of this special counsel to do things which he said would interfere, and, as we know, it's not just immunity that can interfere, but it is witnesses hearing what other witnesses say, it is having things done in public which ought to be done in private, it is having interviews at one level when they are being conducted privately at another.

I do think that it is very important, given the circumstances of this special counsel when he was appointed, that we not be interfering with what the special counsel does, and, therefore, I think it is appropriate that the resolution says we will work together, both sides, in good faith to come up with a format for hearings that will not interfere with the special counsel because, having appointed him, having led to having put pressure on to appoint him, having seen his appointment, now to undercut him now I think would be an illegitimate action.

□ 1550

Therefore, the resolution seems to me to be appropriately done.

Finally, let me say that people who say that the chairman of the Banking Committee was somehow under the direction of the leadership have apparently never worked with the chairman of the Banking Committee. We may disagree with him, but his integrity and his commitment to fairness, as he sees fit, and his independence ought not to be things that anyone would question.

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

The SPEAKER pro tempore (Mr. DE LA GARZA). The question is on the motion offered by the gentleman from Missouri [Mr. GEPHARDT] that the House suspend the rules and agree to the resolution, H. Res. 394.

The question was taken.

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

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

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 408, nays 15, not voting 10, as follows:

[Roll No. 78]

YEAS—408

Ackerman	Crane	Harman
Allard	Crapo	Hastert
Andrews (ME)	Cunningham	Hayes
Andrews (NJ)	Danner	Hefley
Andrews (TX)	Darden	Hefner
Applegate	de la Garza	Herger
Archer	Deal	Hilliard
Armey	DeFazio	Hinchey
Bacchus (FL)	DeLauro	Hoagland
Bachus (AL)	DeLay	Hobson
Baesler	Derrick	Hochbrueckner
Baker (CA)	Deutsch	Hoekstra
Baker (LA)	Diaz-Balart	Hoke
Ballenger	Dickey	Holden
Barca	Dicks	Horn
Barcia	Dingell	Houghton
Barlow	Dixon	Hoyer
Barrett (NE)	Dooley	Huffington
Barrett (WI)	Doolittle	Hughes
Bartlett	Dornan	Hunter
Barton	Dreier	Hutchinson
Bateman	Duncan	Hutto
Becerra	Dunn	Hyde
Beilenson	Durbin	Inglis
Bentley	Edwards (CA)	Inhofe
Bereuter	Edwards (TX)	Inslee
Berman	Ehlers	Istook
Bevill	Emerson	Jacobs
Bilbray	Engel	Jefferson
Bilirakis	English	Johnson (CT)
Bishop	Eshoo	Johnson (GA)
Blackwell	Evans	Johnson (SD)
Bliley	Everett	Johnson, E. B.
Blute	Ewing	Johnson, Sam
Boehlert	Farr	Johnston
Boehner	Fawell	Kanjorski
Bonilla	Fazio	Kaptur
Bonior	Fields (LA)	Kasich
Borski	Fields (TX)	Kennedy
Boucher	Filner	Kennelly
Brewster	Fingerhut	Kildee
Brooks	Fish	Kim
Browder	Flake	King
Brown (CA)	Ford (TN)	Kingston
Brown (FL)	Fowler	Kleczka
Brown (OH)	Frank (MA)	Klein
Bryant	Franks (CT)	Klink
Bunning	Franks (NJ)	Klug
Burton	Frost	Knollenberg
Buyer	Furse	Kolbe
Byrne	Gallegly	Kreidler
Callahan	Gejdenson	Kyl
Calvert	Gekas	LaFalce
Camp	Gephardt	Lambert
Canady	Geren	Lancaster
Cantwell	Gibbons	Lantos
Cardin	Gilchrest	LaRocco
Carr	Gilman	Laughlin
Castle	Gingrich	Lazio
Chapman	Glickman	Leach
Clayton	Gonzalez	Lehman
Clement	Goodlatte	Levin
Clinger	Goodling	Levy
Clyburn	Gordon	Lewis (CA)
Coble	Goss	Lewis (FL)
Coleman	Grams	Lewis (GA)
Collins (GA)	Green	Lightfoot
Collins (IL)	Greenwood	Linder
Combest	Gunderson	Lipinski
Condit	Gutierrez	Livingston
Cooper	Hall (OH)	Lloyd
Coppersmith	Hall (TX)	Long
Costello	Hamburg	Lowey
Cox	Hamilton	Machtley
Coyne	Hancock	Mann
Cramer	Hansen	Manton

Manzullo	Pickett	Smith (NJ)
Margolies-Mezvinsky	Pickle	Smith (OR)
Markey	Pombo	Smith (TX)
Martinez	Pomeroy	Snowe
Mazzoli	Porter	Solomon
McCandless	Portman	Spence
McCloskey	Poshard	Spratt
McCollum	Price (NC)	Stark
McCrery	Pryce (OH)	Stearns
McCurdy	Quillen	Stenholm
McDade	Quinn	Stokes
McDermott	Rahall	Strickland
McHale	Ramstad	Studds
McHugh	Rangel	Stump
McInnis	Ravenel	Swett
McKeon	Reed	Swift
McMillan	Regula	Synar
McNulty	Reynolds	Talent
Meehan	Richardson	Tanner
Menendez	Ridge	Tauzin
Meyers	Roberts	Taylor (MS)
Mfume	Roemer	Taylor (NC)
Mica	Rogers	Tejeda
Michel	Rohrabacher	Thomas (CA)
Miller (FL)	Ros-Lehtinen	Thomas (WY)
Mineta	Rose	Thompson
Minge	Rostenkowski	Thornton
Mink	Roth	Thurman
Moakley	Roukema	Torkildsen
Molinari	Rowland	Torricelli
Mollohan	Roybal-Allard	Traficant
Montgomery	Royce	Tucker
Moorhead	Rush	Unsoeld
Moran	Sabo	Upton
Morella	Sanders	Valentine
Murphy	Sangmeister	Velazquez
Murtha	Santorum	Vento
Myers	Sarpalius	Visclosky
Nadler	Sawyer	Volkmer
Neal (MA)	Saxton	Vucanovich
Neal (NC)	Schaefer	Walker
Nussle	Schenk	Walsh
Oberstar	Schiff	Watt
Obey	Schroeder	Waxman
Olver	Schumer	Weldon
Ortiz	Scott	Wheat
Orton	Sensenbrenner	Whitten
Owens	Serrano	Williams
Oxley	Sharp	Wilson
Packard	Shaw	Wise
Pallone	Shays	Wolf
Parker	Shepherd	Woolsey
Pastor	Shuster	Wyden
Paxon	Sisisky	Wynn
Payne (NJ)	Skaggs	Yates
Payne (VA)	Skeen	Young (AK)
Penny	Skelton	Young (FL)
Peterson (FL)	Slattery	Zeliff
Peterson (MN)	Slaughter	Zimmer
Petri	Smith (IA)	
	Smith (MI)	

NAYS—15

Abercrombie	Ford (MI)	Pelosi
Collins (MI)	Kopetski	Stupak
Conyers	Matsui	Towns
Dellums	McKinney	Washington
Foglietta	Miller (CA)	Waters

NOT VOTING—10

Clay	Hastings	Sundquist
Gallo	Maloney	Torres
Gillmor	Meek	
Grandy	Natcher	

□ 1617

Mr. MILLER of California, Mr. TOWNS, and Ms. McKINNEY changed their vote from "yea" to "nay."

So (two-thirds having voted in favor thereof) the rules were suspended and the resolution was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

PERSONAL EXPLANATION

Mr. TORRES. Mr. Speaker, I was unavoidably absent on official business for rollcall vote No. 78. Had I been present on the House floor I would have cast my vote as follows: Roll No. 78: "Yea" on House Resolution 394, Mr. GEPHARDT's resolution to express the sense of the House that Congress has a constitutional obligation to conduct oversight matters related to the operation of the Government.

PROVIDING AMOUNTS FOR EXPENSES OF INVESTIGATIONS AND STUDIES BY CERTAIN STANDING COMMITTEES

Mr. FROST. Mr. Speaker, by direction of the Committee on House Administration, I offer a privileged resolution (H. Res. 369) providing amounts from the contingent fund of the House for the expenses of investigations and studies by certain committees of the House in the session of the 2d 103d Congress, and I ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 369

Resolved, That there shall be paid out of the contingent fund of the House in accordance with this primary expense resolution not more than the amount specified in section 2 for investigations and studies by each committee named in such section, including expenses—

(1) in the case of a committee named in section 3, for procurement of consultant services under section 202(i) of the Legislative Reorganization Act of 1946; and

(2) in the case of a committee named in section 4, for provision of assistance for members of professional staff in obtaining specialized training under section 202(j) of such Act.

SEC. 2. The committees and amounts referred to in the first section are: Committee on Agriculture, $2,257,937; Committee on Armed Services, $2,669,197; Committee on Banking, Finance and Urban Affairs, $4,188,650; Committee on the District of Columbia, $342,035; Committee on Education and Labor, $4,238,064; Committee on Energy and Commerce, $6,608,907; Committee on Foreign Affairs, $4,145,214; Committee on Government Operations, $3,282,875; Committee on House Administration, $1,994,288; Permanent Select Committee on Intelligence, $104,500; Committee on the Judiciary, $2,734,853; Committee on Merchant Marine and Fisheries, $2,395,679; Committee on Natural Resources, $2,243,095; Committee on Post Office and Civil Service, $1,889,736; Committee on Public Works and Transportation, $3,170,666; Committee on Rules, $722,479; Committee on Science, Space, and Technology, $2,959,438; Committee on Small Business, $1,073,000; Committee on Standards of Official Conduct, $100,000; Committee on Veterans' Affairs, $827,034; and Committee on Ways and Means, $5,070,000.

SEC. 3. (a) Of the amounts provided for in section 2, each committee named in subsection (b) may use not more than the amount specified in such subsection for consultant services under paragraph (1) of the first section.

(b) The committees and amounts referred to in subsection (a) are: Committee on Agriculture, $12,000; Committee on Armed Services, $40,000; Committee on the District of Columbia, $8,000; Committee on Education and Labor, $100,000; Committee on Energy and Commerce, $25,000; Committee on Government Operations, $10,000; Committee on House Administration, $225,000; Committee on Natural Resources, $2,500; Committee on Post Office and Civil Service, $60,000; Committee on Public Works and Transportation, $50,000; Committee on Science, Space, and Technology, $25,000; Committee on Standards of Official Conduct, $45,000; Committee on Veterans' Affairs, $18,750; Committee on Ways and Means, $10,000.

SEC. 4. (a) Of the amounts provided for in section 2, each committee named in subsection (b) may use not more than the amount specified in such subsection for specialized training under paragraph (2) of the first section.

(b) The committees and amounts referred to in subsection (a) are: Committee on Agriculture, $2,000; Committee on Armed Services, $8,000; Committee on the District of Columbia, $1,000; Committee on Education and Labor, $10,000; Committee on Government Operations, $2,000; Committee on House Administration, $20,000; Permanent Select Committee on Intelligence, $5,000; Committee on the Judiciary, $5,000; Committee on Natural Resources, $100; Committee on Public Works and Transportation, $30,000; Committee on Rules, $2,500; Committee on Science, Space, and Technology, $19,032; Committee on Standards of Official Conduct, $1,000; and Committee on Veterans' Affairs, $1,500.

SEC. 5. In addition to any other activity referred to in this resolution, the Committee on House Administration, using funds from the amount specified with respect to that Committee in section 2—

(1) shall, through House Information Systems, develop, operate, maintain, and improve computer and information services for the House, including direct computer and information systems support for Members, committees, administrative offices, and other governmental entitles, and shall conduct necessary investigations and studies of such services;

(2) is authorized to oversee any reimbursement for services described in paragraph (1) and any expenditure of amounts so reimbursed; and

(3) is authorized to provide for professional development programs, office and personnel management consultation services, and periodic publication of handbooks, guides, bulletins, and other items necessary for the House.

SEC. 6. Payments under this resolution shall be made on vouchers authorized by the committee involved, signed by the chairman of such committee, and approved by the Committee on House Administration.

SEC. 7. Amounts shall be available under this resolution for investigations and studies carried out during the period beginning at noon on January 3, 1994, and ending immediately before noon on January 3, 1995.

SEC. 8. Amounts made available under this resolution shall be expended in accordance with regulations prescribed by the Committee on House Administration.

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

The SPEAKER pro tempore (Mr. DE LA GARZA). Is there objection to the request of the gentleman from Texas?

There was no objection.

COMMITTEE AMENDMENT IN THE NATURE OF A SUBSTITUTE

The SPEAKER pro tempore. The Clerk will report the amendment in the nature of a substitute.

The Clerk read as follows:

Strike out all after the resolving clause and insert the following:

That there shall be paid out of the contingent fund of the House in accordance with

this primary expense resolution not more than the amount specified in section 2 for investigations and studies by each committee named in such section, including expenses—

(1) in the case of a committee named in section 3, for procurement of consultant services under section 202(i) of the Legislative Reorganization Act of 1946; and

(2) in the case of a committee named in section 4, for provision of assistance for members of professional staff in obtaining specialized training under section 202(j) of such Act.

SEC. 2. The committees and amounts referred to in the first section are: Committee on Agriculture, $2,190,199; Committee on Armed Services, $2,500,427; Committee on Banking, Finance and Urban Affairs, $3,953,784; Committee on the District of Columbia, $328,354; Committee on Education and Labor, $3,955,526; Committee on Energy and Commerce, $6,349,077; Committee on Foreign Affairs, $3,800,113; Committee on Government Operations, $3,184,389; Committee on House Administration, $1,902,621; Permanent Select Committee on Intelligence, $104,500; Committee on the Judiciary, $2,465,860; Committee on Merchant Marine and Fisheries, $2,229,175; Committee on Post Office and Civil Service, $1,871,039; Committee on Public Works and Transportation, $2,922,324; Committee on Rules, $708,029; Committee on Science, Space, and Technology, $2,870,655; Committee on Small Business, $1,002,250; Committee on Standards of Official Conduct, $90,000; Committee on Veterans' Affairs, $746,402; and Committee on Ways and Means, $4,826,844.

SEC. 3. (a) Of the amounts provided for in section 2, each committee named in subsection (b) may use not more than the amount specified in such subsection for consultant services under paragraph (1) of the first section.

(b) The committees and amounts referred to in subsection (a) are: Committee on Agriculture, $12,000; Committee on Armed Services, $40,000; Committee on the District of Columbia, $8.000; Committee on Education and Labor, $100,000; Committee on Energy and Commerce, $25,000; Committee on Government Operations, $10,000; Committee on House Administration, $225,000; Committee on Natural Resources, $2,500; Committee on Post Office and Civil Service, $60,000; Committee on Public Works and Transportation, $50,000; Committee on Science, Space, and Technology, $25,000; Committee on Standards of Official Conduct, $45,000; Committee on Veterans' Affairs, $18,750; and Committee on Ways and Means, $10,000.

SEC. 4. (a) Of the amounts provided for in section 2, each committee named in subsection (b) may use not more than the amount specified in such subsection for specialized training under paragraph (2) of the first section.

(b) The committees and amounts referred to in subsection (a) are: Committee on Agriculture, $2,000; Committee on Armed Services, $8,000; Committee on the District of Columbia, $1,000; Committee on Education and Labor, $10,000; Committee on Government Operations, $2,000; Committee on House Administration, $20,000; Permanent Select Committee on Intelligence, $5,000; Committee on the Judiciary, $5,000; Committee on Natural Resources, $100; Committee on Public Works and Transportation, $30,000; Committee on Rules, $2,500; Committee on Science, Space, and Technology, $19,032; Committee on Standards of Official Conduct, $1,000; and Committee on Veterans' Affairs, $1,500.

SEC. 5. In addition to any other activity referred to in this resolution, the Committee on House Administration, using funds from the amount specified with respect to that Committee in section 2—

(1) shall, through House Information Systems, develop, operate, maintain, and improve computer and information services for the House, including direct computer and information systems support for Members, committees, administrative offices, and other governmental entities, and shall conduct necessary investigation and studies of such services;

(2) is authorized to oversee any reimbursement for services described in paragraph (1) and any expenditure of amounts so reimbursed; and

(3) is authorized to provide for professional development programs, office and personnel management consultation services, and periodic publication of handbooks, guides, bulletins, and other items necessary for the House.

SEC. 6. Payments under this resolution shall be made on vouchers authorized by the committee involved, signed by the chairman of such committee, and approved by the Committee on House Administration.

SEC. 7. Amounts shall be available under this resolution for investigations and studies carried out during the period beginning at noon January 3, 1994, and ending immediately before noon on January 3, 1995.

SEC. 8. Amounts made available under this resolution shall be expended in accordance with regulations prescribed by the Committee on House Administration.

SEC. 9. The Committee on House Administration shall have authority to make adjustments in amounts for investigations and studies under section 2, if necessary to comply with an order of the President issued under section 254 of the Balanced Budget and Emergency Deficit Control Act of 1985 or to conform to any reduction in appropriations for the purposes of such section 2.

Mr. FROST (during the reading). Mr. Speaker, I ask unanimous consent that the committee amendment in the nature of a substitute be considered as read and printed in the RECORD.

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

There was no objection.

The SPEAKER pro tempore. The gentleman from Texas [Mr. FROST] is recognized for 1 hour.

□ 1620

Mr. FROST. Mr. Speaker, for the purposes of debate only, I yield the customary 30 minutes to the gentleman from Kansas [Mr. ROBERTS], the ranking minority member of the Subcommittee on Accounts of the Committee on House Administration, pending which I yield myself such time as I may consume, with the understanding that any additional time which I may yield will be subject to the specific limitation, for debate purposes only.

Mr. Speaker, before explaining this amendment, I wish to thank all of the Members of the subcommittee on accounts for their hard work in considering each committee's budget request. Attendance at each session was excellent. In particular, I wish to thank the gentleman from Washington, [AL SWIFT] who is retiring after 15 years of dedicated service on the committee. Finally, I wish to thank all of the chairmen and ranking minority members from the respective committees and their staffs. Their cooperation enabled us to evaluate all budget requests in a through and timely manner.

The committee amendment in the nature of a substitute incorporates all of the subcommittee's determinations on each original primary expense resolution from the customary 20 standing committees and the permanent select committee on intelligence for the 2d session of the 103d Congress. It does not include the Committees on Appropriations and Budget. The proposed amendment was adopted by the subcommittee at its markup on March 8 by a rollcall vote of 8 to 5, after completion of hearings on each individual resolution. The amendment was subsequently adopted without change by the full committee on March 9, by a vote of 12 to 7.

This year the subcommittee had the very difficult task of continuing the process of reducing the cost of Government. When we commenced the hearings, I stated that the subcommittee had two major responsibilities. First, we had to ensure that the committees of the House had adequate funds to discharge their legislative and oversight responsibilities. Second, we had to make certain that the authorization of committee funds was fiscally responsible in an climate of declining resources. In my judgement, we have discharged both of these responsibilities in a manner which attempts to be reasonable and fair.

Regarding the subcommittee's work product, the amendment provides a total authorization which represents a 5-percent reduction from 1993's level. The total authorization for 1993 was $52,774,866. This amount represents the sum of funds authorized by House Resolution 107, the omnibus primary expense resolution for 1993, and funds authorized pursuant to House rule XI, clause 5(f) to continue the four defunct select committees for 3 months of 1993. Both of these amounts were charged to the applicable fiscal year 1993 appropriations line item, for standing committees, special and select. Therefore it is reasonable to include both of these amounts in the 1993 baseline as part of the total authorized amount.

As was the case in 1993, funds saved from entities which have not been reauthorized were not redistributed to other committees.

Instead they were set aside as genuine savings. In addition, further reductions were achieved, from every remaining committee under our jurisdiction. This was done in keeping with the commitment of the House Democratic leadership to cut the cost of Congress.

For the purpose of comparing the 1994 funding level with the funding level for 1993, we have utilized the previously mentioned 1993 authorization

as the baseline. The total amount recommended by the committee amendment for 1994 is $50,128,299. This amount is $2,646,637 below the total authorization of $52,774,866 for 1993. Therefore, the recommended amount for 1994 represents a 5.01-percent reduction from the 1993 authorized level.

Furthermore, the committees under our jurisdiction were frozen in 1992, cut by 5 percent in the aggregate in 1993, and we propose an additional 5-percent reduction for 1994. It is difficult to see how anyone could argue that we have not actually cut the cost of Congress in very real terms.

The subcommittee's amendment cuts every committee in a manner which attempts to be rational and fair. We applied such relevant criteria as each committee's jurisdictional responsibilities, projected 1994 workload, and historical funding patterns to determine the level of cuts. However, we rejected the single criterion which was suggested by our minority colleagues, that is, that reductions should be tied to a committee's alleged treatment or mistreatment of its minority members.

This single predetermined standard seems to be driven by the Republican leadership. Most of the ranking minority members who appeared before the Accounts Subcommittee indicated that they were satisfied with their treatment by their respective chairmen. Yet I doubt that we will get a single Republican vote in support of these genuine cost reductions. The minority leadership has adopted the position that we should reduce overall funding for the committees further, while increasing the minority portion of the remainder to at least 33 percent on all committees. We have to ask ourselves if this is a genuine effort at cost reduction or an attempt to gain partisan advantage.

The subcommittee also resisted attempts to gridlock the process by focusing on matters which are clearly beyond our control. I am referring to funds provided in appropriations for the so-called statutory account and the operation of the Committees on Appropriations and Budget. The consideration of these matters by the Accounts Subcommittee would require changes to House rules and statutory law. These proposals were considered and rejected by the final report of the House Members of the Joint Committee on the Reorganization of Congress.

It is my opinion that the historical rationale for the distinction between these accounts should be maintained. In any event, as I stated previously, these matters are beyond our control.

Mr. Speaker, I would like to take a few minutes to expose the persistent myth that the legislative branch is continually getting larger and more expensive.

Since 1979, appropriations for the entire legislative branch have actually declined by 1.7 percent after adjusting for inflation [AFI]. In contrast, funding for the executive branch has increased by 30 percent [AFI] during this time period.

As the first chart shows, during the Reagan-Bush years civilian executive branch employment grew at an alarming rate—from 2.8 million in 1981 to a high point of over 3.06 million in 1987. This increase under Republican administrations, represented the addition of approximately 250,000 workers to the Federal pay roll. Therefore, I ask you, which party should be labeled "The Big Government Spenders"? It is no wonder President Clinton wants to reduce the executive branch by a quarter million workers. He inherited a lot of leftover fat to trim. This same chart shows, in contrast, that both the legislative branch in general, and the House and Senate in particular, remained static in terms of employees from 1981 to 1993. Committee investigative employees, have actually decreased by 2.47 percent, from 1,013 in 1983, to 988 as of January of 1994.

Clearly the Democratic controlled legislative branch has done a better job of curtailing expenses and staff, than the Republican controlled executive branch did when they had the White House.

The Founding Fathers envisioned the House of Representatives to be the first branch of our National Government. Yet for fiscal year 1994, the appropriations for the entire legislative branch totalled $2.3 billion. This might sound like a lot of money, but it amounts to less than one-fifth of 1 percent of the overall Federal budget.

In terms of employment, the second chart shows that in 1993 there were 2.9 million civilian executive branch employees to 37,000 legislative branch employees. In other words, in 1993 there were 79 civilian executive branch employees, for each legislative branch employee. Frankly, in terms of cost, we are extremely small in comparison to the executive branch. I ask my colleagues, how are we to continue to effectively legislate and oversee the vast Federal bureaucracy if we continue to cut the budget of Congress just for the sake of cutting?

Concerning the investigative account, which is before you today, the third chart shows that from a high point of approximately $60 million in 1991 we have reduced this account steadily to our current proposal of $50 million dollars contained in the committee amendment. The 1994 recommendation is actually $45 million in 1991 constant dollars. Therefore, the resolution is a 24.6 percent reduction from 1991's authorized level after adjustment for inflation.

Finally, I urge all Members to vote for the adoption of this amendment, even though I think that it is fair to say that no one is truly happy with it. Certainly committee chairmen do not like having their budgets cut when they have increasing work loads. The minority is not happy either; but they would have us fire Democrat staff and hire Republican staff and claim that they are reducing spending.

Although no one is satisfied, I urge your support for this reasonable proposal. Tough choices were made and no committee remained untouched; but, we have clearly heard the call of our constituents and our President to reduce the cost of Government.

□ 1630

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

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

Mr. Speaker, I rise in opposition to the amendment offered by Chairman FROST.

I appreciate the comments of the Accounts Subcommittee Chairman MARTIN FROST regarding the majority's proposed committee funding resolution, our subcommittee hearings and the efforts of the minority.

First, I wish to thank all the members for their participation, in particular Congresswoman JENNIFER DUNN, Congressman JOHN BOEHNER, and Congressman BILL THOMAS. I appreciate the professional manner in which the majority, in particular Mr. FROST, has illustrated through our hearings.

Throughout our subcommittee hearings, the minority focused on the growth of committee spending, majority and minority staffing ratios and the historical treatment of the minority. As well, the minority raised issues outside the immediate scope of our committee funding resolution regarding the need to reform the committee funding process and a mandated 4-percent reduction in congressional staff. I know these issues will not be settled today by this debate, but I believe they should become bipartisan concerns and goals for our leadership to resolve.

INVESTIGATIVE FUNDING/BASELINE

For the record, I believe it is important that we all share an understanding of Congress' spending on House committees.

House Resolution 369 is not representative of the entire funding provided committees for 1994. Rather, the resolution only illustrates roughly 41 percent of committees entire spending—or an estimated $51 million of the more than $120 million that will be spent on House committees in 1994. The other funding source, known as statutory funding, is provided directly in the legislative branch appropriations bill and does not have to be annually authorized in this resolution. In addition, committees' investigative resources are provided on a calendar year and statutory resources are provided on fiscal years—a timetable that only confuses the best financial managers and making it impossible to accurately determine a committee's resources.

The minority has developed an alternative to the current system (H. Res. 383) to require annual authorization in an effort to increase oversight and consistency in the committee funding process. I anticipate this will be further discussed later in the debate.

Now, as to the baseline or if a cut is really a cut.

Chairman FROST has indicated that the majority views the baseline for 1994 to be equal to the House's 1993 committee authorization level.

In 1993, the House authorized $52,774,866 in investigative funding for the 21 committees authorized in House Resolution 369, as well as 5 other committees that are no longer in existence, the Joint Committee on the Organization of Congress and 4 select committees—Aging, Children, Narcotics and Hunger.

The majority has calculated the past spending on these five now-defunct committees as part of their 1994 baseline of $52,774,866, a $1,492,475 exaggeration in the actual resources provided 1993 when compared to 1994. Smoke and mirrors to claim a cut that is not a cut.

The minority recognizes that the majority resolution is providing real reductions in committee spending for 1994 beyond the $1.5 million cushion, but these reductions are not at the rate being claimed by the majority. Overall, the majority reduction is a 2.3-percent cut, not the 5 percent that has been asserted.

MINORITY RATIOS

Further, it is important to understand the use and allocation of resources. House rules provide that the chairmen of committees determine the amount of investigative funding provided the minority. The majority determines our minority funding, thus controlling the ability of the minority to respond and develop alternative positions. Such power has lead to longterm understandings and comity between the majority and minority, but this has not been the case on many committees and in some committees the minority has been denied a fair share of the resources.

In response to this concern, an alternative position has been developed that the minority should be provided at least one-third of the investigative funds provided a committee. This figure is in line with the current Senate understanding and previous House votes have supported this guaranteed allocation formula. However, today the minority continues to receive only 21.5 percent of investigative resources. Only 4 of 21 committees provide a figure at or above the 33 percent goal.

Five years ago, Tony Coelho and NEWT GINGRICH were part of the House Administration Committee membership that developed a longterm understanding and agreement on the future investigative funding. The Coelho-Gingrich agreement recognized that minority one-third goal and stated that we would work to reach the one-third goal over the next several years through attrition and increased funding. In 1989, the minority received 16.5 percent of investigative staff compared to the 1994 level of 21.5 percent.

Yes, Mr. Speaker, progress has been made. But, it has been slow. It is estimated that it would be the year 2010 before the one-third goal would be achieved at this rate. This situation only continues to frustrate the minority and we again urge the Democratic leadership to act in helping to resolve this matter. Support a one-third guarantee for the minority.

MINORITY ALTERNATIVE COMMITTEE FUNDING AMENDMENT

Under the direction of the Republican leadership, a Republican alternative to Mr. FROST's proposal was offered to reduce committee's investigative funding by 7.9 percent or $4,051,387—this cut is equal to a 4 percent reduction in entire committee funding—the combination of investigative and statutory funding.

The Republican alternative was developed after considering the mandated reductions agreed upon during debate on the fiscal 1994 Legislative Branch Appropriations Act and its accompanying House report. The act requires a 4 percent staff reduction in the House of Representatives by September 30, 1995. The majority has failed to recognize this requirement with their proposal and we now face uncertainty in how, where and when additional staff cuts will be achieved.

Specifically, the minority alternative provides a 2.5 percent across-the-board reduction for all committees. The remaining impact to achieve a total 7.9 percent reduction is distributed among committees based upon historical staff ratios between the majority and minority, in an effort to reward committees with ratios closet to the one-third minority goal.

The minority alternative was offered a an amendment in the nature of a substitute at both the subcommittee and full committee meetings. Both times this measure failed on a party-line vote.

I intend to offer this same proposal as a motion to recommit and solicit my colleagues support.

CONCLUSION

Mr. Speaker, during these days of deficit spending and budget cutting, we believe Congress should not be an exception. The House of Representatives has seen considerable staff increases in both committee and administrative offices. It is only fair to see these areas reduce spending to assist in achieving responsible reductions in Federal spending.

In addition, the minority is not making an unreasonable request of the majority to terminate staff in order to provide additional slots for minority positions. In fact this goal has been met on several committees through attrition and total committee reductions. Instead, the minority is only trying to highlight a longterm difficulty between the majority and minority. The minority is asking for a commitment that progress will be made in this area.

I appreciate having the opportunity to work with my colleagues on this resolution.

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

Mr. FROST. Mr. Speaker, for purposes of debate only, I yield 2 minutes to the gentleman from North Carolina [Mr. ROSE], the chairman of the Committee on House Administration.

□ 1640

Mr. ROSE. Mr. Speaker, as chairman of the Committee on House Administration, and as an ex-officio member of the Subcommittee on Accounts, I would like to congratulate the gentleman from Texas—Chairman MARTIN FROST—for the excellent work he did in producing this 1994 committee funding resolution.

At a time when we have been directed by our leadership to continue the task of reducing the cost of Congress, the Accounts Subcommittee's final recommendation achieves that objective. It is based upon real reductions, and it cuts every committee.

The aggregate decrease for committees, under the resolution before you today, is 5 percent below 1993's authorized level.

These reductions were accomplished in a rational manner, taking into consideration such factors as jurisdiction, oversight responsibilities, and projected workload for 1994.

Every Member who votes for this resolution, can honestly say that his or her vote reduced the size and operating cost of the House.

I would remind my colleagues that, of the committees which come under this resolution, aggregate spending was frozen in 1992. The following year, in 1993, the House cut that aggregate by 5 percent. This resolution continues the process by cutting another 5 percent.

I urge my colleagues, on both sides of the aisle, to recognize the need for rational—and measured—steps in the downsizing of Government. This resolution recognizes that need, and provides that balance.

I thank the gentleman for yielding me the time.

Mr. ROBERTS. Mr. Speaker, I yield 5 minutes to the distinguished gentleman from Ohio [Mr. BOEHNER], an extremely important member of the subcommittee and a gentleman who has pressed for reform in the way we can better control our overall committee funding resources.

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

Mr. Speaker and my colleagues, I come to the floor today to oppose the committee funding resolution as presented by the majority.

As the gentleman from Kansas [Mr. ROBERTS] has pointed out, what is portrayed as a 5-percent cut really in fact is a 2-percent cut, and we can quibble over the amounts.

But let us all be honest. There was $996,000 included in the baseline from select committees that had been eliminated before last year's resolution came to the floor. We have also included in the baseline some half-million dollars that was spent for the Joint Committee for the Reorganization of Congress, which went out of existence. So to include $1.5 million in the baseline that was never intended to be there this year anyway, I think, stretches the truth just a bit.

So the fact is it is a 2-percent cut. It is a step in the right direction, but, oh, so modest of a step in the right direction.

The second point that I would make is the point that the gentleman from Kansas [Mr. ROBERTS] pointed out, and that is this committee resolution deals with 41 percent of the total committee finances. Total committee funding this year will be $129,927,000, in round numbers, $130 million. The $50 million requested is only 41 percent of those resources.

The gentleman from Kansas [Mr. ROBERTS] did a very good job in pointing out that this process ought to be controlled. These funds, these 41 percent, are on a calendar-year basis. The 38 percent are on a fiscal-year basis. And yet after all of the chairmen and the ranking members have come before the committee to justify why they should get the amounts that they requested, the Committee on Appropriations never came before our committee, nor did the Committee on the Budget, which brings me to my third point, which is the amount of money that is spent on committees.

We have got some very large committees in the Congress, the Committee on Energy and Commerce that spends about $9.6 million, and we have got the Committee on Ways and Means that spends about $7.9 million, Foreign Affairs almost $7 million, and the Committee on Appropriations is also a large committee.

But it costs $21.2 million to fund the Committee on Appropriations.

Now I would suggest that because they do not have to go through this committee funding process, it makes it very easy for them to put the amount of money that they want directly into the legislative appropriations bill and never having to come before the committee to justify their budget. The other point I would make is that last year during the legislative appropriation debate, the Congress voted to cut our staffs by 4 percent. The Congress voted. It was not a proposal from this side or that side. The Congress decided we are going to cut 4 percent of our staff.

We are still groping how we are going to do that. In that request last summer, in that vote, the report language says, and I quote,

> The Director of Non-Legislative and Financial Services, a de facto budget officer, shall prepare a plan for achieving the necessary reductions. This plan should be developed in consultation with and with the approval of the bipartisan leadership consisting of the Speaker, majority leader, and the minority leader and the Committee on House Administration and the House Committee on Appropriations.

Now, I will bring to the Chamber's attention the fact that our chairman, the gentleman from North Carolina [Mr. ROSE], of the Committee on House Administration, brought forth a proposal that was voted on in committee several weeks ago, never having been shared with the minority, never having consulted the minority leader, and you want to talk about a sham for cutting 4 percent of our staff, look what we are going to do.

We are going to contract out the House restaurant system and take the 188 employees who work for us, and we are going to shift them to the outside contractor. We are really cutting staff, I can see. We are also going to count them as part of our 4 percent reduction.

Now, I would say to my colleagues that this is not what we committed to when we cast our vote to reduce our staff by 5 percent, and the fact is that we ought to take our time. We ought to bite the bullet and carry out these reductions.

So the Republican Members today are going to offer a 7.9-percent cut in the investigative funds, the 41 percent of the budget, to try to achieve the 4-percent overall reduction.

I feel bad that we have got to ask the 25 standing committees who have taken a hit last year and who are going to take a hit this year, that we are going to ask them to bear the whole brunt of this. This process does not allow us to cut the Committee on Appropriations or the Committee on the Budget.

So the fact is, support the Republican alternative today.

Mr. FROST. Mr. Speaker, for purposes of debate only, I yield 3 minutes to the gentleman from California [Mr. MINETA], the distinguished chairman of the Committee on Public Works and Transportation.

Mr. MINETA. Mr. Speaker, I rise in support of House Resolution 369, the committees' funding resolution for 1994. I do want to thank and commend the chairman of the Committee on House Administration, Mr. ROSE, the chairman of the Subcommittee on Accounts, Mr. FROST, the distinguished members of the committee and their staff for their diligence and hard work in bringing forward this resolution today. Striking a happy balance with committee budgets is a difficult and thankless job.

Mr. Speaker, I will vote for this resolution—not enthusiastically—but I will vote for it, not because I support the degree of budget cutting we are into now, or even because budget cutting is the politically correct thing to do. I am deeply concerned that if this resolution does not pass, the cuts to committees will be larger, and we will have succeeded in making a disastrous predicament even worse.

Historically, the work of the Congress increases in direct proportion to the enormity of the challenges facing this Nation. Getting more work done with less is quickly becoming one of the greatest of our challenges.

The Committee on Public Works and Transportation, for example, is the largest authorizing committee in Congress, and we have a heavy legislative schedule this session: the Clean Water Act, enactment of the National Highway System, an airport and airway reauthorization bill, and the Water Resources Development Act, just to name a few. Yet, as chair of that committee, I am reduced to operating a major congressional committee by scavenging for used equipment, borrowing staff from agencies and outside organizations, and using volunteer interns. We have eliminated practically all of our travel budget, seriously hampering our oversight operations. My staff works long hours, and I can't even pass along a cost-of-living allowance, much less a merit increase.

I can tell you as a committee Chair, there are countless challenges and frustrations in my job, but few more exasperating than trying to stretch and make do with resources that long ago passed their day. In our committee, we are having to accept that it will be nearly impossible to handle our full agenda on our present budget. Each successive cut just makes our predicament more desperate.

The Constitution provides that we are a co-equal branch of Government. Yet, the 1994 appropriation for the legislative branch is less than one-fifth of 1 percent of the entire Federal budget—one-fifth of 1 percent. I cannot imagine that would even be visible on a pie chart. As we continue to chop away at our one-fifth of 1 percent share, what are we doing to our Government's system of checks and balances?

Matching executive branch cost-cutting targets is going to be extremely difficult because the legislative branch has not grown as fast. In trying to keep up with their pace, I fear we will find that while the executive branch is streamlining, we in the legislative branch are self-destructing. Clearly, we are saving money. But at what cost? We are progressively undermining our

ability to make in-depth, informed legislative judgments and to vigorously pursue our oversight responsibilities.

In my view, we have to take a serious look at what we are doing to this institution. It is time to rethink the size of budget cuts in the legislative branch. In answering to the American people, I would much rather defend funding we truly need, than try to explain that our job did not get done for lack of resources.

There is no doubt we have to pass this resolution, and we should. While it does not go as far as I had hoped in providing the support we need, it does represent a good-faith effort under very difficult circumstances. Accordingly, I will vote for this resolution and urge my colleagues to do the same.

□ 1650

Mr. ROBERTS. Mr. Speaker, I yield 4 minutes to the gentlewoman from Washington [Ms. DUNN], who has made a most valuable contribution to our subcommittee's efforts.

Ms. DUNN. Mr. Speaker, I thank the gentleman very much for yielding this time to me.

First I want to thank the ranking members of our committee, the gentleman from Kansas [Mr. ROBERTS] and the gentleman from California [Mr. THOMAS] for their leadership, and I also appreciate the manner in which Chairman FROST conducted the subcommittee hearings.

We had a good series of hearings and discussions held in our subcommittee, and I believe that this drove the final decision on funding in the right direction, in the direction of cutting the committee funding.

First, let me say that I am pleased that my Democrat colleagues on the Committee on House Administration now support cutting overall committee funding. Personally, I wanted more cuts. In fact, my freshman Republican colleagues have called for more dramatic cuts; last year 25 percent, and this year it was 10 percent.

This call for dramatic cuts is in direct response to the directive of our constituents for more responsible government.

Thus I suppose that the big question is how much should the cut be? According to the Republican baseline, House Resolution 369, passed on a party-line vote, results in a reduction to committee funding by 2.3 percent, a minor cut but still a cut.

The Republican baseline adds up the funds received by the 20 standing committees and the permanent Select Committee on Intelligence. It is fairly simple. We have said here are the remaining committees, what do they need to effectively function? Here is my concern, Mr. Speaker, with the argument put forth by my Democratic colleagues on the committee: They use a baseline that adds in the amounts funded last year for the four select committees and the Joint Committee on the Organization of Congress. Why is that a problem? Let me give you an idea.

As a result of the efforts of the freshman Republican class, the select committees were killed last year, and as a member of the Joint Committee on the Organization of Congress, I can tell everyone that it too is defunct at this point, dead, kaput, finished, over.

In fact, it was created with a explicit 1-year lifespan so it sun setted on 31 December, 1993. Yet the Democrats have added those five dead and buried committees into their baseline before they made their cut. That is why I am amazed that my Democratic colleagues are claiming that they are proposing a 5-percent cut. They are not.

What the majority is proposing is a 2.3-percent reduction in total committee funding and of this 2.3-percent cut, I say be proud of it; it is a minor cut, but it is a cut and it is a start in the right direction.

It is not as much as I wanted, but the majority should be somewhat commended for their efforts.

Mr. Speaker, by claiming a much larger percentage reduction, in reality they are again reinforcing the image in the public minds that Congress just will not level with people. So once again we are strengthening the hands of those who say the Congress is a den of the disingenuous. This is especially ironic when we see the budget of the Joint Committee on the Organization of Congress, since one of its primary missions was to improve public understanding of the Congress, yet here we are using 1993 budget numbers to inflate and create a bogus baseline and thereby confuse the public rather than increase public understanding.

Mr. Speaker, the taxpayers of America want to know why a cut is not a cut; why increases sometimes are called cuts; but why these misleading baselines are used to make the public think that bold action is being taken when plainly it is not.

We have many honorable men and women in this body, Mr. Speaker, yet we do a disservice to each and every one of them when we try to shave the issues. For the good of the institution and for the sake of clarity, let us be candid. Republicans want a 7.9-percent cut in committee funding, and Democrats want a 2.3-percent reduction. Fair enough, Mr. Speaker, let us state the facts, vote the issues, and then take it to the American people.

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

Mr. FROST. Mr. Speaker, for purposes of debate only, I yield 2 minutes to the gentlewoman from Connecticut [Mrs. KENNELLY], a member of the subcommittee.

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

Mr. Speaker, I want to commend the chairman of the Accounts Subcommittee, the gentleman from Texas [Mr. FROST], for the way he has managed the course on which we have embarked—which is a gradual and rational reduction in committee funding as part of an overall effort to streamline the congressional branch of Government.

Last year, as we have heard, committee funding was cut by 5 percent, and again this year the Accounts Subcommittee presents the House with another 5-percent reduction overall. Some committees were cut more than others for a variety of reasons including their 1994 projected workload, but the important point is that no committee escaped the knife—all committees were cut. I do not believe these cuts are painless. Rather, I believe they will have some negative effect on the ability of committees to function and will require some adjustment by the chairmen and ranking minority members of the committees. That is why I do not support any deeper cuts and hope the House would overwhelmingly reject any such suggestion.

Finally, Mr. Speaker, I would simply like to note for the record that in 1987 the subcommittee began to suggest to the committees over which it has jurisdiction that there was need to improve the number of women in top jobs within the committee structures. Since that time, the number of women staff directors has risen from zero to seven, and the number of women counsels, staff directors, and staff within 75 percent of the pay cap has increased by 25 percent. This is a good trend, and I think we will improve in the future.

Mr. Speaker, I strongly support this resolution and oppose the motion to recommit.

Mr. ROBERTS. Mr. Speaker, I yield 3 minutes to the gentleman from Florida [Mr. MICA], who is not a member of the subcommittee but who made a valuable contribution during our hearing process.

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

Mr. Speaker, I appreciate the opportunity to address the House on this issue.

I am here really to speak about unfairness in this resolution and also unfairness in this process. If we could take just a minute, I would like to tell you I am a member of the Committee on Government Operations. The House Government Operations Committee is one of the oldest committees in this Congress. In fact, in the history of the Congress it dates back to 1814 and it broke off from the Committee on Ways and Means. In 1814 our predecessors and Founders had the wisdom to see that we should have oversight and investigations of how the taxpayers' money is spent and how Government is operated here. That is the important task

of the House Government Operations Committee. It is different from almost any other committee, maybe, with the exception of the Committee on Standards of Official Conduct, dealing with ethics.

Let me say that the unfairness that we see is demonstrated purely by the facts and statistics.

Look at the distribution of the investigative staff for the Government Operations Committee. The minority has 14 percent, the majority has 58 percent. As far as the dollars—and I am not here asking for a penny more in dollars or a penny more in staff for this committee—I am saying what is unfair is the distribution.

□ 1700

The expenditures:

The Republicans will get $594,000; the Democrats, $2.1 million, and then just look at the graphic illustration. Nine minority staff investigators, and that is only because I have raised Cain on this issue from the first day we came here, and now we have 52 in the majority.

Is that the proper distribution of staff and taxpayer funds?

And what is most important is this is really a question of the integrity of this process. It is not just a question of fairness. We are dealing with a committee that deals with the investigation and oversight of the executive branch of government.

Is this fair?

This actually again deals with the integrity of the process. The minority does not have the tools, the staff or the financing to conduct a fair oversight, to conduct fair investigations and to participate in the process in a fair and equitable manner.

What is even more disconcerting to me today is that the other party controls the White House, the executive branch, all the legislative branches, and here we are responsible for investigations in oversight.

Not only is the minority being cut off from staff now, we have seen a very dangerous precedent with the Whitewater investigations. We are also being cut off from information.

So, my colleagues, I talk today about a question not only about fairness, but a question of integrity of the very process where the Committee on House Administration is not funded under this resolution. It is unfair, and I ask my colleagues to vote against it, and I ask my colleagues to join me in bringing fairness and integrity to this process.

Mr. FROST. Mr. Speaker, for purposes of debate only, I yield 4 minutes to the distinguished gentleman from Washington [Mr. SWIFT] who has served valiantly on this subcommittee for many years.

Mr. SWIFT. Mr. Speaker, I want to commend the gentleman from Texas [Mr. FROST] as well as the gentleman from Kansas [Mr. ROBERTS]. I think of them as the chairman and ranking member on the thankless task force which is the Subcommittee on Accounts.

Mr. Speaker, as my colleagues know, there is a game that children play, probably been playing it since Og came out of a cave and hit something with a rock. I call it the "My daddy can beat up your daddy" kind of game, and it sometimes is played this way, although one could use a whole bunch of different ways of playing it, but sometimes one kid will say, "My daddy makes a million dollars," and the other kid will say, "My daddy makes $2 million," to which the response is, "My daddy makes $5 million," to which, of course, the response is, "My daddy makes $10 million."

Then, Mr. Speaker, someone always finds the capper, the one that wins the debate: "My daddy makes a million dollars more than whatever your daddy makes."

No response; somebody loses.

Mr. Speaker, as my colleagues know, we play that game here in this institution, only it goes more like this:

What if we cut that appropriation 5 percent?

No, I want more.

What if we cut it 7½ percent?

No, I want to cut it more.

What if we cut it 10 percent?

Then, Mr. Speaker, if they are real candid, they will say, "No, you don't understand. No matter what you want to cut, I want to cut it more."

That is the game that we are playing here, Mr. Speaker, but in this particular instance they are bringing new meaning to the word more because not only do they want to cut more, but they also want to spend more on themselves.

I say to my colleagues, That's a great game if you can get away with it, and I do not blame anybody for trying that.

Here we have a proposal before us which has a 5-percent cut below the spending that the House had in the last Congress, and every single committee of this House participates and has its share of that cut. But what they say is that they want to cut more and spend more, and how do they do that? They cut the Democrats more, and they spend more on the Republicans, and if I could get away with that, I think we might try that over here sometime. It is a bait and switch kind of game. They do not use the same argument to rationalize the two actions they are taking. For cutting the Democrats, Mr. Speaker, they use the standard reduce government spending argument. To justify their increases they use a different argument, namely an argument that we need more in order to do the job.

That is great. I admire the audacity. But I urge all of my colleagues to vote for the real, no-gains, everybody-contributes, cut in congressional spending, and that measure is the majority proposal. Vote against the motion to recommit, and vote for the committee proposal.

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

Mr. Speaker, I would like to pay at this point in the debate a tribute to my friend and colleague, the gentleman from Washington [Mr. SWIFT] who is not running for reelection and who has a long record of service to the Committee on House Administration and to this Congress. It is tough duty being on the Committee on House Administration. He referred to the job I have and the job that the gentleman from Texas [Mr. FROST] has as a thankless task. I have known Mr. SWIFT on a personal friendship basis and on a working colleague basis for 12 of the 14 years I have been here and working on the Committee on House Administration. I want to wish him well.

Mr. Speaker, the gentleman from Washington [Mr. SWIFT] is usually in good spirits. Reform sometimes is in the eyes of the beholder, and there are occasions when we have had strong differences of opinion as to what is a cut, what is the baseline, what is an appropriate figure for the minority, is the minority truly saying, "We will cut, but, yes, we would like some more for our side," and that is certainly true, but we can do it in a different way, or, as has been said in the gentleman's profession: There is another side to the story.

Mr. Speaker, I had meant to give the gentleman from Washington [Mr. SWIFT] a happy pill before we started this debate in the hopes that we could achieve the continued bipartisan dialog that we have always enjoyed, and he has not really tossed a lemon into this debate because between us both we have always been able to make lemonade out of a lemon.

Now, Mr. Speaker, having said that and wishing him well——

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

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

Mr. SWIFT. Mr. Speaker, I would simply point out that the gentleman from Kansas [Mr. ROBERTS] and I happen to park our cars next to each other, and, as tough as it sometimes gets on the Committee on House Administration, neither of us has ever come back and found a dent kicked in the side of our car. It says something, I think about our character.

Mr. Speaker, I thank the gentleman from Kansas [Mr. ROBERTS].

Mr. ROBERTS. Mr. Speaker, I thank the gentleman from Washington [Mr. SWIFT] for his observation, and I have been very careful to look in the rear view mirror when I want to reverse the course of the majority in this Congress.

Let me quote from a study conducted by two gentlemen that are preeminent in their profession, Thomas Mann and Norman Ornstein "A Second Report of the Renewing Congress Project," where they say:

But the recommendations of the Joint Committee in this area are too limited in particular, we believe that the House must address the issue of inequity in staff resources by guaranteeing the minority party one-third of the investigative staff on committees, just like the rules that now guarantees the minority one-third of the statutory staff. The majority party in Congress has unique responsibilities, including administrative ones, but there is no good reason to deny a reasonable share of the institution's resources to the minority.

That is all we are asking. Part of what we are is what they allow us to be, and we have moved from 16 to 21 percent, but it is going to take us to the year 2010 before we get adequate resources at least to the level it was agreed to 5 years ago. That is why we are upset. That is why we have a little blood pressure about this.

Now in relation to the so-called cuts where there are no cuts, since 1984 to date we have increased per year in committee funding, with the exception of some committees who have had freezes, and I am privileged to serve on one, but the average increase the last 10 years: 4.71 percent. The total, that is a 55-percent increase total.

□ 1710

Now, it is true that the majority party has a 2.3-percent decrease in funding. It is not 5 percent. Oh, it is 5 percent if you add in the select committees that you have already cut, and it is 5 percent if you add in the Joint Committee on the Organization of the Congress. This is not really cutting off our nose to save our face. You missed the nose. It is 2.3 percent.

Having said that, let me point out the longstanding increases since 1947. That goes back a long ways.

The committee investigative funding authorizations have gone up 6,458 percent. Members' clerk-hire authorizations, 5,767 percent; legislative branch, 3,625 percent. Yes, I am saying thousand. U.S. per capita income, 1,401 percent; House committee staff employment, 1,133 percent up; the Consumer Price Index, only 533 percent; Members' clerk-hire employment, 398 percent.

I think you can see over the long term the Congress has really not been suffering too much in regard to adequate funding.

So during these days of deficit spending and budget cutting, we obviously believe on our side that Congress should not be an exception. As I have indicated, the House has seen considerable staff increases in both committees and in administrative offices. I believe it is only fair to see these areas really reduce spending to assist in achieving responsible reductions in Federal spending.

I do not think the minority is making an unreasonable request of the majority to reduce staff in order to provide additional slots for the minority position. The gentleman from Florida [Mr. MICA] has the unique notion that the staffing should reflect the actual ratio of Democrats and Republicans in the House. What could be more fair than that?

Instead, the minority has only tried to highlight a long-term difficulty between the majority and the minority, and the minority is asking for a commitment that real progress will be made in this area.

In fact, this goal has been met by several ways, not asking the majority to cut back, but through attrition. In some cases on committees that I know of, they have made joint efforts to reduce, and, in so doing, raised the minority ratio. So it is not only that we ask the Democrats to cut to simply increase the Republican staff.

At this juncture, Mr. Speaker, I want to again thank the distinguished chairman of the subcommittee. I appreciate having the opportunity to work with my colleagues on this resolution. I am going to reserve the balance of my time.

The SPEAKER pro tempore (Mr. DE LA GARZA). The gentleman from Kansas [Mr. ROBERTS] has 3 minutes remaining, and the gentleman from Texas [Mr. FROST] has 9 minutes remaining.

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

Mr. FAZIO. Mr. Speaker, I rise to congratulate the chairman of the Subcommittee on Accounts on the fine work that he has done.

Mr. Speaker, the funding resolution we are considering today provides authorizations to expend funds appropriated by the House for the investigative activities of 21 standing committees of the House.

The resolution provides $50.1 million for the investigations and studies during 1994 of those 21 committees, excluding Appropriations and the Budget Committees.

The Appropriations Committee also has an investigative budget. For our surveys and investigations staff we have appropriated $6.4 million for the salaries and expenses in fiscal year 1994 for the investigations and studies conducted by the Appropriations Committee. In calendar 1993, 67 staff years of activity produced 38 reports and 76 supplemental memorandums.

Those funds were provided as authorized by law, in the fiscal year 1994 Legislative Branch Appropriations Act.

The funds were contained in a single line item in the appropriations bill and were subject to the will of the House when we considered that bill last June.

The bill also contained $389,000 for similar activities of the Budget Committee.

So there is a comparable procedure to what we are doing today for the other committees. The difference is that the Appropriations and Budget Committees investigative funds are separated out—and are therefore more vulnerable to amendments.

I think any criticism of this procedure is unfounded. The process is straightforward. There is not additional protection given to our investigative funding.

If the minority wants to reduce the funding for the so-called rule XI committee employees—the professional staffs of each standing committee—including Appropriations and Budget—they can do so by offering an amendment on the legislative appropriations bill. The salary funds for those employees are carried in one line item in that bill. If you want to reduce that budget, do it on the actual funding bill—legislative appropriations.

Mr. DINGELL. Mr. Speaker, I rise in strong support of H.R. 369, the committee funding resolution for 1994. I want to thank and commend the chairman of the Subcommittee on Accounts, Mr. FROST, and all the members of the subcommittee and the full House Administration Committee for the fairness and courtesy with which we have been treated in this process.

This resolution represents a responsible approach to the matter of committee funding. While it imposes discipline, it will also allow our committees sufficient resources to fulfill their responsibilities to the full membership of the House. Some of the more important measures to be considered by the 103d Congress fall within the jurisdiction of the Committee on Energy and Commerce, foremost among them health care reform. We are also working on reform of our telecommunications regulatory system, as well as reauthorization of Superfund and the Resource Conservation and Recovery Act.

This resolution wisely and prudently acknowledges the need for fiscal responsibility with the American public's demand that we complete our work, and I urge my colleagues to support the resolution.

Mr. BARRETT of Nebraska. Mr. Speaker, I rise in opposition to the committee funding resolution. Funding resolutions used to be worked out with compromise and trust. However, these two qualities have deteriorated more and more with the passage of time.

After 3 years on this committee, my frustration with the committee grows. The partisan gamesmanship that pervades the committee has created an atmosphere of inefficient government. Our constituents deserve better. When Republicans drafted their proposal for committee funding they did so with the intent of meeting several goals. First, we wanted to remain committed to providing adequate investigative funding, while also substantially reducing the spending by the committees. Second, we wanted to meet the House's overall target of a 4-percent reduction in staff positions by fiscal year 1995.

This goal would have been much easier to achieve with the Republican alternative than with House Resolution 369, because the funding reductions in this resolution are not serious enough to mandate any further staff reductions.

Third, Republicans had requested funding amounts for the committees to reflect a fair allocation for the minority, by allocating one-third of committee funds to the minority party. In the end, as is the case most of the time with this

committee, the decisions were made along party lines.

At our last committee meeting, this frustration came to a head. A committee resolution that concerned the contracting out of the House restaurants contained a provision I had dealt with as a member of the bipartisan Administrative Oversight Subcommittee. This provision was taken out of the bipartisan structure and installed in a resolution at the partisan level and rammed down on the minority. This was a complete breech of trust as to how the Administrative Oversight Subcommittee works and functions.

I had been under the impression that, in the wake of the House scandals of the past, this bipartisan committee was created to deal with nonlegislative and financial issues in a fair and impartial manner.

What is the purpose of even having this bipartisan subcommittee if every issue that the majority can't pass at the subcommittee level goes to the full committee and passes along a party-line vote?

While I do not expect the minority party to get equal treatment with respect to the majority, I do think that we deserve a fair treatment. Asking for fair treatment is not an unreasonable request.

But today, we are presented with a funding resolution that makes minimal reductions in committee spending. The resolution also diminishes the bipartisan goal, to allocate one-third of investigative funds to the minority party.

Mr. Speaker, the whole process of committee funding is in need of reform. This resolution only authorizes 41 percent of total committee funding. The other 59 percent is directly appropriated with no review by the authorizing committee.

I urge my colleagues to vote against this measure and send it back to the committee where comity and bipartisanship can perhaps begin anew.

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

Mr. FROST. Mr. Speaker, I yield back the balance of my time, and I move the previous question on the committee amendment in the nature of a substitute and the resolution.

The previous question was ordered.

The SPEAKER pro tempore. The question is on the committee amendment in the nature of a substitute.

The committee amendment in the nature of a substitute amendment was agreed to.

MOTION TO RECOMMIT OFFERED BY MR. ROBERTS

Mr. ROBERTS. Mr. Speaker, I offer a motion to recommit.

The SPEAKER pro tempore. Is the gentleman opposed to the resolution?

Mr. ROBERTS. Mr. Speaker, I am, in its present form.

The SPEAKER pro tempore. The Clerk will report the motion to recommit.

The Clerk read as follows:

H. RES. 369. MOTION TO RECOMMIT

Mr. ROBERTS moves to recommit the resolution H. Res. 369 to the Committee on House Administration with instructions to promptly report back to the House a resolution identical to the text of H. Res. 369 as amended by the House, except for the following: Strike Section 2 and insert in lieu thereof the following:

Section 2. "The committee and amounts referred to in the first section are:

Committee on Agriculture, $2,201,489.00, 33% of such amount, or such greater percent as may be agreed to by the Chairman and Ranking Minority Member, to be paid at the direction of the Ranking Minority Member.

Committee on Armed Services, $2,462,542.00, 33% of such amount, or such greater percent as may be agreed to by the Chairman and Ranking Minority Member, to be paid at the direction of the Ranking Minority Member.

Committee on Banking, Finance and Urban Affairs, $3,864,598.00, 33% of such amount, or such greater percent as may be agreed to by the Chairman and Ranking Minority Member, to be paid at the direction of the Ranking Minority Member.

Committee on District of Columbia, $333,484.00, 33% of such amount, or such greater percent as may be agreed to by the Chairman and Ranking Minority Member, to be paid at the direction of the Ranking Minority Member.

Committee on Education and Labor, $3,798,387.00, 33% of such amount, or such greater percent as may be agreed to by the Chairman and Ranking Minority Member, to be paid at the direction of the Ranking Minority Member.

Committee on Energy and Commerce, $5,677,655.00, 33% of such amount, or such greater percent as may be agreed to by the Chairman and Ranking Minority Member, to be paid at the direction of the Ranking Minority Member.

Committee on Foreign Affairs, $3,627,960.00, 33% of such amount, or such greater percent as may be agreed to by the Chairman and Ranking Minority Member, to be paid at the direction of the Ranking Minority Member.

Committee on Government Operations, $2,899,495.00, 33% of such amount, or such greater percent as may be agreed to by the Chairman and Ranking Minority Member, to be paid at the direction of the Ranking Minority Member.

Committee on House Administration, $1,755,956.00, 33% of such amount, or such greater percent as may be agreed to by the Chairman and Ranking Minority Member, to be paid at the direction of the Ranking Minority Member.

Permanent Select Committee on Intelligence, $104,500.00, 33% of such amount, or such greater percent as may be agreed to by the Chairman and Ranking Minority Member, to be paid at the direction of the Ranking Minority Member.

Committee on the Judiciary, $2,154,583.00, 33% of such amount, or such greater percent as may be agreed to by the Chairman and Ranking Minority Member, to be paid at the direction of the Ranking Minority Member.

Committee on Merchant Marine and Fisheries, $2,154,439.00, 33% of such amount, or such greater percent as may be agreed to by the Chairman and Ranking Minority Member, to be paid at the direction of the Ranking Minority Member.

Committee on Natural Resources, $1,973,273.00, 33% of such amount, or such greater percent as may be agreed to by the Chairman and Ranking Minority Member, to be paid at the direction of the Ranking Minority Member.

Committee on Post Office and Civil Service, $1,708,533.00, 33% of such amount, or such greater percent as may be agreed to by the Chairman and Ranking Minority Member, to be paid at the direction of the Ranking Minority Member.

Committee on Public Works and Transportation, $2,823,263.00, 33% of such amount, or such greater percent as may be agreed to by the Chairman and Ranking Minority Member, to be paid at the direction of the Ranking Minority Member.

Committee on Rules, $622,242.00, 33% of such amount, or such greater percent as may be agreed to by the Chairman and Ranking Minority Member, to be paid at the direction of the Ranking Minority Member.

Committee on Science, Space and Technology, $2,748,494.00, 33% of such amount, or such greater percent as may be agreed to by the Chairman and Ranking Minority Member, to be paid at the direction of the Ranking Minority Member.

Committee on Small Business, $1,001,233.00, 33% of such amount, or such greater percent as may be agreed to by the Chairman and Ranking Minority Member, to be paid at the direction of the Ranking Minority Member.

Committee on Standards of Official Conduct, $97,500.00, 33% of such amount, or such greater percent as may be agreed to by the Chairman and Ranking Minority Member, to be paid at the direction of the Ranking Minority Member.

Committee on Veteran's Affairs, $715,203.00, 33% of such amount, or such greater percent as may be agreed to by the Chairman and Ranking Minority Member, to be paid at the direction of the Ranking Minority Member.

Committee on Ways and Means, $4,507,185.00, 33% of such amount, or such greater percent as may be agreed to by the Chairman and Ranking Minority Member, to be paid at the direction of the Ranking Minority Member.

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

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

There was no objection.

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

There was no objection.

The SPEAKER pro tempore. The question is on the motion to recommit.

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

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

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

The Sergeant at Arms will notify absent Members.

The Chair announces that under the appropriate rule, if necessary, he will reduce the vote on final passage to 5 minutes.

The vote was taken by electronic device, and there were—yeas 172, nays 251, not voting 10, as follows.

[Roll No. 79]

YEAS—172

Allard
Archer
Armey
Bachus (AL)
Baker (CA)
Baker (LA)
Ballenger
Barrett (NE)
Bartlett
Barton
Bateman
Bentley
Bereuter
Bilirakis
Bliley
Blute
Boehlert
Boehner
Bonilla
Bunning
Burton
Buyer
Callahan
Calvert
Camp
Canady
Castle
Clinger
Coble
Collins (GA)
Combest
Cox
Crane
Crapo
Cunningham
DeLay
Diaz-Balart
Dickey
Doolittle
Dornan
Dreier
Duncan
Dunn
Ehlers
Emerson
Everett
Ewing
Fawell
Fields (TX)
Fish
Fowler
Franks (CT)
Franks (NJ)
Gallegly
Gekas
Gilchrest
Gilman
Gingrich
Goodlatte
Goodling
Goss
Grams
Greenwood
Gunderson
Hancock
Hansen
Harman
Hastert
Hefley
Hobson
Hoekstra
Hoke
Horn
Houghton
Huffington
Hunter
Hutchinson
Hyde
Inglis
Inhofe
Istook
Jacobs
Johnson (CT)
Johnson, Sam
Kasich
Kim
King
Kingston
Klug
Knollenberg
Kolbe
Kyl
Lazio
Leach
Levy
Lewis (CA)
Lewis (FL)
Lightfoot
Linder
Livingston
Machtley
Manzullo
McCandless
McCollum
McCrery
McDade
McHugh
McInnis
McKeon
McMillan
Meyers
Mica
Michel
Miller (FL)
Molinari
Moorhead
Morella
Myers
Nussle
Oxley
Packard
Paxon
Petri
Pombo
Porter
Portman
Pryce (OH)
Quinn
Ramstad
Ravenel
Regula
Ridge
Roberts
Rogers
Rohrabacher
Ros-Lehtinen
Roth
Roukema
Royce
Santorum
Saxton
Schaefer
Schiff
Sensenbrenner
Shaw
Shays
Shuster
Skeen
Smith (MI)
Smith (NJ)
Smith (OR)
Smith (TX)
Snowe
Solomon
Spence
Stearns
Stump
Talent
Taylor (NC)
Thomas (CA)
Thomas (WY)
Torkildsen
Upton
Vucanovich
Walker
Walsh
Weldon
Wolf
Young (AK)
Young (FL)
Zeliff
Zimmer

NAYS—251

Abercrombie
Ackerman
Andrews (ME)
Andrews (NJ)
Andrews (TX)
Applegate
Bacchus (FL)
Baesler
Barca
Barcia
Barlow
Barrett (WI)
Becerra
Beilenson
Berman
Bevill
Bilbray
Bishop
Blackwell
Bonior
Borski
Boucher
Brewster
Brooks
Browder
Brown (CA)
Brown (FL)
Brown (OH)
Bryant
Byrne
Cantwell
Cardin
Carr
Chapman
Clayton
Clement
Clyburn
Coleman
Collins (IL)
Collins (MI)
Condit
Conyers
Cooper
Coppersmith
Costello
Coyne
Cramer
Danner
Darden
de la Garza
Deal
DeFazio
DeLauro
Dellums
Derrick
Deutsch
Dicks
Dingell
Dixon
Dooley
Durbin
Edwards (CA)
Edwards (TX)
Engel
English
Eshoo
Evans
Farr
Fazio
Fields (LA)
Filner
Fingerhut
Flake
Foglietta
Ford (MI)
Ford (TN)
Frank (MA)
Frost
Furse
Gejdenson
Gephardt
Geren
Gibbons
Glickman
Gonzalez
Gordon
Green
Gutierrez
Hall (OH)
Hall (TX)
Hamburg
Hamilton
Hayes
Hefner
Hilliard
Hinchey
Hoagland
Hochbrueckner
Holden
Hoyer
Hughes
Hutto
Inslee
Jefferson
Johnson (GA)
Johnson (SD)
Johnson, E. B.
Johnston
Kanjorski
Kaptur
Kennedy
Kennelly
Kildee
Kleczka
Klein
Klink
Kopetski
Kreidler
LaFalce
Lambert
Lancaster
Lantos
LaRocco
Laughlin
Lehman
Levin
Lewis (GA)
Lipinski
Lloyd
Long
Lowey
Mann
Manton
Margolies-Mezvinsky
Markey
Martinez
Matsui
Mazzoli
McCloskey
McCurdy
McDermott
McHale
McKinney
McNulty
Meehan
Meek
Menendez
Mfume
Miller (CA)
Mineta
Minge
Mink
Moakley
Mollohan
Montgomery
Moran
Murphy
Murtha
Nadler
Neal (MA)
Neal (NC)
Oberstar
Obey
Olver
Ortiz
Orton
Owens
Pallone
Parker
Pastor
Payne (NJ)
Payne (VA)
Pelosi
Penny
Peterson (FL)
Peterson (MN)
Pickett
Pickle
Pomeroy
Poshard
Price (NC)
Rahall
Rangel
Reed
Reynolds
Richardson
Roemer
Rose
Rostenkowski
Rowland
Roybal-Allard
Rush
Sabo
Sanders
Sangmeister
Sarpalius
Sawyer
Schenk
Schroeder
Schumer
Scott
Serrano
Sharp
Shepherd
Sisisky
Skaggs
Skelton
Slattery
Slaughter
Smith (IA)
Spratt
Stark
Stenholm
Stokes
Strickland
Studds
Stupak
Swett
Swift
Synar
Tanner
Tauzin
Taylor (MS)
Tejeda
Thompson
Thornton
Thurman
Torres
Torricelli
Towns
Traficant
Tucker
Unsoeld
Valentine
Velázquez
Vento
Visclosky
Volkmer
Washington
Waters
Watt
Waxman
Wheat
Whitten
Williams
Wilson
Wise
Woolsey
Wyden
Wynn
Yates

NOT VOTING—10

Clay
Gallo
Gillmor
Grandy
Hastings
Herger
Maloney
Natcher
Quillen
Sundquist

□ 1737

The Clerk announced the following pair:

On this vote:

Mr. Quillen for, with Mrs. Maloney against.

Mr. GEPHARDT and Mr. BROWDER changed their vote from "yea" to "nay."

Mr. SAM JOHNSON of Texas changed his vote from "nay" to "yea."

So the motion to recommit was rejected.

The result of the vote was announced as above recorded.

The SPEAKER pro tempore (Mr. DE LA GARZA). The question is on the resolution, as amended.

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

RECORDED VOTE

Mr. ROBERTS. Mr. Speaker, I demand a recorded vote.

A recorded vote was ordered.

The SPEAKER pro tempore. This will be a 5-minute vote.

The vote was taken by electronic device, and there were—ayes 250, noes 172, not voting 11, as follows:

[Roll No. 80]

AYES—250

Abercrombie
Ackerman
Andrews (ME)
Andrews (NJ)
Andrews (TX)
Applegate
Bacchus (FL)
Baesler
Barca
Barcia
Barlow
Barrett (WI)
Becerra
Beilenson
Berman
Bevill
Bilbray
Bishop
Blackwell
Bonior
Borski
Boucher
Brewster
Brooks
Browder
Brown (CA)
Brown (FL)
Brown (OH)
Bryant
Byrne
Cantwell
Cardin
Carr
Chapman
Clayton
Clement
Clyburn
Coleman
Collins (IL)
Collins (MI)
Condit
Conyers
Cooper
Coppersmith
Costello
Coyne
Cramer
Danner
Darden
de la Garza
Deal
DeFazio
DeLauro
Dellums
Derrick
Deutsch
Dicks
Dingell
Dixon
Dooley
Durbin
Edwards (CA)
Edwards (TX)
Engel
English
Eshoo
Evans
Farr
Fazio
Fields (LA)
Filner
Fingerhut
Flake
Foglietta
Ford (MI)
Ford (TN)
Frank (MA)
Frost
Furse
Gejdenson
Gephardt
Geren
Gibbons
Glickman
Gonzalez
Gordon
Green
Hall (TX)
Hamburg
Hamilton
Hayes
Hefner
Hilliard
Hinchey
Hoagland
Hochbrueckner
Holden
Hoyer
Hughes
Hutto
Inslee
Jefferson
Johnson (GA)
Johnson (SD)
Johnson, E. B.
Johnston
Kanjorski
Kaptur
Kennedy
Kennelly
Kildee
Kleczka
Klein
Klink
Kopetski
Kreidler
LaFalce
Lambert
Lancaster
Lantos
LaRocco
Laughlin
Lehman
Levin
Lewis (GA)
Lipinski
Lloyd
Long
Lowey
Mann
Manton
Margolies-Mezvinsky
Markey
Martinez
Matsui
Mazzoli
McCandless
McCloskey
McCurdy
McDermott
McHale
McKinney
McNulty
Meehan
Meek
Menendez
Mfume
Miller (CA)
Mineta
Minge
Mink
Moakley
Mollohan
Montgomery
Moran
Murphy
Murtha
Nadler
Neal (MA)
Neal (NC)
Oberstar
Obey
Olver
Ortiz
Orton
Owens
Pallone
Parker
Pastor
Payne (NJ)
Payne (VA)
Pelosi
Penny
Peterson (FL)
Peterson (MN)
Pickett
Pickle
Pomeroy
Poshard
Price (NC)
Rahall
Rangel
Reed
Reynolds
Richardson
Roemer
Rose
Rostenkowski
Rowland
Roybal-Allard
Rush
Sabo
Sanders
Sangmeister
Sarpalius
Sawyer
Schenk
Schroeder
Schumer
Scott
Serrano
Sharp
Shepherd
Sisisky
Skaggs
Skelton
Slattery
Slaughter
Smith (IA)
Spratt
Stark
Stenholm
Stokes
Strickland
Studds
Stupak
Swett
Swift
Synar
Tanner
Tauzin
Taylor (MS)
Tejeda
Thompson
Thornton
Thurman
Torres
Torricelli
Towns
Traficant
Tucker
Unsoeld
Valentine
Velazquez
Vento
Visclosky
Volkmer
Washington
Watt
Waxman
Wheat
Whitten
Williams
Wilson
Wise
Woolsey
Wyden
Wynn
Yates
Young (AK)

NOES—172

Allard
Archer
Armey
Bachus (AL)
Baker (CA)
Baker (LA)

Ballenger
Barrett (NE)
Bartlett
Barton
Bateman
Bentley
Bereuter
Bilirakis
Bliley
Blute
Boehlert
Boehner
Bonilla
Bunning
Burton
Buyer
Callahan
Calvert
Camp
Canady
Castle
Clinger
Coble
Collins (GA)
Combest
Cox
Crane
Crapo
Cunningham
DeLay
Diaz-Balart
Dickey
Doolittle
Dornan
Dreier
Duncan
Dunn
Ehlers
Emerson
Everett
Ewing
Fawell
Fields (TX)
Fish
Fowler
Franks (CT)
Franks (NJ)
Gallegly
Gekas
Gilchrest
Gilman
Gingrich
Goodlatte
Goodling
Goss
Grams
Greenwood
Gunderson
Gutierrez
Hall (OH)
Hancock
Hansen
Harman
Hastert
Hefley
Hobson
Hoekstra
Hoke
Horn
Houghton
Huffington
Hunter
Hutchinson
Hyde
Inglis
Inhofe
Istook
Jacobs
Johnson (CT)
Johnson, Sam
Kasich
Kim
King
Kingston
Klug
Knollenberg
Kolbe
Kyl
Lazio
Leach
Levy
Lewis (CA)
Lewis (FL)
Lightfoot
Linder
Livingston
Machtley
Manzullo
McCollum
McCrery
McDade
McHugh
McInnis
McKeon
McMillan
Meyers
Mica
Michel
Miller (FL)
Molinari
Moorhead
Morella
Myers
Nussle
Oxley
Packard
Paxon
Petri
Pombo
Porter
Portman
Pryce (OH)
Quinn
Ramstad
Ravenel
Regula
Ridge
Roberts
Rogers
Rohrabacher
Ros-Lehtinen
Roth
Roukema
Royce
Santorum
Saxton
Schaefer
Schiff
Sensenbrenner
Shaw
Shays
Shuster
Skeen
Smith (MI)
Smith (NJ)
Smith (OR)
Smith (TX)
Snowe
Solomon
Spence
Stearns
Stump
Talent
Taylor (NC)
Thomas (CA)
Thomas (WY)
Torkildsen
Upton
Vucanovich
Walker
Walsh
Weldon
Wolf
Young (FL)
Zeliff
Zimmer

NOT VOTING—11

Clay
Gallo
Gillmor
Grandy
Hastings
Herger
Maloney
Natcher
Quillen
Sundquist
Waters

□ 1745

Mr. LEWIS of California changed his vote from "aye" to "no."

So the resolution, as amended was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

PERSONAL EXPLANATION

Ms. WATERS. Mr. Speaker, I wish to have the record reflect that had I been present on rollcall No. 80, I would have voted "aye."

GENERAL LEAVE

Mr. FROST. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on House Resolution 369, the resolution just agreed to.

The SPEAKER pro tempore (Mr. DE LA GARZA). Is there objection to the request of the gentleman from Texas?

There was no objection.

HOUR OF MEETING ON TOMORROW

Mr. FROST. Mr. Speaker, I ask unanimous consent that when the House adjourns today it adjourn to meet at 11 a.m. tomorrow.

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

There was no objection.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. Pursuant to clause 5, rule I, the Chair will now put the question on each motion to suspend the rules on which further proceedings were postponed yesterday in the order in which that motion was entertained.

Votes will be taken in the following order: H.R. 4067, de novo; and H.R. 4034, by the yeas and nays.

MULTIFAMILY HOUSING PROPERTY DISPOSITION REFORM ACT OF 1994

The SPEAKER pro tempore. The unfinished business is the question of suspending the rules and passing the bill, H.R. 4067, as amended.

The Clerk read the title of the bill.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Texas [Mr. GONZALEZ] that the House suspend the rules and pass the bill, H.R. 4067, as amended.

The question was taken.

Mr. YATES. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. The Chair announces that he will reduce to 5 minutes the time for any other recorded vote after the first such vote in this series.

The vote was taken by electronic device, and there were—yeas 413, nays 9, not voting 11, as follows:

[Roll No. 81]

YEAS—413

Abercrombie
Ackerman
Allard
Andrews (ME)
Andrews (NJ)
Andrews (TX)
Applegate
Archer
Armey
Bacchus (FL)
Bachus (AL)
Baesler
Baker (CA)
Baker (LA)
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)
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)
Fingerhut
Fish
Flake
Foglietta
Ford (MI)
Ford (TN)
Fowler
Frank (MA)
Franks (CT)
Franks (NJ)
Frost
Furse
Gallegly
Gejdenson
Gekas
Gephardt
Geren
Gibbons
Gilchrest
Gilman
Gingrich
Glickman
Gonzalez
Goodlatte
Goodling
Gordon
Goss
Grams
Green
Greenwood
Gunderson
Hall (OH)
Hall (TX)
Hamburg
Hancock
Hansen
Harman
Hastert
Hayes
Hefley
Hefner
Herger
Hilliard
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
Kennedy
Kennelly
Kildee
Kim
King
Kingston
Kleczka
Klein
Klink
Klug
Knollenberg
Kolbe
Kopetski
Kreidler
Kyl
LaFalce
Lambert
Lancaster
Lantos
LaRocco
Laughlin
Lazio
Leach
Lehman
Levin
Levy
Lewis (CA)
Lewis (FL)
Lewis (GA)
Lightfoot
Linder
Lipinski
Livingston
Lloyd
Long
Lowey
Machtley
Mann
Manton
Manzullo
Margolies-Mezvinsky
Markey
Martinez
Matsui
Mazzoli
McCandless
McCloskey
McCollum
McCrery
McCurdy
McDade
McDermott
McHale
McHugh
McInnis
McKeon
McKinney
McMillan
McNulty
Meehan
Meek
Menendez
Meyers
Mfume
Mica
Michel
Miller (CA)
Miller (FL)
Mineta
Minge
Mink
Moakley
Molinari
Mollohan
Montgomery
Moorhead
Moran
Morella
Murphy
Murtha
Myers
Nadler
Neal (MA)
Neal (NC)
Nussle
Oberstar
Obey
Olver
Ortiz
Orton
Owens
Oxley
Packard
Pallone
Parker
Pastor
Paxon
Payne (NJ)
Payne (VA)
Pelosi
Penny
Peterson (FL)
Peterson (MN)
Petri
Pickett
Pickle
Pombo
Pomeroy
Porter
Portman
Poshard
Price (NC)
Pryce (OH)
Quinn
Rahall
Ramstad
Rangel
Ravenel
Reed
Regula
Reynolds
Richardson
Ridge
Roberts
Roemer
Rogers
Rohrabacher
Ros-Lehtinen
Rose
Rostenkowski
Roth
Roukema
Rowland
Roybal-Allard
Royce
Rush
Sabo
Sangmeister
Santorum
Sarpalius
Sawyer
Saxton
Schaefer
Schenk
Schiff
Schroeder
Schumer
Scott
Sensenbrenner
Serrano
Sharp
Shaw

Shays	Stump	Velazquez
Shepherd	Stupak	Vento
Shuster	Swett	Visclosky
Sisisky	Swift	Volkmer
Skaggs	Synar	Vucanovich
Skeen	Talent	Walker
Skelton	Tanner	Walsh
Slattery	Tauzin	Waters
Slaughter	Taylor (MS)	Watt
Smith (IA)	Taylor (NC)	Waxman
Smith (MI)	Tejeda	Weldon
Smith (NJ)	Thomas (CA)	Wheat
Smith (OR)	Thomas (WY)	Whitten
Smith (TX)	Thompson	Williams
Snowe	Thornton	Wilson
Solomon	Thurman	Wise
Spence	Torkildsen	Wolf
Spratt	Torres	Woolsey
Stark	Torricelli	Wyden
Stearns	Towns	Wynn
Stenholm	Tucker	Young (AK)
Stokes	Unsoeld	Young (FL)
Strickland	Upton	Zeliff
Studds	Valentine	Zimmer

NAYS—9

Collins (IL)	Gutierrez	Sanders
Collins (MI)	Hamilton	Traficant
Filner	Hinchey	Yates

NOT VOTING—11

Ballenger	Grandy	Quillen
Clay	Hastings	Sundquist
Gallo	Maloney	Washington
Gillmor	Natcher	

□ 1805

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

So (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

Mr. GONZALEZ. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the Senate bill (S. 1299) to reform requirements for the disposition of multifamily property owned by the Secretary of Housing and Urban Development, enhance program flexibility, authorize a program to combat crime, and for other purposes and ask for its immediate consideration in the House.

The Clerk read the title of the Senate bill.

The SPEAKER pro tempore (Mr. DE LA GARZA). Is there objection to the request of the gentleman from Texas?

There was no objection.

The Clerk read the Senate bill, as follows:

S. 1299

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 "Housing and Community Development Act of 1993".

SEC. 2. TABLE OF CONTENTS.

The table of contents for this Act is as follows:

Sec. 1. Short title.
Sec. 2. Table of contents.
Sec. 3. Definitions.

TITLE I—FHA MULTIFAMILY REFORMS

Sec. 101. Multifamily property disposition.
Sec. 102. Repeal of State agency multifamily property disposition demonstration.
Sec. 103. RTC marketing and disposition of multifamily projects owned by HUD.
Sec. 104. Civil money penalties against general partners and certain managing agents of multifamily housing projects.
Sec. 105. Models for property disposition.
Sec. 106. Preventing mortgage defaults.
Sec. 107. Interest rates on assigned mortgages.
Sec. 108. Authorization of appropriations.

TITLE II—ENHANCED PROGRAM FLEXIBILITY

Subtitle A—Office of Public and Indian Housing

Sec. 201. Revitalization of severely distressed public housing.
Sec. 202. Disallowance of earned income for residents who obtain employment.
Sec. 203. Ceiling rents based on reasonable rental value.
Sec. 204. Resident management program.

Subtitle B—Office of Community Planning and Development

Sec. 211. Economic development initiative.
Sec. 212. HOME investment partnerships.
Sec. 213. HOPE match requirement.
Sec. 214. Flexibility of CDBG program for disaster areas.
Sec. 215. Flexibility of HOME program for disaster areas.

Subtitle C—Community Partnerships Against Crime

Sec. 221. COMPAC program.

TITLE III—TECHNICAL AND OTHER AMENDMENTS

Subtitle A—Public and Assisted Housing

Sec. 301. Correction to definition of family.
Sec. 302. Identification of CIAP replacement needs.
Sec. 303. Applicability of public housing amendments to Indian housing.
Sec. 304. Project-based accounting.
Sec. 305. Operating subsidy adjustments for anticipated fraud recoveries.
Sec. 306. Technical assistance for lead hazard reduction grantees.
Sec. 307. Environmental review in connection with grants for lead-based paint hazard reduction.
Sec. 308. Fire safety in federally assisted housing.
Sec. 309. Section 23 conversion projects.
Sec. 310. Indemnification of contractors for intellectual property rights disputes.
Sec. 311. Assumption of environmental review responsibilities under United States Housing Act of 1937 programs.
Sec. 312. Increased State flexibility in the Low-Income Home Energy Assistance Program.

Subtitle B—Multifamily Housing

Sec. 321. Correction of multifamily mortgage limits.
Sec. 322. FHA multifamily risk-sharing; HFA pilot program amendments.
Sec. 323. Subsidy layering review.

Subtitle C—Miscellaneous and Technical Amendments

Sec. 331. Technical correction to rural housing preservation program.
Sec. 332. CDBG technical amendment.
Sec. 333. Environmental review in connection with special projects.

TITLE IV—GENERAL PROVISIONS

Sec. 401. Mount Rushmore Commemorative Coin Act.
Sec. 402. Minority community development grants for communities with special needs.

SEC. 3. DEFINITIONS.

As used in this Act—

(1) the term "FHA" means the Federal Housing Administration;

(2) the term "Secretary" means the Secretary of Housing and Urban Development; and

(3) the term "RTC" means the Resolution Trust Corporation.

TITLE I—FHA MULTIFAMILY REFORMS

SEC. 101. MULTIFAMILY PROPERTY DISPOSITION.

(a) FINDINGS.—The Congress finds that—

(1) the portfolio of multifamily housing project mortgages insured by the FHA is severely troubled and at risk of default, requiring the Secretary to increase loss reserves from $5.5 billion in 1991 to $11.9 billion in 1992 to cover estimated future losses;

(2) the inventory of multifamily housing projects owned by the Secretary has more than tripled since 1989, and, by the end of 1993, may exceed 75,000 units;

(3) the cost to the Federal Government of owning and maintaining multifamily housing projects escalated to approximately $250 million in fiscal year 1992;

(4) the inventory of multifamily housing projects subject to mortgages held by the Secretary has increased dramatically, to more than 2,400 mortgages, and approximately half of these mortgages, secured by projects with over 230,000 units, are delinquent;

(5) the inventory of insured and formerly insured multifamily housing projects is rapidly deteriorating, endangering tenants and neighborhoods;

(6) over 5 million very low-income families today have a critical need for housing that is affordable and habitable; and

(7) the current statutory framework governing the disposition of multifamily housing projects effectively impedes the Government's ability to dispose of properties, protect tenants, and ensure that projects are maintained over time.

(b) MANAGEMENT AND DISPOSITION OF MULTIFAMILY HOUSING PROJECTS.—Section 203 of the Housing and Community Development Amendments of 1978 (12 U.S.C. 1701z-11) is amended to read as follows:

"SEC. 203. MANAGEMENT AND DISPOSITION OF MULTIFAMILY HOUSING PROJECTS.

"(a) GOALS.—The Secretary of Housing and Urban Development (hereafter in this section referred to as the 'Secretary') shall manage or dispose of multifamily housing projects that are owned by the Secretary or that are subject to a mortgage held by the Secretary in a manner that—

"(1) is consistent with the National Housing Act and this section;

"(2) will protect the financial interests of the Federal Government; and

"(3) will, in the least costly fashion among reasonable available alternatives, further the goals of—

"(A) preserving housing so that it can remain available to and affordable by low-income persons;

"(B) preserving and revitalizing residential neighborhoods;

"(C) maintaining existing housing stock in a decent, safe, and sanitary condition;

"(D) minimizing the involuntary displacement of tenants;

"(E) maintaining housing for the purpose of providing rental housing, cooperative housing, and homeownership opportunities for low-income persons; and

"(F) minimizing the need to demolish multifamily housing projects.

The Secretary, in determining the manner in which a project is to be managed or disposed of, shall balance competing goals relating to individual projects in a manner that will further the purposes of this section.

"(b) DEFINITIONS.—For purposes of this section, the following definitions shall apply:

"(1) MULTIFAMILY HOUSING PROJECT.—The term 'multifamily housing project' means any multifamily rental housing project that is, or prior to acquisition by the Secretary was, assisted or insured under the National Housing Act, or was subject to a loan under section 202 of the Housing Act of 1959.

"(2) SUBSIDIZED PROJECT.—The term 'subsidized project' means a multifamily housing project receiving any of the following types of assistance immediately prior to the assignment of the mortgage on such project to, or the acquisition of such mortgage by, the Secretary:

"(A) Below market interest rate mortgage insurance under the proviso of section 221(d)(5) of the National Housing Act.

"(B) Interest reduction payments made in connection with mortgages insured under section 236 of the National Housing Act.

"(C) Direct loans made under section 202 of the Housing Act of 1959.

"(D) Assistance in the form of—

"(i) rent supplement payments under section 101 of the Housing and Urban Development Act of 1965;

"(ii) additional assistance payments under section 236(f)(2) of the National Housing Act;

"(iii) housing assistance payments made under section 23 of the United States Housing Act of 1937 (as in effect before January 1, 1975); or

"(iv) housing assistance payments made under section 8 of the United States Housing Act of 1937 (excluding payments made for tenant-based assistance under section 8);

if (except for purposes of section 183(c) of the Housing and Community Development Act of 1987) such assistance payments are made to more than 50 percent of the units in the project.

"(3) FORMERLY SUBSIDIZED PROJECT.—The term 'formerly subsidized project' means a multifamily housing project owned by the Secretary that was a subsidized project immediately prior to its acquisition by the Secretary.

"(4) UNSUBSIDIZED PROJECT.—The term 'unsubsidized project' means a multifamily housing project owned by the Secretary that is not a subsidized project or a formerly subsidized project.

"(c) MANAGEMENT OR DISPOSITION OF PROPERTY.—

"(1) DISPOSITION TO PURCHASERS.—The Secretary is authorized, in carrying out this section, to dispose of a multifamily housing project owned by the Secretary on a negotiated, competitive bid, or other basis, on such terms as the Secretary deems appropriate considering the low-income character of the project and the requirements of subsection (a), to a purchaser determined by the Secretary to be capable of—

"(A) satisfying the conditions of the disposition plan;

"(B) implementing a sound financial and physical management program that is designed to enable the project to meet anticipated operating and repair expenses to ensure that the project will remain in decent, safe, and sanitary condition;

"(C) responding to the needs of the tenants and working cooperatively with tenant organizations;

"(D) providing adequate organizational, staff, and financial resources to the project; and

"(E) meeting such other requirements as the Secretary may determine.

"(2) CONTRACTING FOR MANAGEMENT SERVICES.—The Secretary is authorized, in carrying out this section—

"(A) to contract for management services for a multifamily housing project that is owned by the Secretary (or for which the Secretary is mortgagee in possession), on a negotiated, competitive bid, or other basis at a price determined by the Secretary to be reasonable, with a manager the Secretary has determined is capable of—

"(i) implementing a sound financial and physical management program that is designed to enable the project to meet anticipated operating and maintenance expenses to ensure that the project will remain in decent, safe, and sanitary condition;

"(ii) responding to the needs of the tenants and working cooperatively with tenant organizations;

"(iii) providing adequate organizational, staff, and other resources to implement a management program; and

"(iv) meeting such other requirements as the Secretary may determine; and

"(B) to require the owner of a multifamily housing project that is subject to a mortgage held by the Secretary to contract for management services for the project in the manner described in subparagraph (A).

"(3) FORECLOSURE SALE.—In carrying out this section, the Secretary shall—

"(A) prior to foreclosing on any multifamily housing project held by the Secretary, notify both the unit of general local government in which the property is located and the tenants of the property of the proposed foreclosure sale; and

"(B) upon disposition of a multifamily housing project through a foreclosure sale, determine that the purchaser is capable of implementing a sound financial and physical management program that is designed to enable the project to meet anticipated operating and repair expenses to ensure that the project will remain in decent, safe, and sanitary condition.

"(d) MAINTENANCE OF HOUSING PROJECTS.—

"(1) HOUSING PROJECTS OWNED BY THE SECRETARY.—In the case of multifamily housing projects that are owned by the Secretary (or for which the Secretary is mortgagee in possession), the Secretary shall—

"(A) to the greatest extent possible, maintain all such occupied projects in a decent, safe, and sanitary condition;

"(B) to the greatest extent possible, maintain full occupancy in all such projects; and

"(C) maintain all such projects for purposes of providing rental or cooperative housing.

"(2) HOUSING PROJECTS SUBJECT TO A MORTGAGE HELD BY THE SECRETARY.—In the case of any multifamily housing project that is subject to a mortgage held by the Secretary, the Secretary shall require the owner of the project to carry out the requirements of paragraph (1).

"(e) REQUIRED ASSISTANCE.—In carrying out the goals specified in subsection (a), the Secretary shall take not less than one of the following actions:

"(1) CONTRACT WITH OWNER.—Enter into contracts under section 8 of the United States Housing Act of 1937, to the extent budget authority is available, with owners of multifamily housing projects that are acquired by a purchaser other than the Secretary at foreclosure or after sale by the Secretary.

"(A) SUBSIDIZED OR FORMERLY SUBSIDIZED PROJECTS RECEIVING CERTAIN ASSISTANCE.—In the case of a subsidized project referred to in subparagraph (A), (B), or (C) of subsection (b)(2) or a formerly subsidized project that was subsidized as described in any such subparagraph—

"(i) the contract shall be sufficient to assist at least all units covered by an assistance contract under any of the authorities referred to in subsection (b)(2)(D) before acquisition, unless the Secretary acts pursuant to the provisions of subparagraph (C) of this paragraph;

"(ii) in the case of units requiring project-based rental assistance pursuant to clause (i) that are occupied by families who are not eligible for assistance under section 8, a contract under this subparagraph shall also provide that when a vacancy occurs, the owner shall lease the available unit to a family eligible for assistance under section 8; and

"(iii) the Secretary shall take actions to ensure the availability and affordability, as defined in paragraph (3)(B), for the remaining useful life of the project, as defined by the Secretary, of any unit located in any project referred to in subparagraph (A), (B), or (C) of subsection (b)(2) that does not otherwise receive project-based rental assistance under this subparagraph. To carry out this clause, the Secretary may require purchasers to establish use or rent restrictions on these units.

"(B) SUBSIDIZED OR FORMERLY SUBSIDIZED PROJECTS RECEIVING OTHER ASSISTANCE.—In the case of a subsidized project referred to in subsection (b)(2)(D) or a formerly subsidized project that was subsidized as described in subsection (b)(2)(D)—

"(i) the contract shall be sufficient to assist at least all units in the project that are covered, or that were covered immediately before foreclosure on or acquisition of the project by the Secretary, by an assistance contract under any of the authorities referred to in such subsection, unless the Secretary acts pursuant to provisions of subparagraph (C); and

"(ii) in the case of units requiring project-based rental assistance pursuant to clause (i) that are occupied by families who are not eligible for assistance under section 8, a contract under this paragraph shall also provide that when a vacancy occurs, the owner shall lease the available unit to a family eligible for assistance under section 8.

"(C) EXCEPTIONS TO SUBPARAGRAPHS (A) AND (B).—In lieu of providing project-based rental assistance under subparagraph (A) or (B), the Secretary may require certain units in unsubsidized projects to contain use restrictions providing that such units will be available to and affordable by very low-income families for the remaining useful life of the project, as defined by the Secretary, if—

"(i) the Secretary matches any reduction in the number of units otherwise required to be assisted with project-based rental assistance under subparagraph (A) or (B) with at least an equivalent increase in the number of units made affordable, as such term is defined in paragraph (3)(B), to very low-income persons within unsubsidized projects;

"(ii) the Secretary makes tenant-based assistance under section 8 available to low-income tenants residing in units otherwise requiring project-based rental assistance under subparagraph (A) or (B) upon disposition; and

"(iii) the units described in clause (i) are located within the same market area.

"(D) CONTRACT REQUIREMENTS FOR UNSUBSIDIZED PROJECTS.—Notwithstanding

actions that are taken pursuant to subparagraph (C), in any unsubsidized project—

"(i) the contract shall be at least sufficient to provide project-based rental assistance for all units that are covered or were covered immediately before foreclosure or acquisition by an assistance contract under—

"(I) section 8(b)(2) of the United States Housing Act of 1937, as such section existed before October 1, 1983 (new construction and substantial rehabilitation); section 8(b) of such Act (property disposition); section 8(d)(2) of such Act (project-based certificates); section 8(e)(2) of such Act (moderate rehabilitation); section 23 of such Act (as in effect before January 1, 1975); or section 101 of the Housing and Urban Development Act of 1965 (rent supplements); or

"(II) section 8 of the United States Housing Act of 1937, following conversion from section 101 of the Housing and Urban Development Act of 1965; and

"(ii) the Secretary shall make available tenant-based assistance under section 8 of the United States Housing Act of 1937 to tenants currently residing in units that were covered by an assistance contract under the Loan Management Set-Aside program under section 8(b) of the United States Housing Act of 1937 immediately before foreclosure or acquisition of the project by the Secretary.

"(2) ANNUAL CONTRIBUTION CONTRACTS.—In the case of multifamily housing projects that are acquired by a purchaser other than the Secretary at foreclosure or after sale by the Secretary, enter into annual contribution contracts with public housing agencies to provide tenant-based assistance under section 8 of the United States Housing Act of 1937 to all low-income families who are otherwise eligible for assistance, in accordance with the requirements of subparagraph (A), (B), or (D) of paragraph (1), on the date that the project is acquired by the purchaser. The Secretary shall take action under this paragraph only after making a determination that there is an adequate supply of habitable housing in the area that is available to and affordable by low-income families using such assistance. With respect to subsidized or formerly subsidized projects, actions may be taken pursuant to this paragraph in connection with not more than 10 percent of the aggregate number of units in subsidized or formerly subsidized projects disposed of by the Secretary in each fiscal year.

"(3) OTHER ASSISTANCE.—

"(A) IN GENERAL.—In accordance with the authority provided under the National Housing Act, reduce the selling price, apply use or rent restrictions on certain units, or provide other financial assistance to the owners of multifamily housing projects that are acquired by a purchaser other than the Secretary at foreclosure, or after sale by the Secretary, on terms that will ensure that at least those units otherwise required to receive project-based section 8 assistance pursuant to subparagraph (A), (B), or (D) of paragraph (1) are available to and affordable by low-income persons for the remaining useful life of the project, as defined by the Secretary.

"(B) DEFINITION.—A unit shall be considered affordable under this paragraph if—

"(i) for very low-income tenants, the rent for such unit does not exceed 30 percent of 50 percent of the area median income, as determined by the Secretary, with adjustments for family size; and

"(ii) for low-income tenants other than very low-income tenants, the rent for such unit does not exceed 30 percent of 80 percent of the area median income, as determined by the Secretary, with adjustments for family size.

"(C) VERY LOW-INCOME TENANTS.—The Secretary shall provide assistance under section 8 of the United States Housing Act of 1937 to any very low-income tenant currently residing in a unit otherwise required to receive project-based rental assistance under section 8, pursuant to subparagraph (A), (B), or (D) of paragraph (1), if the rents charged such tenants as a result of actions taken pursuant to this paragraph exceed the amount payable as rent under section 3(a) of the United States Housing Act of 1937.

"(4) TRANSFER FOR USE UNDER OTHER PROGRAMS OF THE SECRETARY.—

"(A) IN GENERAL.—Enter into an agreement providing for the transfer of a multifamily housing project—

"(i) to a public housing agency for use of the project as public housing; or

"(ii) to an owner or another appropriate entity for use of the project under section 202 of the Housing Act of 1959 or under section 811 of the Cranston-Gonzalez National Affordable Housing Act.

"(B) REQUIREMENTS FOR AGREEMENT.—The agreement described in subparagraph (A) shall—

"(i) contain such terms, conditions, and limitations as the Secretary determines appropriate, including requirements to assure use of the project under the public housing, section 202, and section 811 programs; and

"(ii) ensure that no current tenant will be displaced as a result of actions taken under this paragraph.

"(f) OTHER ASSISTANCE.—In addition to the actions required by subsection (e), the Secretary may take any of the following actions:

"(1) SHORT-TERM LOANS.—Provide short-term loans to facilitate the sale of multifamily housing projects to nonprofit organizations or to public agencies if—

"(A) authority for such loans is provided in advance in an appropriations Act;

"(B) such loans are for a term of not more than 5 years;

"(C) the Secretary is presented with satisfactory documentation, evidencing a commitment of permanent financing to replace such short-term loan, from a lender who meets standards set forth by the Secretary; and

"(D) the terms of such loans are consistent with prevailing practices in the marketplace or the provision of such loans results in no cost to the Government, as defined in section 502 of the Congressional Budget Act.

"(2) TENANT-BASED ASSISTANCE.—Make available tenant-based assistance under section 8 of the United States Housing Act of 1937 to very low-income families that do not otherwise qualify for project-based rental assistance.

"(3) ALTERNATIVE USES.—

"(A) IN GENERAL.—Notwithstanding any other provision of law, and subject to notice to and comment from existing tenants, allow not more than—

"(i) 5 percent of the total number of units in multifamily housing projects that are disposed of by the Secretary during each fiscal year to be made available for uses other than rental or cooperative housing, including low-income homeownership opportunities, community space, office space for tenant or housing-related service providers or security programs, or small business uses, if such uses benefit the tenants of the project; and

"(ii) 5 percent of the total number of units in multifamily housing projects that are disposed of by the Secretary during each fiscal year to be used in any manner, if the Secretary and the unit of general local government or area-wide governing body determine that such use will further fair housing, community development, or neighborhood revitalization goals.

"(B) DISPLACEMENT PROTECTION.—The Secretary shall—

"(i) make available tenant-based assistance under section 8 of the United States Housing Act of 1937 to any tenant displaced as a result of actions taken by the Secretary pursuant to subparagraph (A); and

"(ii) take such actions as the Secretary determines necessary to ensure the successful use of any tenant-based assistance provided under this subparagraph.

"(4) AUTHORIZATION OF USE OR RENT RESTRICTIONS IN UNSUBSIDIZED PROJECTS.—In carrying out the goals specified in subsection (a), the Secretary may require certain units in unsubsidized projects upon disposition to contain use or rent restrictions providing that such units will be available to and affordable by very low-income persons for the remaining useful life of the property, as defined by the Secretary.

"(g) CONTRACT REQUIREMENTS.—

"(1) CONTRACT TERM.—

"(A) IN GENERAL.—Contracts for project-based rental assistance under section 8 of the United States Housing Act of 1937 provided pursuant to this section shall be for a term of not more than 15 years; and

"(B) CONTRACT TERM OF LESS THAN 15 YEARS.—To the extent that units receive project-based rental assistance for a contract term of less than 15 years, the Secretary shall require that rents charged to tenants for such units shall not exceed the amount payable for rent under section 3(a) of the United States Housing Act of 1937 for a period of at least 15 years.

"(2) CONTRACT RENT.—

"(A) IN GENERAL.—The Secretary shall set contract rents for section 8 project-based rental contracts issued under this section at levels that, in conjunction with other resources available to the purchaser, provide for the necessary costs of rehabilitation of such project and do not exceed the percentage of the existing housing fair market rents for the area, as determined by the Secretary under section 8(c) of the United States Housing Act of 1937.

"(B) UP-FRONT GRANTS.—If such an approach is determined to be more cost-effective, the Secretary may utilize the budget authority provided for project-based section 8 contracts issued under this section to

"(i) provide project-based section 8 rental assistance; and

"(ii) provide up-front grants for the necessary costs of rehabilitation.

"(h) DISPOSITION PLAN.—

"(1) IN GENERAL.—Prior to the sale of a multifamily housing project that is owned by the Secretary, the Secretary shall develop a disposition plan for the project that specifies the minimum terms and conditions of the Secretary for disposition of the project, the initial sales price that is acceptable to the Secretary, and the assistance that the Secretary plans to make available to a prospective purchaser in accordance with this section. The initial sales price shall reflect the intended use of the property after sale.

"(2) COMMUNITY AND TENANT INPUT INTO DISPOSITION PLANS AND SALES.—

"(A) IN GENERAL.—In carrying out this section, the Secretary shall develop procedures to obtain appropriate and timely input into disposition plans from officials of the unit of general local government affected, the com-

munity in which the project is situated, and the tenants of the project.

"(B) TENANT ORGANIZATIONS.—The Secretary shall develop procedures to facilitate, where feasible and appropriate, the sale of multifamily housing projects to existing tenant organizations with demonstrated capacity or to public or nonprofit entities that represent or are affiliated with existing tenant organizations.

"(C) TECHNICAL ASSISTANCE.—

"(i) IN GENERAL.—To carry out the procedures developed under subparagraphs (A) and (B), the Secretary is authorized to provide technical assistance, directly or indirectly.

"(ii) TECHNICAL ASSISTANCE PROVIDERS.—Recipients of technical assistance funding under the Emergency Low Income Housing Preservation Act of 1987, the Low-Income Housing Preservation and Resident Homeownership Act of 1990, subtitle B of title IV of the Cranston-Gonzalez National Affordable Housing Act, shall be permitted to provide technical assistance to the extent of such funding under any of such programs or under this section, notwithstanding the source of funding.

"(iii) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated $5,000,000 to carry out this subparagraph. In addition, the Secretary is authorized to use amounts appropriated for technical assistance under the Emergency Low Income Housing Preservation Act of 1987, the Low-Income Housing Preservation and Resident Homeownership Act of 1990, subtitle B of title IV of the Cranston-Gonzalez National Affordable Housing Act, for the provision of technical assistance under this section.

"(i) RIGHT OF FIRST REFUSAL.—

"(1) PROCEDURE.—

"(A) NOTIFICATION BY SECRETARY OF THE ACQUISITION OF TITLE.—Not later than 30 days after the Secretary acquires title to a multifamily housing project, the Secretary shall notify the appropriate unit of general local government and State agency or agencies designated by the Governor of the acquisition of such title.

"(B) EXPRESSION OF INTEREST.—Not later than 45 days after receiving notification from the Secretary under subparagraph (A), the unit of general local government or designated State agency may submit to the Secretary a preliminary expression of interest in the project. The Secretary may take such actions as may be necessary to require the unit of general local government or designated State agency to substantiate such interest.

"(C) TIMELY EXPRESSION OF INTEREST.—If the unit of general local government or designated State agency has expressed interest in the project before the expiration of the 45-day period referred to in subparagraph (B) and has substantiated such interest if requested, the Secretary shall notify the unit of general local government or designated State agency, within a reasonable period of time, of the terms and conditions of the disposition plan, in accordance with subsection (h). The Secretary shall then give the unit of general local government or designated State agency not more than 90 days after the date of such notification to make an offer to purchase the project.

"(D) NO TIMELY EXPRESSION OF INTEREST.—If the unit of general local government or designated State agency does not express interest before the expiration of the 45-day period referred to in subparagraph (B), or does not substantiate an expressed interest if requested, the Secretary may offer the project for sale to any interested person or entity.

"(2) ACCEPTANCE OF OFFERS.—If the Secretary has given the unit of general local government or designated State agency 90 days to make an offer to purchase the project, the Secretary shall accept an offer that complies with the terms and conditions of the disposition plan. The Secretary may accept an offer that does not comply with the terms and conditions of the disposition plan if the Secretary determines that the offer will further the goals specified in subsection (a) by actions that include extension of the duration of low-income affordability restrictions or otherwise restructuring the transaction in a manner that enhances the long-term affordability for low-income persons. The Secretary shall, in particular, have discretion to reduce the initial sales price in exchange for the extension of low-income affordability restrictions beyond the period of assistance contemplated by the attachment of assistance pursuant to subsection (e) or for an increase in the number of units that are available to and affordable by low-income families. If the Secretary and the unit of general local government or designated State agency cannot reach agreement within 90 days, the Secretary may offer the project for sale to the general public.

"(3) PURCHASE BY UNIT OF GENERAL LOCAL GOVERNMENT OR DESIGNATED STATE AGENCY.—Notwithstanding any other provision of law, a unit of general local government (including a public housing agency) or designated State agency may purchase multifamily housing projects in accordance with this subsection.

"(4) APPLICABILITY.—This subsection shall apply to projects that are acquired on or after the effective date of this subsection. With respect to projects acquired before such effective date, the Secretary may apply—

"(A) the requirements of paragraphs (2) and (3) of section 203(e) as such paragraphs existed immediately before the effective date of this subsection; or

"(B) the requirements of paragraphs (1) and (2) of this subsection, if the Secretary gives the unit of general local government or designated State agency—

"(i) 45 days to express interest in the project; and

"(ii) if the unit of general local government or designated State agency expresses interest in the project before the expiration of the 45-day period, and substantiates such interest if requested, 90 days from the date of notification of the terms and conditions of the disposition plan to make an offer to purchase the project.

"(j) DISPLACEMENT OF TENANTS AND RELOCATION ASSISTANCE.—

"(1) IN GENERAL.—Whenever tenants will be displaced as a result of the demolition of, repairs to, or conversion in the use of, a multifamily housing project that is owned by the Secretary (or for which the Secretary is mortgagee in possession), the Secretary shall identify tenants who will be displaced, and shall notify all such tenants of their pending displacement and of any relocation assistance that may be available. In the case of a multifamily housing project that is subject to a mortgage held by the Secretary, the Secretary shall require the owner of the project to carry out the requirements of this paragraph, if the Secretary has authorized the demolition of, repairs to, or conversion in the use of such multifamily housing project.

"(2) RIGHTS OF DISPLACED TENANTS.—The Secretary shall assure for any such tenant (who continues to meet applicable qualification standards) the right—

"(A) to return, whenever possible, to a repaired unit;

"(B) to occupy a unit in another multifamily housing project owned by the Secretary;

"(C) to obtain housing assistance under the United States Housing Act of 1937; or

"(D) to receive any other available relocation assistance as the Secretary determines to be appropriate.

"(k) MORTGAGE AND PROJECT SALES.—

"(1) IN GENERAL.—The Secretary may not approve the sale of any loan or mortgage held by the Secretary (including any loan or mortgage owned by the Government National Mortgage Association) on any subsidized project or formerly subsidized project, unless such sale is made as part of a transaction that will ensure that such project will continue to operate at least until the maturity date of such loan or mortgage, in a manner that will provide rental housing on terms at least as advantageous to existing and future tenants as the terms required by the program under which the loan or mortgage was made or insured prior to the assignment of the loan or mortgage on such project to the Secretary.

"(2) SALE OF CERTAIN PROJECTS.—The Secretary may not approve the sale of any subsidized project—

"(A) that is subject to a mortgage held by the Secretary; or

"(B) if the sale transaction involves the provision of any additional subsidy funds by the Secretary or a recasting of the mortgage;

unless such sale is made as part of a transaction that will ensure that such project will continue to operate at least until the maturity date of the loan or mortgage, in a manner that will provide rental housing on terms at least as advantageous to existing and future tenants as the terms required by the program under which the loan or mortgage was made or insured prior to the proposed sale of the project.

"(3) MORTGAGE SALES TO STATE AND LOCAL GOVERNMENTS.—Notwithstanding any provision of law that may require competitive sales or bidding, the Secretary may carry out negotiated sales of mortgages held by the Secretary that are secured by subsidized, unsubsidized, or formerly subsidized multifamily housing projects, without the competitive selection of purchasers or intermediaries, to units of general local government or State agencies, or groups of investors that include at least 1 such unit of general local government or State agency, if the negotiations are conducted with such agencies, except that—

"(A) the terms of any such sale shall include the agreement of the purchasing agency or unit of local government or State agency to act as mortgagee or owner of a beneficial interest in such mortgages, in a manner consistent with maintaining the projects that are subject to such mortgages for occupancy by the general tenant group intended to be served by the applicable mortgage insurance program, including, to the extent the Secretary determines appropriate, authorizing such unit of local government or State agency to enforce the provisions of any regulatory agreement or other program requirements applicable to the related projects; and

"(B) the sales prices for such mortgages shall be, in the determination of the Secretary, the best prices that may be obtained for such mortgages from a unit of general local government or State agency, consistent with the expectation and intention that the projects financed will be retained for use under the applicable mortgage insurance

program for the life of the initial mortgage insurance contract.

"(4) SALE OF MORTGAGES COVERING UNSUBSIDIZED PROJECTS.—Notwithstanding any other provision of law, the Secretary may sell mortgages held on unsubsidized projects on such terms and conditions as the Secretary may prescribe.

"(l) PROJECT-BASED RENTAL ASSISTANCE FOR TERM OF LESS THAN 15 YEARS.—Notwithstanding subsection (g), project-based rental assistance in connection with the disposition of a multifamily housing project may be provided for a contract term of less than 15 years if such assistance is provided—

"(1) under a contract authorized under section 6 of the HUD Demonstration Act of 1993; and

"(2) pursuant to a disposition plan under this section for a project that is determined by the Secretary to be otherwise in compliance with this section.

"(m) REPORT TO CONGRESS.—Not later than June 1 of each year, the Secretary shall submit to the Committee on Banking, Housing, and Urban Affairs of the Senate and the Committee on Banking, Finance and Urban Affairs of the House of Representatives, a report describing the status of multifamily housing projects owned by or subject to mortgages held by the Secretary, on an aggregate basis, which highlights the differences, if any, between the subsidized and the unsubsidized inventory. The report shall include—

"(1) the average and median size of the projects;

"(2) the geographic locations of the projects, by State and region;

"(3) the years during which projects were assigned to the Department, and the average and median length of time that projects remain in the HUD-held inventory;

"(4) the status of HUD-held mortgages;

"(5) the physical condition of the HUD-held and HUD-owned inventory;

"(6) the occupancy profile of the projects, including the income, family size, race, and ethnic origin of current tenants, and the rents paid by such tenants;

"(7) the proportion of units that are vacant;

"(8) the number of projects for which the Secretary is mortgagee in possession;

"(9) the number of projects sold in foreclosure sales;

"(10) the number of HUD-owned projects sold;

"(11) a description of actions undertaken pursuant to this section, including—

"(A) a comparison of results between actions taken after the date of enactment of the Housing and Community Development Act of 1993 and actions taken in the years preceding such date of enactment;

"(B) a description of any impediments to the disposition or management of multifamily housing projects, together with a recommendation of proposed legislative or regulatory changes designed to ameliorate such impediments;

"(C) a description of actions taken to restructure or commence foreclosure on delinquent multifamily mortgages held by the Department; and

"(D) a description of actions taken to monitor and prevent the default of multifamily housing mortgages held by the Federal Housing Administration;

"(12) a description of any of the functions performed in connection with this section that are contracted out to public or private entities or to States, including—

"(A) the costs associated with such delegation;

"(B) the implications of contracting out or delegating such functions for current Department field or regional personnel, including anticipated personnel or work load reductions;

"(C) necessary oversight required by Department personnel, including anticipated personnel hours devoted to such oversight;

"(D) a description of any authority granted to such public or private entities or States in conjunction with the functions that have been delegated or contracted out or that are not otherwise available for use by Department personnel; and

"(E) the extent to which such public or private entities or States include tenants of multifamily housing projects in the disposition planning for such projects; and

"(13) a description of the activities carried out under subsection (i) during the preceding year.".

(c) EFFECTIVE DATE.—The Secretary shall, by notice published in the Federal Register, which shall take effect upon publication, establish such requirements as may be necessary to implement the amendments made by this section. The notice shall invite public comments and, not later than 12 months after the date on which the notice is published, the Secretary shall issue final regulations based on the initial notice, taking into account any public comments received.

SEC. 102. REPEAL OF STATE AGENCY MULTIFAMILY PROPERTY DISPOSITION DEMONSTRATION.

Section 184 of the Housing and Community Development Act of 1987 (12 U.S.C. 1701z-11 note) is hereby repealed.

SEC. 103. RTC MARKETING AND DISPOSITION OF MULTIFAMILY PROJECTS OWNED BY HUD.

(a) AUTHORIZATION.—The Secretary may carry out a demonstration with not more than 50 unsubsidized multifamily housing projects owned by the Secretary, using the RTC for the marketing and disposition of the projects. Any such demonstration shall be carried out pursuant to an agreement between the RTC and the Secretary on such terms and conditions as are acceptable to the RTC and the Secretary. The RTC shall establish policies and procedures for marketing and disposition, subject to review and approval by the Secretary.

(b) RULES GOVERNING THE DEMONSTRATION.—

(1) IN GENERAL.—Except as provided in paragraph (2), in carrying out the provisions of this section, the RTC shall dispose of unsubsidized multifamily housing projects pursuant to the provisions of section 21A(c) of the Federal Home Loan Bank Act.

(2) EXCEPTION.—Notwithstanding paragraph (1), a very low-income tenant currently residing in a unit otherwise required under subsection (e)(1)(D) of section 203 of the Housing and Community Development Amendments of 1978 to receive project-based rental assistance under section 8, shall upon disposition pay not more than the amount payable as rent under section 3(a) of the United States Housing Act of 1937.

(c) DETERMINATION OF PROJECTS INCLUDED.—In determining which projects to include in the demonstration, the Secretary and the RTC shall take into consideration—

(1) the prior experience of the RTC in disposing of other multifamily housing projects in the jurisdictions in which such projects are located; and

(2) such other factors as the Secretary and the RTC determine to be appropriate.

(d) REIMBURSEMENT.—The agreement entered into pursuant to subsection (a) shall provide that the Secretary shall reimburse the RTC for the direct costs associated with the demonstration, including the costs of administration and marketing, property management, and any repair and rehabilitation. The Secretary may use proceeds from the sale of the projects to reimburse the RTC for its costs.

(e) REPORTS.—

(1) ANNUAL REPORTS.—The Secretary and the RTC shall jointly submit an annual report to the Committee on Banking, Housing, and Urban Affairs of the Senate and the Committee on Banking, Finance and Urban Affairs of the House of Representatives detailing the progress of the demonstration.

(2) FINAL REPORT.—Not later than 3 months after the completion of the demonstration, the Secretary shall submit to the Committee on Banking, Housing, and Urban Affairs of the Senate and the Committee on Banking, Finance and Urban Affairs of the House of Representatives a report describing the results of the demonstration and any recommendations for legislative action.

(f) TERMINATION.—The demonstration under this section shall not extend beyond the termination date of the RTC.

SEC. 104. CIVIL MONEY PENALTIES AGAINST GENERAL PARTNERS AND CERTAIN MANAGING AGENTS OF MULTIFAMILY HOUSING PROJECTS.

(a) CIVIL MONEY PENALTIES AGAINST MULTIFAMILY MORTGAGORS.—Section 537 of the National Housing Act (12 U.S.C. 1735f-15) is amended—

(1) in subsection (b)(1), by inserting after "mortgagor" the second place it appears the following: "or general partner of a partnership mortgagor";

(2) in subsection (c)—

(A) by striking the heading and inserting the following:

"(c) OTHER VIOLATIONS.—"; and

(B) in paragraph (1)—

(i) by striking "The Secretary may" and all that follows through the colon and inserting the following:

"(A) LIABLE PARTIES.—The Secretary may also impose a civil money penalty under this section on—

"(i) any mortgagor of a property that includes 5 or more living units and that has a mortgage insured, coinsured, or held pursuant to this Act;

"(ii) the general partner of a partnership mortgagor of such property; or

"(iii) any agent employed to manage the property that has an identity of interest with the mortgagor or the general partner of a partnership mortgagor of such property.

"(B) VIOLATIONS.—A penalty may be imposed under this paragraph for knowingly and materially taking any of the following actions:";

(ii) in subparagraph (B), as redesignated, by redesignating subparagraphs (A) through (L) as clauses (i) through (xii), respectively; and

(iii) by adding after clause (xii), as redesignated, the following new clauses:

"(xiii) Failure to maintain the premises, accommodations, and the grounds and equipment appurtenant thereto in good repair and condition in accordance with regulations and requirements of the Secretary, except that nothing in this clause shall have the effect of altering the provisions of an existing regulatory agreement or federally insured mortgage on the property.

"(xiv) Failure, by a mortgagor or general partner of a partnership mortgagor, to provide management for the project that is acceptable to the Secretary pursuant to regu-

lations and requirements of the Secretary."; and

(iv) in the last sentence, by deleting "of such agreement" and inserting "of this subsection";

(3) in subsection (d)(1)(B), by inserting after "mortgagor" the following: ", general partner of a partnership mortgagor, or identity of interest agent employed to manage the property,";

(4) in subsection (d), by adding at the end the following new paragraph:

"(5) PAYMENT OF PENALTY.—No payment of a civil money penalty levied under this section shall be payable out of project income.";

(5) in subsection (e)(1), by deleting "a mortgagor" and inserting "an entity or person";

(6) in subsection (f), by inserting after "mortgagor" each place such term appears the following: ", general partner of a partnership mortgagor, or identity of interest agent employed to manage the property,";

(7) by striking the heading of subsection (f) and inserting the following: "CIVIL MONEY PENALTIES AGAINST MULTIFAMILY MORTGAGORS, GENERAL PARTNERS OF PARTNERSHIP MORTGAGORS, AND CERTAIN MANAGING AGENTS";

(8) in subsection (j), by striking "all civil money" and all that follows through the period at the end and inserting the following: "the Secretary shall apply all civil money penalties collected under this section, or any portion of such penalties, to the fund established under section 201(j) of the Housing and Community Development Amendments of 1978."; and

(9) by adding at the end the following new subsection:

"(k) IDENTITY OF INTEREST MANAGING AGENT.—For purposes of this section, the term 'identity of interest managing agent' means an ownership entity, or its general partner or partners, which has an ownership interest in and which exerts effective control over the property's ownership.".

(b) IMPLEMENTATION.—The Secretary shall implement the amendments made by this section by regulation issued after notice and opportunity for public comment. A proposed rule shall be published not later than March 1, 1994. The notice shall seek comments primarily as to the definition of the terms 'ownership interest in' and 'effective control', as such terms are used in the definition of identity of interest managing agent.

(c) APPLICABILITY OF AMENDMENTS.—The amendments made by subsection (a) shall apply only with respect to—

(1) violations that occur on or after the effective date of the final regulations implementing the amendments made by this section; and

(2) in the case of a continuing violation (as determined by the Secretary), any portion of a violation that occurs on or after such date.

SEC. 105. MODELS FOR PROPERTY DISPOSITION.

The Federal Housing Commissioner shall develop models which shall be designed to assist States and units of general local government in using other Federal programs for the purpose of acquiring, rehabilitating, or otherwise participating in—

(1) the disposition, pursuant to section 203 of the Housing and Community Development Amendments of 1978, of multifamily housing projects owned by the Secretary; or

(2) the sale, pursuant to section 203 of the Housing and Community Development Amendments of 1978, of multifamily housing projects subject to mortgages held by the Secretary.

SEC. 106. PREVENTING MORTGAGE DEFAULTS.

(a) MULTIFAMILY HOUSING PLANNING AND INVESTMENT STRATEGIES.—

(1) PREPARATION OF ASSESSMENTS FOR INDEPENDENT ENTITIES.—Section 402(a) of the Housing and Community Development Act of 1992 (12 U.S.C. 1715-1a note) is amended by adding at the end the following: "The assessment shall be prepared by an entity that does not have an identity of interest with the owner.".

(2) TIMING OF SUBMISSION OF NEEDS ASSESSMENTS.—Section 402(b) of the Housing and Community Development Act of 1992 (12 U.S.C. 17152-1a note) is amended to read as follows:

"(b) TIMING.—To ensure that assessments for all covered multifamily housing properties will be submitted on or before the conclusion of fiscal year 1997, the Secretary shall require the owners of such properties, including covered multifamily housing properties for the elderly, to submit the assessments for the properties in accordance with the following schedule:

"(1) For fiscal year 1994, 10 percent of the aggregate number of such properties.

"(2) For each of fiscal years 1995, 1996, and 1997, an additional 30 percent of the aggregate number of such properties.".

(3) REVIEW OF COMPREHENSIVE NEEDS ASSESSMENTS.—Section 404(d) of the Housing and Community Development Act of 1992 (12 U.S.C. 1715-1a note) is amended to read as follows:

"(d) REVIEW.—

"(1) IN GENERAL.—The Secretary shall review each comprehensive needs assessment for completeness and adequacy before the expiration of the 90-day period beginning on the receipt of the assessment.

"(2) INCOMPLETE OR INADEQUATE ASSESSMENTS.—If the Secretary determines that the assessment is substantially incomplete or inadequate, the Secretary shall—

"(A) provide the owner with a reasonable amount of time to resubmit an amended assessment; and

"(B) indicate to the owner the portion of the original assessment requiring completion or other revision.".

(4) REPEAL OF NOTICE PROVISION.—Section 404(f) of the Housing and Community Development Act of 1992 (12 U.S.C. 1715-1a note) is hereby repealed.

(5) FUNDING.—Title IV of the Housing and Community Development Act of 1992 (12 U.S.C. 1715z-1a note) is amended by adding at the end the following new section:

"SEC. 409. FUNDING.

"(a) ALLOCATION OF ASSISTANCE.—Based upon needs identified in comprehensive needs assessments, and subject to otherwise applicable program requirements, including selection criteria, the Secretary may allocate the following assistance to owners of covered multifamily housing projects and may provide such assistance on a noncompetitive basis:

"(1) Operating assistance and capital improvement assistance for troubled multifamily housing projects pursuant to section 201 of the Housing and Community Development Amendments of 1978, except for assistance set aside under section 201(n)(1).

"(2) Loan management assistance available pursuant to section 8 of the United States Housing Act of 1937.

"(b) OPERATING ASSISTANCE AND CAPITAL IMPROVEMENT ASSISTANCE.—In providing assistance under subsection (a) the Secretary shall use the selection criteria set forth in section 201(n) of the Housing and Community Development Amendments.

"(c) AMOUNT OF ASSISTANCE.—The Secretary may fund all or only a portion of the needs identified in the capital needs assessment of an owner selected to receive assistance under this section.".

(b) FLEXIBLE SUBSIDY PROGRAM.—

(1) DELETION OF UTILITY COST REQUIREMENTS.—Section 201(i) of the Housing and Community Development Amendments of 1978 (12 U.S.C. 1715z-1a(i)) is hereby repealed.

(2) REPEAL OF MANDATORY CONTRIBUTION FROM OWNER.—Section 201(k)(2) of the Housing and Community Development Amendments of 1978 (12 U.S.C. 1715z-1a(k)(2)) is amended by striking ", except that" and all that follows through "such loan".

(3) FUNDING.—Section 201(n) of the Housing and Community Development Amendments of 1978 (42 U.S.C. 1715z-1a(n)) is amended to read as follows:

"(n)(1) For fiscal year 1994 only, in providing, and contracting to provide, assistance for capital improvements under this section, the Secretary shall set aside an amount, as determined by the Secretary, for projects that are eligible for incentives under section 224(b) of the Emergency Low Income Housing Preservation Act of 1987, as such section existed before the date of enactment of the Cranston-Gonzalez National Affordable Housing Act. The Secretary may make such assistance available on a noncompetitive basis.

"(2) Except as provided in paragraph (3), with respect to assistance under this section not set aside for projects under paragraph (1), the Secretary—

"(A) may award assistance on a noncompetitive basis; and

"(B) shall award assistance to eligible projects on the basis of—

"(i) the extent to which the project is physically or financially troubled, as evidenced by the comprehensive needs assessment submitted in accordance with title IV of the Housing and Community Development Act of 1992; and

"(ii) the extent to which such assistance is necessary and reasonable to prevent the default of federally insured mortgages.

"(3) The Secretary may make exceptions to selection criteria set forth in paragraph (2) to permit the provision of assistance to eligible projects based upon—

"(A) the extent to which such assistance is necessary to prevent the imminent foreclosure or default of a project whose owner has not submitted a comprehensive needs assessment pursuant to title IV of the Housing and Community Development Act of 1992;

"(B) the extent to which the project presents an imminent threat to the life, health, and safety of project residents; or

"(C) such other criteria as the Secretary may specify by regulation or by notice printed in the Federal Register.

"(4) In providing assistance under this section, the Secretary shall take into consideration—

"(A) the extent to which there is evidence that there will be significant opportunities for residents (including a resident council or resident management corporation, as appropriate) to be involved in the management of the project (except that this paragraph shall have no application to projects that are owned as cooperatives); and

"(B) the extent to which there is evidence that the project owner has provided competent management and complied with all regulatory and administrative instructions (including such instructions with respect to the comprehensive servicing of multifamily projects as the Secretary may issue).".

(c) IMPLEMENTATION AND EFFECTIVE DATE FOR SUBSECTIONS (a) AND (b).—

(1) IN GENERAL.—The Secretary shall, by notice published in the Federal Register, which shall take effect upon publication, establish such requirements as may be necessary to implement the amendments made by subsections (a) and (b). The notice shall invite public comments and, not later than 12 months after the date on which the notice is published, the Secretary shall issue final regulations based on the initial notice, taking into account any public comments received.

(2) CONTENTS.—The notice and the regulations shall describe the method by which the Secretary allocates assistance in accordance with section 409 of the Housing and Community Development Act of 1992 (as added by section 106(a) of this Act) and paragraphs (2) and (3) of section 201(n) of the Housing and Community Development Amendments of 1978.

(3) ANNUAL PUBLICATIONS.—The Secretary shall publish annually in the Federal Register—

(A) the method by which the Secretary determines which capital needs assessments will be received each year, in accordance with sections 402(b) and 404(d) of the Housing and Community Development Act of 1992; and

(B) a list of all owners of covered multifamily housing projects, by project, that have received funding under—

(i) section 409 of the Housing and Community Development Act of 1992 (as added by section 106(a) of this Act); or

(ii) paragraphs (2) and (3) of section 201(n) of the Housing and Community Development Amendments of 1978.

(4) EFFECTIVE DATE.—

(A) IN GENERAL.—Except as provided in subparagraph (B), the amendments made by subsections (a) and (b) shall take effect for amounts made available for fiscal year 1995.

(B) EXCEPTION.—Notwithstanding subparagraph (A), section 201(n)(1) of the Housing and Community Development Amendments of 1978 (as added by subsection (b)(3)) shall take effect on the date of enactment of this Act.

(d) STREAMLINED REFINANCING.—As soon as practicable, the Secretary shall implement a streamlined refinancing program under the authority provided in section 223 of the National Housing Act to prevent the default of mortgages insured by the FHA which cover multifamily housing projects, as defined in section 203(b) of the Housing and Community Development Amendments of 1978.

(e) PARTIAL PAYMENTS OF CLAIM.—

(1) IN GENERAL.—Notwithstanding any other provision of law, if the Secretary is requested to accept assignment of a mortgage insured by the Secretary that covers a multifamily housing project, as such term is defined in section 203(b) of the Housing and Community Development Amendments of 1978, and the Secretary determines that partial payment would be less costly to the Federal Government than other reasonable alternatives for maintaining the low-income character of the project, the Secretary may request the mortgagee, in lieu of assignment, to—

(A) accept partial payment of the claim under the mortgage insurance contract; and

(B) recast the mortgage, under such terms and conditions as the Secretary may determine.

(2) CONDITION.—As a condition to a partial claim payment under this section, the mortgagor shall agree to repay to the Secretary the amount of such payment and such obligation shall be secured by a second mortgage on the property on such terms and conditions as the Secretary may determine.

(f) GAO STUDY ON PREVENTION OF DEFAULT.—

(1) IN GENERAL.—Not later than June 1, 1994, the Comptroller General of the United States shall submit to the Committee on Banking, Housing, and Urban Affairs of the Senate and the Committee on Banking, Finance and Urban Affairs of the House of Representatives a report that evaluates the adequacy of loan loss reserves in the General Insurance and Special Risk Insurance Funds and presents recommendations for the Secretary to prevent losses from occurring.

(2) CONTENTS.—The report submitted under paragraph (1) shall—

(A) evaluate the factors considered in arriving at loss estimates and determine whether other factors should be considered;

(B) determine the relative benefit of creating a new, actuarially sound insurance fund for all new multifamily housing insurance commitments; and

(C) recommend alternatives to the Secretary's current procedures for preventing the future default of multifamily housing project mortgages insured under title II of the National Housing Act.

(g) GAO STUDY ON ACTUARIAL SOUNDNESS OF CERTAIN INSURANCE PROGRAMS.—

(1) IN GENERAL.—Not later than June 1, 1994, the Comptroller General of the United States shall submit to the Committee on Banking, Housing, and Urban Affairs of the Senate and the Committee on Banking, Finance and Urban Affairs of the House of Representatives a report that evaluates, in connection with the General Insurance Fund, the role and performance of the nursing home, hospital, and retirement service center insurance programs.

(2) CONTENTS.—The reports submitted under paragraph (1) shall—

(A) evaluate the strategic importance of these insurance programs to the mission of the FHA;

(B) evaluate the impact of these insurance programs upon the financial performance of the General Insurance Fund;

(C) assess the potential losses expected under these programs through fiscal year 1999;

(D) evaluate the risk of these programs to the General Insurance Fund in connection with changes in national health care policy;

(E) assess the ability of the FHA to manage these programs; and

(F) make recommendations for any necessary changes.

(h) ANNUAL ACTUARIAL REVIEW.—

(1) SPECIAL RISK INSURANCE FUND.—Section 238(c) of the National Housing Act (12 U.S.C. 1715z-3(c)) is amended by adding at the end the following new paragraph:

"(3) The Secretary shall undertake an annual review of the actuarial soundness of each of the insurance programs comprising the Special Risk Insurance Fund, and shall present findings from such review to the Congress in the FHA Annual Management Report.".

(2) GENERAL INSURANCE FUND.—Section 519 of the National Housing Act (12 U.S.C. 1735c) is amended by adding at the end the following new subsection:

"(g) ANNUAL ACTUARIAL REVIEW.—The Secretary shall undertake an annual review of the actuarial soundness of each of the insurance programs comprising the General Insurance Fund, and shall present findings from such review to the Congress in the FHA Annual Management Report.".

(i) ALTERNATIVE USES FOR PREVENTION OF DEFAULT.—

(1) IN GENERAL.—Subject to notice and comment from existing tenants, to prevent the imminent default of a multifamily housing project subject to a mortgage insured under title II of the National Housing Act, the Secretary may authorize the mortgagor to use the project for purposes not contemplated by or permitted under the regulatory agreement, if—

(A) such other uses are acceptable to the Secretary;

(B) such other uses would be otherwise insurable under title II of the National Housing Act;

(C) the outstanding principal balance on the mortgage covering such project is not increased;

(D) any financial benefit accruing to the mortgagor shall, subject to the discretion of the Secretary, be applied to project reserves or project rehabilitation; and

(E) such other use serves a public purpose.

(2) DISPLACEMENT PROTECTION.—The Secretary shall—

(A) make available tenant-based assistance under section 8 of the United States Housing Act of 1937 to any tenant displaced as a result of actions taken by the Secretary pursuant to paragraph (1); and

(B) take such actions as the Secretary determines necessary to ensure the successful use of any tenant-based assistance provided under this paragraph.

(3) IMPLEMENTATION.—The Secretary shall, by notice published in the Federal Register, which shall take effect upon publication, establish such requirements as may be necessary to implement the amendments made by this subsection. The notice shall invite public comments and, not later than 12 months after the date on which the notice is published, the Secretary shall issue final regulations based on the initial notice, taking into account any public comments received.

(j) MORTGAGE SALE DEMONSTRATION.—The Secretary may carry out a demonstration to test the feasibility of restructuring and disposing of troubled multifamily mortgages held by the Secretary through the establishment of partnerships between public, private, and nonprofit entities.

(k) NATIONAL INTERAGENCY TASK FORCE ON MULTIFAMILY HOUSING.—

(1) FUNCTIONS.—Section 543(e)(1) of the Housing and Community Development Act of 1992 (12 U.S.C. 1707 note) is amended—

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

(B) in subparagraph (E), by striking the period at the end and inserting "; and"; and

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

"(F) make available appropriate information to the Department of Housing and Urban Development that will assist in preventing the future default of multifamily housing project mortgages insured under title II of the National Housing Act.".

(2) USE OF APPROPRIATIONS AUTHORITY.—Section 543(h) of the Housing and Community Development Act of 1992 is amended by inserting after the first sentence the following: "The Secretary may use any non-Federal or private funding or may use the authority provided for salaries and expenses in appropriations Acts for activities carried out under this section.

SEC. 107. INTEREST RATES ON ASSIGNED MORTGAGES.

Section 7(i)(5) of the Department of Housing and Urban Development Act (42 U.S.C.

3535(i)(5)) is amended by striking the first semicolon, and all that follows through "as determined by the Secretary".

SEC. 108. AUTHORIZATION OF APPROPRIATIONS.

(a) SPECIAL RISK INSURANCE FUND.—Section 238(b) of the National Housing Act (12 U.S.C. 1715z-3(b)) is amended by striking the fifth sentence.

(b) GENERAL INSURANCE FUND.—Section 519 of the National Housing Act (12 U.S.C. 1735c) is amended—

(1) by striking subsection (f); and

(2) by redesignating subsection (g) (as added by section 106(h)(2) of this Act) as subsection (f).

(c) MULTIFAMILY INSURANCE FUND APPROPRIATIONS.—Title V of the National Housing Act (12 U.S.C. 1731a et seq.) is amended by adding at the end the following new section:

"SEC. 541. AUTHORIZATION OF APPROPRIATIONS FOR GENERAL AND SPECIAL RISK INSURANCE FUNDS.

"There are authorized to be appropriated $350,000,000 for fiscal year 1994 and $360,500,000 for fiscal year 1995, to be allocated in any manner that the Secretary determines appropriate, for the following costs incurred in conjunction with programs authorized under the General Insurance Fund, as provided by section 519, and the Special Risk Insurance Fund, as provided by section 238:

"(1) The cost to the Government, as defined in section 502 of the Congressional Budget Act, of new insurance commitments.

"(2) The cost to the Government, as defined in section 502 of the Congressional Budget Act, of modifications to existing loans, loan guarantees, or insurance commitments.

"(3) The cost to the Government, as defined in section 502 of the Congressional Budget Act, of loans provided under section 203(f) of the Housing and Community Development Amendments of 1978.

"(4) The costs of the rehabilitation of multifamily housing projects (as defined in section 203(b) of the Housing and Community Development Amendments of 1978) upon disposition by the Secretary.".

TITLE II—ENHANCED PROGRAM FLEXIBILITY

Subtitle A—Office of Public and Indian Housing

SEC. 201. REVITALIZATION OF SEVERELY DISTRESSED PUBLIC HOUSING.

(a) IN GENERAL.—Section 24 of the United States Housing Act of 1937 (42 U.S.C. 1437v) is amended—

(1) by amending subsection (b) to read as follows:

"(b) [RESERVED].";

(2) in subsection (c)(2), by striking "$200,000" and inserting "$500,000";

(3) in subsection (c)(3)—

(A) by redesignating subparagraphs (E) through (I) as subparagraphs (F) through (J), respectively;

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

"(E) planning for community service and support service activities to be carried out by the public housing agency, residents, members of the community, and other persons and organizations willing to contribute to the social, economic, or physical improvement of the community (community service is a required element of the revitalization program);"; and

(C) in subparagraph (H), as redesignated, by striking "designing a suitable replacement housing plan," and inserting "designing suitable relocation and replacement housing plans,";

(4) in subsection (c)(4)—

(A) by redesignating subparagraphs (D) and (E) as subparagraphs (E) and (F), respectively; and

(B) by inserting after subparagraph (C) the following new subparagraph:

"(D) a description of the community service and support service planning activities to be carried out by the public housing agency, residents, members of the community, and other persons and organizations willing to contribute to the social, economic, or physical improvement of the community;";

(5) in subsection (c)(5)—

(A) by striking subparagraph (E) and redesignating subparagraphs (F) and (G) as subparagraphs (E) and (F), accordingly;

(B) in subparagraph (E), as redesignated, by inserting before the semicolon ", taking into account the condition of the stock of the public housing agency as a whole"; and

(C) by adding at the end the following:

"In making grants under this subsection, the Secretary may select a lower-rated, approvable application over a higher-rated application to increase the national geographic diversity among applications approved under this section.";

(6) in subsection (d)(2)—

(A) by redesignating subparagraphs (E) through (I) as subparagraphs (G) through (K), respectively;

(B) by inserting after subparagraph (D) the following new subparagraphs:

"(E) community service activities to be carried out by residents, members of the community, and other persons willing to contribute to the social, economic, or physical improvement of the community (community service is a required element of the revitalization program);

"(F) replacement of public housing units;"; and

(C) in subparagraph (K), as redesignated—

(i) by striking "15 percent" and inserting "20 percent"; and

(ii) by inserting before the period at the end the following: ", except that an amount equal to 15 percent of the amount of any grant under this subsection used for support services shall be contributed from non-Federal sources (which contribution shall be in the form of cash, administrative costs, and the reasonable value of in-kind contributions and may include funding under title I of the Housing and Community Development Act of 1974)";

(7) in subsection (d)(3)—

(A) by redesignating subparagraphs (D) and (E) as subparagraphs (E) and (F), respectively; and

(B) by inserting after subparagraph (C) the following new subparagraph:

"(D) a description of the community service and support service activities to be carried out by the public housing agency, residents, members of the community, and other persons and organizations willing to contribute to the social, economic, or physical improvement of the community;";

(8) in subsection (d)(4)—

(A) in subparagraph (D), by inserting "(with assistance from the Department of Housing and Urban Development if necessary)" after "applicant";

(B) by striking subparagraph (E) and redesignating subparagraphs (F) and (G) as subparagraphs (E) and (F), respectively;

(C) in subparagraph (E), as redesignated, by inserting before the semicolon ", taking into account the condition of the applicant's stock as a whole"; and

(D) by adding at the end the following:

"In making grants under this subsection, the Secretary may select a lower-rated, approvable application over a higher-rated application to increase the national geographic diversity among applications approved under this section.";

(9) in subsection (e), by adding at the end the following new paragraph:

"(3) DEMOLITION AND REPLACEMENT.—

"(A) IN GENERAL.—Notwithstanding any other applicable law or regulation, a revitalization plan under this section may include demolition and replacement on site or in the same neighborhood if the number of replacement units provided in the same neighborhood is fewer than the number of units demolished as a result of the revitalization effort.

"(B) TENANT-BASED ASSISTANCE.—Notwithstanding the limitations contained in subparagraph (A)(v) or (C) of section 18(b)(3), a public housing agency may replace not more than one-third of the units demolished or disposed of through a revitalization project under this section with tenant-based assistance under section 8.";

(10) in subsection (h)—

(A) by amending paragraph (5) to read as follows:

"(5) SEVERELY DISTRESSED PUBLIC HOUSING.—The term 'severely distressed public housing' means a public housing project or a building in a project—

"(A) that requires major redesign, reconstruction, redevelopment, or partial or total demolition to correct serious deficiencies in the original design (including inappropriately high population density), deferred maintenance, physical deterioration or obsolescence of major systems, and other deficiencies in the physical plant of the project; and

"(B) that either—

"(i)(I) is occupied predominantly by families with children that have extremely low incomes, high rates of unemployment, and extensive dependency on various forms of public assistance; and

"(II) has high rates of vandalism and criminal activity (including drug-related criminal activity); or

"(ii) that has a vacancy rate, as determined by the Secretary, of 50 percent or more;

"(C) that cannot be revitalized through assistance under other programs, such as the programs under sections 9 and 14, or through other administrative means because of the inadequacy of available funds; and

"(D) that, in the case of individual buildings, the building is, in the Secretary's determination, sufficiently separable from the remainder of the project to make use of the building feasible for purposes of this section."; and

(B) by adding at the end the following new paragraphs:

"(6) COMMUNITY SERVICE.—The term 'community service' means services provided on a volunteer or limited stipend basis for the social, economic, or physical improvement of the community to be served.

"(7) SUPPORT SERVICES.—The term 'support services' includes all activities designed to lead toward upward mobility, self-sufficiency, and improved quality of life for the residents of the project, such as literacy training, job training, day care, and economic development. Such activities may allow for the participation of residents of the neighborhood."; and

(11) in subsection (i)—

(A) by striking paragraph (2); and

(B) by redesignating paragraphs (3) and (4) as paragraphs (2) and (3), respectively.

(b) CONFORMING AMENDMENT.—The first sentence of section 25(m)(1) of the United

States Housing Act of 1937 (42 U.S.C. 1437w(m)(1)) is amended to read as follows:

"(1) The term 'eligible housing' means a public housing project, or one or more buildings within a project, that is owned or operated by a public housing agency that has been troubled for not less than 3 years and that, as determined by the Secretary, has failed to make substantial progress toward effective management.".

(c) USE OF TENANT-BASED ASSISTANCE FOR REPLACEMENT HOUSING.—Section 18(b)(3)(C)(i) of the United States Housing Act of 1937 (42 U.S.C. 1437p(b)(3)(C)(i)) is amended by striking "15-year".

(d) REPLACEMENT HOUSING OUTSIDE THE JURISDICTION OF THE PHA.—Section 18(b)(3) of the United States Housing Act of 1937 (42 U.S.C. 1437p(b)(3)), as amended by subsection (c), is amended—

(1) by redesignating subparagraphs (D) through (H) as subparagraphs (E) through (I), respectively; and

(2) by inserting after subparagraph (C) the following new subparagraph:

"(D) may provide that all or part of such additional dwelling units may be located outside of the jurisdiction of the public housing agency (the 'original agency') if—

"(i) the location is in the same housing market area as the original agency, as determined by the Secretary;

"(ii) the plan contains an agreement between the original agency and the public housing agency in the alternate location or other public or private entity that will be responsible for providing the additional units in the alternate location ('alternate agency or entity') that the alternate agency or entity will, with respect to the dwelling units involved—

"(I) provide the dwelling units in accordance with subparagraph (A);

"(II) complete the plan on schedule in accordance with subparagraph (F);

"(III) meet the requirements of subparagraph (G) and the maximum rent provisions of subparagraph (H); and

"(IV) not impose a local residency preference on any resident of the jurisdiction of the original agency for purposes of admission to any such units; and

"(iii) the arrangement is approved by the unit of general local government for the jurisdiction in which the additional units will be located;".

SEC. 202. DISALLOWANCE OF EARNED INCOME FOR RESIDENTS WHO OBTAIN EMPLOYMENT.

(a) IN GENERAL.—Section 3 of the United States Housing Act of 1937 (42 U.S.C. 1437a) is amended—

(1) by striking the undesignated paragraph at the end of subsection (c)(3) (as added by section 515(b) of the Cranston-Gonzalez National Affordable Housing Act); and

(2) by adding at the end the following new subsection:

"(d) DISALLOWANCE OF EARNED INCOME FROM PUBLIC HOUSING RENT DETERMINATIONS.—Notwithstanding any other provision of law, the rent payable under subsection (a) for any public housing unit by a family whose income increases as a result of employment of a member of the family who was previously unemployed for one or more years (including a family whose income increases as a result of the participation of a family member in the Family Self-Sufficiency program or other job training program) shall not be increased for a period of 18 months, beginning with the commencement of employment as a result of the increased income due to such employment. After the expiration of the 18-month period, rent increases due to the continued employment of such family member shall be limited to 10 percent per year. In no case shall rent exceed the amount determined under subsection (a).".

(b) APPLICABILITY OF AMENDMENT.—Notwithstanding the amendment made by subsection (a), any resident of public housing participating in the program under the authority contained in the undesignated paragraph at the end of section 3(c)(3) of the United States Housing Act of 1937 as such paragraph existed before the date of enactment of this subsection shall continue to be governed by such authority.

SEC. 203. CEILING RENTS BASED ON REASONABLE RENTAL VALUE.

(a) AMENDMENT.—Section 3(a)(2)(A)(iii) of the United States Housing Act of 1937 (42 U.S.C. 1437a(a)(2)(A)(iii)) is amended to read as follows:

"(iii) is not less than the reasonable rental value of the unit, as determined by the Secretary.".

(b) REGULATIONS.—

(1) IN GENERAL.—The Secretary shall, by regulation, after notice and an opportunity for public comment, establish such requirements as may be necessary to carry out the provisions of section 3(a)(2)(A) of the United States Housing Act of 1937, as amended by subsection (a).

(2) APPLICABILITY.—Except in the case of an Indian housing authority, the regulations issued pursuant to paragraph (1) shall not apply to scattered site public housing units.

(3) TRANSITION RULE.—Prior to the issuance of final regulations under paragraph (1), a public housing agency may implement ceiling rents which shall be—

(A) determined in accordance with section 3(a)(2)(A) of the United States Housing Act of 1937, as such section existed before the date of enactment of this Act; or

(B) equal to the 95th percentile of the rent paid for a unit of comparable size by tenants in the same project or a group of comparable projects totaling 50 units or more.

SEC. 204. RESIDENT MANAGEMENT PROGRAM.

Section 20(f) of the United States Housing Act of 1937 (42 U.S.C. 1437r(f)) is amended—

(1) in paragraph (2), by striking "$100,000" and inserting "$250,000"; and

(2) in paragraph (3), by adding at the end the following: "The Secretary may use not more than 10 percent of the amounts made available under this subsection for program monitoring and evaluation, technical assistance, and information dissemination.".

Subtitle B—Office of Community Planning and Development

SEC. 211. ECONOMIC DEVELOPMENT INITIATIVE.

(a) SECTION 108 ELIGIBLE ACTIVITIES.—

(1) IN GENERAL.—Section 108(a) of the Housing and Community Development Act of 1974 (42 U.S.C. 5308(a)) is amended—

(A) in the first sentence—

(i) by striking "or" after "section 105(a);"; and

(ii) by inserting before the period the following: "; (5) the acquisition, construction, reconstruction, or installation of public facilities (except for buildings for the general conduct of government); or (6) in the case of colonias, public works and site or other improvements"; and

(B) by striking the second sentence and inserting the following: "A guarantee under this section (including a guarantee combined with a grant under subsection (q)) may be used to assist a grantee in obtaining financing only if the grantee has made efforts to obtain the financing without the use of the guarantee (and, if applicable, the grant) and cannot complete the financing consistent with the timely execution of the proposed activities and projects without the guarantee (or, if applicable, the grant).".

(2) DEFINITION.—Section 102(a) of the Housing and Community Development Act of 1974 (42 U.S.C. 5302(a)) is amended by adding at the end the following new paragraph:

"(24) The term 'colonia' means any identifiable community that—

"(A) is in the State of Arizona, California, New Mexico, or Texas;

"(B) is in the United States-Mexico border region;

"(C) is determined to be a colonia on the basis of objective criteria, including lack of potable water supply, lack of adequate sewage systems, and lack of decent, safe, and sanitary housing; and

"(D) was in existence as a colonia before the date of the enactment of the Cranston-Gonzalez National Affordable Housing Act.".

(b) ECONOMIC DEVELOPMENT GRANTS.—

(1) IN GENERAL.—Section 108 of the Housing and Community Development Act of 1974 (42 U.S.C. 5308) is amended by adding at the end the following new subsection:

"(q) ECONOMIC DEVELOPMENT GRANTS.—

"(1) AUTHORIZATION.—The Secretary may make grants in connection with notes or other obligations guaranteed under this section to eligible public entities for the purpose of enhancing the security of loans guaranteed under this section or improving the viability of projects financed with loans guaranteed under this section.

"(2) ELIGIBLE ACTIVITIES.—Assistance under this subsection may be used for the purposes of and in conjunction with projects and activities assisted under subsection (a).

"(3) APPLICATIONS.—Applications for assistance under this subsection shall be submitted by eligible public entities in the form and in accordance with the procedures established by the Secretary. Eligible public entities may apply for grants only in conjunction with a request for guarantee under subsection (a).

"(4) SELECTION CRITERIA.—The Secretary shall establish criteria for awarding assistance under this subsection. Such criteria shall include—

"(A) the extent of need for such assistance;

"(B) the level of distress in the community to be served and in the jurisdiction applying for assistance;

"(C) the quality of the plan proposed and the capacity or potential capacity of the applicant to successfully carry out the plan; and

"(D) such other factors as the Secretary determines to be appropriate.".

(2) CONFORMING AMENDMENT.—Title I of the Housing and Community Development Act of 1974 (42 U.S.C. 5301 et seq.) is amended—

(A) in section 101(c) in the second sentence, by inserting "or a grant" after "guarantee"; and

(B) in section 104(b)(3), by inserting "or a grant" after "guarantee".

(c) USE OF UDAG RECAPTURES.—Section 119(o) of the Housing and Community Development Act of 1974 (42 U.S.C. 5318(o)) is amended by inserting before the period the following: ", except that amounts available to the Secretary for use under this subsection as of October 1, 1993, and amounts released to the Secretary pursuant to subsection (t) may be used to provide grants under section 108(q).".

(d) UDAG AMNESTY PROGRAM.—

(1) AMENDMENT.—Section 119 of the Housing and Community Development Act of 1974

(42 U.S.C. 5318) is amended by adding at the end the following new subsection:

"(t) UDAG AMNESTY PROGRAM.—If a grant or a portion of a grant under this section remains unexpended as of the issuance of a notice implementing this subsection, the grantee may enter into an agreement, as provided under this subsection, with the Secretary to receive a percentage of the grant amount and relinquish all claims to the balance of the grant within 90 days of the issuance of notice implementing this subsection (or such later date as the Secretary may approve). The Secretary shall not recapture any funds obligated pursuant to this section during a period beginning on the date of enactment of the Housing and Community Development Act of 1993 until 90 days after the issuance of a notice implementing this subsection. A grantee may receive as a grant under this subsection—

"(1) 33 percent of such unexpended amounts if—

"(A) the grantee agrees to expend not less than one-half of the amount received for activities authorized pursuant to section 108(q) and to expend such funds in conjunction with a loan guarantee made under section 108 at least equal to twice the amount of the funds received; and

"(B)(i) the remainder of the amount received is used for economic development activities eligible under title I of this Act; and

"(ii) except when waived by the Secretary in the case of a severely distressed jurisdiction, not more than one-half of the costs of activities under subparagraph (B) are derived from such unexpended amounts; or

"(2) 25 percent of such unexpended amounts if—

"(A) the grantee agrees to expend such funds for economic development activities eligible under title I of this Act; and

"(B) except when waived by the Secretary in the case of a severely distressed jurisdiction, not more than one-half of the costs of such activities are derived from such unexpended amount.".

(2) IMPLEMENTATION.—Notwithstanding subsection (f), not later than 10 days after the date of enactment of this Act, the Secretary shall, by notice published in the Federal Register, which shall take effect upon publication, establish such requirements as may be necessary to implement the amendments made by this subsection.

(e) GUARANTEE OF OBLIGATIONS BACKED BY SECTION 108 LOANS.—Section 108 of the Housing and Community Development Act of 1974 (42 U.S.C. 5308), as amended by subsection (b), is amended by adding at the end the following new subsection:

"(r) GUARANTEE OF OBLIGATIONS BACKED BY SECTION 108 LOANS.—

"(1) AUTHORIZATION.—The Secretary may, upon such terms and conditions as the Secretary deems appropriate, guarantee the timely payment of the principal of and interest on trust certificates or other obligations that—

"(A) are offered by the Secretary, or by any other offeror approved for purposes of this subsection by the Secretary; and

"(B) are based on and backed by a trust or pool composed of notes or other obligations guaranteed by the Secretary under this section.

"(2) FULL FAITH AND CREDIT OF THE UNITED STATES.—Subsection (f) shall apply to any guarantee under this subsection.

"(3) SUBROGATION.—If the Secretary pays a claim under a guarantee issued under this section, the Secretary shall be subrogated fully to the rights satisfied by such payment.

"(4) POWERS OF THE SECRETARY.—No Federal, State, or local law shall preclude or limit the exercise by the Secretary of—

"(A) the power to contract with respect to public offerings and other sales of notes, trust certificates, and other obligations guaranteed under this section upon such terms and conditions as the Secretary deems appropriate;

"(B) the right to enforce by any means deemed appropriate by the Secretary any such contract; and

"(C) the Secretary's ownership rights, as applicable, in notes, certificates, or other obligations guaranteed under this section, or constituting the trust or pool against which trust certificates or other obligations guaranteed under this section are offered.".

(f) EFFECTIVE DATE.—The Secretary shall, by notice published in the Federal Register, which shall take effect upon publication, establish such requirements as may be necessary to implement the amendments made by this section. The notice shall invite public comments and, not later than 12 months after the date on which the notice is published, the Secretary shall issue final regulations based on the initial notice, taking into account any public comments received.

SEC. 212. HOME INVESTMENT PARTNERSHIPS.

(a) PARTICIPATION BY STATE AGENCIES OR INSTRUMENTALITIES.—Section 104(2) of the Cranston-Gonzalez National Affordable Housing Act (42 U.S.C. 12704(2)) is amended by inserting before the period at the end the following: ", or any agency or instrumentality thereof that is established pursuant to legislation and designated by the chief executive to act on behalf of the State with regard to the provisions of this Act".

(b) SIMPLIFY PROGRAM-WIDE INCOME TARGETING FOR HOME RENTAL HOUSING.—Section 214(1) of the Cranston-Gonzalez National Affordable Housing Act (42 U.S.C. 12744(1)) is amended by striking "such funds are invested with respect to dwelling units that are occupied by" each place such term appears and inserting "(i) the families receiving such rental assistance are, or (ii) the dwelling units assisted with such funds are occupied by" in each such place.

(c) REMOVE FIRST-TIME HOMEBUYER LIMITATION FOR HOME UNITS.—Section 215(b) of the Cranston-Gonzalez National Affordable Housing Act (42 U.S.C. 12745(b)) is amended by striking paragraph (3) and redesignating paragraphs (4) and (5) as paragraphs (3) and (4), respectively.

(d) SIMPLIFY RESALE PROVISIONS.—Section 215(b)(3)(B) of the Cranston-Gonzalez National Affordable Housing Act (42 U.S.C. 12745(b)(4)(B)), as redesignated by subsection (c), is amended by striking "subsection" and inserting "title".

(e) STABILIZATION OF HOME FUNDING THRESHOLDS.—The Cranston-Gonzalez National Affordable Housing Act (42 U.S.C. 12701 et seq.) is amended—

(1) in section 216, by striking paragraph (10);

(2) in section 217(b), by striking paragraph (4);

(3) in section 217(b)(3)—

(A) in the first sentence, by striking "only those jurisdictions" and all that follows through "allocation" and inserting "jurisdictions that are not participating jurisdictions that are allocated an amount of $500,000 or more and jurisdictions that are participating jurisdictions shall receive an allocation"; and

(B) in the last sentence, by striking ", except as provided in paragraph (4)"; and

(4) in section 216—

(A) in paragraph (3)(A), by striking "Except as provided in paragraph (10), a jurisdiction" and inserting "A jurisdiction"; and

(B) in paragraph (9)(B), by striking ", except as provided in paragraph (10)".

(f) COMPREHENSIVE AFFORDABLE HOUSING STRATEGY.—

(1) HOME PROGRAM.—Section 218(d) of the Cranston-Gonzalez National Affordable Housing Act (42 U.S.C. 12748(d)) is amended in the first sentence, by inserting "that it is following a current housing affordability strategy that has been approved by the Secretary in accordance with section 105, and" after "certification".

(2) HOMELESS ASSISTANCE PROGRAMS.—Section 401 of the Stewart B. McKinney Homeless Assistance Act (42 U.S.C. 11361) is amended to read as follows:

"SEC. 401. HOUSING AFFORDABILITY STRATEGY.

"(a) REQUIREMENT TO FOLLOW A CHAS.—Assistance may be made available under subtitle B to metropolitan cities, urban counties, and States receiving a formula amount under section 413, only if the jurisdiction certifies that it is following a current housing affordability strategy that has been approved by the Secretary in accordance with section 105 of the Cranston-Gonzalez National Affordable Housing Act.

"(b) REQUIREMENT FOR CONSISTENCY WITH CHAS.—Assistance may be made available under this title only if the application contains a certification that the proposed project or activities are consistent with the housing affordability strategy of the State or unit of general local government in which the project is located. The certification shall be from the public official responsible for submitting the strategy for the jurisdiction.".

(3) CONFORMING CHANGES.—Title IV of the Stewart B. McKinney Homeless Assistance Act (42 U.S.C. 11361 et seq.) is amended by striking sections 426(a)(2)(F), 434(a)(10), and 454(b)(9).

(g) HOME MATCHING REQUIREMENTS.—Section 220(a) of the Cranston-Gonzalez National Affordable Housing Act (42 U.S.C. 12750(a)) is amended to read as follows:

"(a) CONTRIBUTION.—Each participating jurisdiction shall make contributions to housing that qualifies as affordable housing under this title that total, throughout a fiscal year, not less than 25 percent of the funds drawn from the jurisdiction's HOME Investment Trust Fund in that fiscal year. Such contribution shall be in addition to any amounts made available under section 216(3)(A)(ii).".

(h) SEPARATE AUDIT REQUIREMENT FOR THE HOME PROGRAM.—Section 283 of the Cranston-Gonzalez National Affordable Housing Act (42 U.S.C. 12833) is amended—

(1) by striking the section heading and inserting the following:

"SEC. 283. AUDITS BY THE COMPTROLLER GENERAL.";

(2) by striking subsection (a);

(3) in subsection (b)—

(A) by striking "(b) AUDITS BY THE COMPTROLLER GENERAL.—"; and

(B) by redesignating paragraphs (1) and (2) as subsections (a) and (b), respectively; and

(4) in subsection (a), as redesignated by paragraph (3), by striking the second sentence.

(i) HOME ENVIRONMENTAL REVIEW AMENDMENTS.—Section 288 of the Cranston-Gonzalez National Affordable Housing Act (42 U.S.C. 12838) is amended—

(1) in subsection (a)—

(A) in the first sentence, by striking "participating jurisdictions" and inserting "ju-

risdictions, Indian tribes, or insular areas"; and

(B) by adding at the end the following: "The regulations shall—

"(1) provide for the monitoring of environmental reviews performed under this section;

"(2) at the discretion of the Secretary, facilitate training for the performance of such reviews; and

"(3) establish criteria for the suspension or termination of the assumption under this section.

The Secretary's duty under this subsection shall not be construed to limit any responsibility assumed by a State or unit of general local government with respect to any particular release of funds.";

(2) in subsection (b) in the first sentence, by striking "participating jurisdiction" and inserting "jurisdiction, Indian tribe, or insular area";

(3) in subsection (c)(4), by striking "participating jurisdiction" and inserting "jurisdiction, Indian tribe, or insular area"; and

(4) in subsection (d), by striking "ASSISTANCE TO A STATE.—In the case of assistance to States" and inserting the following: "ASSISTANCE TO UNITS OF GENERAL LOCAL GOVERNMENT FROM A STATE.—In the case of assistance to units of general local government from a State".

(j) USE OF CDBG FUNDS FOR HOME ADMINISTRATIVE EXPENSES.—Section 105(a)(13) of the Housing and Community Development Act of 1974 (42 U.S.C. 5305(a)(13)) is amended by inserting after "charges related to" the following: "(A) administering the HOME program under title II of the Cranston-Gonzalez National Affordable Housing Act; and (B)".

(k) PROJECT DELIVERY COSTS.—Section 105(a)(21) of the Housing and Community Development Act of 1974 (42 U.S.C. 5305(a)(21)) is amended—

(1) by inserting "in connection with tenant-based assistance and affordable housing projects assisted under title II of the Cranston-Gonzalez National Affordable Housing Act" after "housing counseling"; and

(2) by striking "authorized" and all that follows through "any law" and inserting "assisted under title II of the Cranston-Gonzalez National Affordable Housing Act".

SEC. 213. HOPE MATCH REQUIREMENT.

Section 443(c)(1) of the Cranston-Gonzalez National Affordable Housing Act (42 U.S.C. 12893(c)(1)) is amended by striking "33" and inserting "25".

SEC. 214. FLEXIBILITY OF CDBG PROGRAM FOR DISASTER AREAS.

Title I of the Housing and Community Development Act of 1974 (42 U.S.C. 5301 et seq.) is amended by adding at the end the following new section:

"SEC. 122. SUSPENSION OF REQUIREMENTS FOR DISASTER AREAS.

"For the duration of time during which an area has been declared a disaster area by the President under title IV of the Robert T. Stafford Disaster Relief and Emergency Assistance Act, the Secretary may suspend all requirements for purposes of assistance under section 106 for that area, except for those related to public notice of funding availability, nondiscrimination, fair housing, labor standards, environmental standards, and requirements that activities benefit persons of low- and moderate-income.".

SEC. 215. FLEXIBILITY OF HOME PROGRAM FOR DISASTER AREAS.

Title II of the Cranston-Gonzalez National Affordable Housing Act (42 U.S.C. 12721 et seq.) is amended by adding at the end the following new section:

"SEC. 290. SUSPENSION OF REQUIREMENTS FOR DISASTER AREAS.

"For the duration of time during which an area has been declared a disaster area by the President under title IV of the Robert T. Stafford Disaster Relief and Emergency Assistance Act, the Secretary may suspend all requirements for purposes of assistance under this title for that area, except for those related to public notice of funding availability, nondiscrimination, fair housing, labor standards, environmental standards, and low-income housing affordability.".

Subtitle C—Community Partnerships Against Crime

SEC. 221. COMPAC PROGRAM.

(a) CONFORMING PROVISIONS.—Section 5001 of the Anti-Drug Abuse Act of 1988 (42 U.S.C. 11901) is amended in the table of contents—

(1) by striking the item relating to the heading for chapter 2 and inserting the following:

"CHAPTER 2—COMMUNITY PARTNERSHIPS AGAINST CRIME";

(2) by striking the item relating to section 5122 and inserting the following:

"Sec. 5122. Purposes.";

and

(3) by adding the following after the item relating to section 5130:

"Sec. 5131. Technical assistance.".

(b) SHORT TITLE, PURPOSES, AND AUTHORITY TO MAKE GRANTS.—The Public and Assisted Housing Drug Elimination Act of 1990 (42 U.S.C. 11901 et seq.) is amended by striking the chapter heading for chapter 2, and by striking sections 5121, 5122, and 5123 and inserting the following:

"CHAPTER 2—COMMUNITY PARTNERSHIPS AGAINST CRIME

"SEC. 5121. SHORT TITLE.

"This chapter may be cited as the 'Community Partnerships Against Crime Act of 1993'.

"SEC. 5122. PURPOSES.

"The purposes of this chapter are to—

"(1) improve the quality of life for law-abiding public housing residents by reducing the levels of fear, violence, and crime in their communities;

"(2) expand and enhance the Federal Government's commitment to eliminating crime in public housing;

"(3) broaden the scope of the Public and Assisted Housing Drug Elimination Act of 1990 to apply to all types of crime, and not simply crime that is drug-related;

"(4) target opportunities for long-term commitments of funding primarily to public housing agencies with serious crime problems;

"(5) encourage the involvement of a broad range of community-based groups, and residents of neighboring housing that is owned or assisted by the Secretary, in the development and implementation of anti-crime plans;

"(6) reduce crime and disorder in and around public housing through the expansion of community-oriented policing activities and problem solving;

"(7) provide training, information services, and other technical assistance to program participants; and

"(8) establish a standardized assessment system to evaluate need among public housing agencies, and to measure progress in reaching crime reduction goals.

"SEC. 5123. AUTHORITY TO MAKE GRANTS.

"The Secretary of Housing and Urban Development, in accordance with the provisions of this chapter, may make grants, for use in eliminating crime in and around public and other federally assisted low-income housing projects (1) to public housing agencies (including Indian housing authorities), and (2) to private, for profit, and nonprofit owners of federally assisted low-income housing. In designing the program, the Secretary shall consult with the Attorney General.".

(c) ELIGIBLE ACTIVITIES.—Section 5124(a) of the Public and Assisted Housing Drug Elimination Act of 1990 (42 U.S.C. 11903(a)) is amended—

(1) in the introductory material preceding paragraph (1), by inserting "and around" after "used in";

(2) in paragraph (3), by inserting ", such as fencing, lighting, locking, and surveillance systems" before the semicolon;

(3) in paragraph (4), by striking subparagraph (A) and inserting the following new subparagraph:

"(A) to investigate crime; and";

(4) in paragraph (6)—

(A) by striking "in and around public or other federally assisted low-income housing projects"; and

(B) by striking "and" after the semicolon;

(5) in paragraph (7)—

(A) by striking "where a public housing agency receives a grant,";

(B) by striking "drug abuse" and inserting "crime"; and

(C) by striking the period at the end and inserting a semicolon; and

(6) by adding at the end the following new paragraphs:

"(8) the employment or utilization of one or more individuals, including law enforcement officers, made available by contract or other cooperative arrangement with State or local law enforcement agencies, to engage in community policing involving interaction with members of the community on proactive crime control and prevention;

"(9) youth initiatives, such as activities involving training, education, after school programs, cultural programs, recreation and sports, career planning, and entrepreneurship and employment; and

"(10) resident service programs, such as job training, education programs, drug and alcohol treatment, and other appropriate social services that address the contributing factors of crime.".

(d) APPLICATIONS.—Section 5125 of the Public and Assisted Housing Drug Elimination Act of 1990 (42 U.S.C. 11904) is amended—

(1) in subsection (a)—

(A) by striking "To receive a grant" and inserting the following:

"(1) APPLICATIONS.—To receive a grant";

(B) in the second sentence, by striking "drug-related crime on the premises of" and inserting the following: "crime in and around"; and

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

"(2) ONE-YEAR RENEWABLE GRANTS.—

"(A) IN GENERAL.—Eligible applicants may submit an application for a 1-year grant under this chapter that, subject to the availability of appropriated amounts, shall be renewed annually for a period of not more than 4 years, if the Secretary finds, after an annual or more frequent performance review, that the public housing agency is performing under the terms of the grant and applicable laws in a satisfactory manner and meets such other requirements as the Secretary may prescribe.

"(B) PREFERENCE.—The Secretary shall accord a preference to applicants for grants under this paragraph if the grant is to be

used to continue or expand activities eligible for assistance under this chapter that have received previous assistance either under this chapter, as it existed prior to the enactment of the Housing and Community Development Act of 1993, or under section 14 of the United States Housing Act of 1937. Such preference shall not preclude the selection by the Secretary of other meritorious applications, particularly applications which address urgent or severe crime problems or which demonstrate especially promising approaches to reducing crime. Such preference shall not be construed to require continuation of activities determined by the Secretary to be unworthy of continuation.

"(3) PUBLIC HOUSING AGENCIES THAT HAVE ESPECIALLY SEVERE CRIME PROBLEMS.—The Secretary shall, by regulation issued after notice and opportunity for public comment, set forth criteria for establishing a class of public housing agencies that have especially severe crime problems. The Secretary may allocate a portion of the annual appropriation for this program for public housing agencies in this class.".

(2) in subsection (b)—

(A) by striking the introductory material preceding paragraph (1) and inserting the following: "The Secretary shall approve applications under subsection (a)(2) that are not subject to a preference under subsection (a)(2)(B) on the basis of—";

(B) in paragraph (1), by striking "drug-related crime problem in" and inserting the following: "crime problem in and around";

(C) in paragraph (2), by inserting immediately after "crime problem in" the following: "and around"; and

(D) in paragraph (4), by inserting after "local government" the following: ", local community-based nonprofit organizations, local resident organizations that represent the residents of neighboring projects that are owned or assisted by the Secretary,";

(3) in subsection (c)(2), by striking "drug-related" each place it appears; and

(4) by striking subsection (d).

(e) DEFINITIONS.—Section 5126 of the Public and Assisted Housing Drug Elimination Act of 1990 (42 U.S.C. 11905) is amended by striking paragraphs (1) and (2), and redesignating paragraphs (3) and (4) as paragraphs (1) and (2), respectively.

(f) IMPLEMENTATION.—Section 5127 of the Public and Assisted Housing Drug Elimination Act of 1990 (42 U.S.C. 11906) is amended by striking "Cranston-Gonzalez National Affordable Housing Act" and inserting "Housing and Community Development Act of 1993".

(g) REPORTS.—Section 5128 of the Public and Assisted Housing Drug Elimination Act of 1990 (42 U.S.C. 11907) is amended—

(1) by striking "The Secretary" and inserting the following:

"(a) GRANTEE REPORTS.—The Secretary";

(2) by striking "drug-related crime in" and inserting "crime in and around"; and

(3) by adding at the end the following new subsection:

"(b) HUD REPORTS.—The Secretary shall submit a report to the Congress describing the system used to distribute funds to grantees under this section. Such report shall include, at a minimum—

"(1) a description of the criteria used to establish the class of public housing agencies with especially severe crime problems and a list of such agencies;

"(2) the methodology used to distribute funds among the public housing agencies on the list created under paragraph (1); and

"(3) the Secretary's recommendations for any change to the method of distribution of funds.".

(h) AUTHORIZATION OF APPROPRIATIONS.—Section 5130 of the Public and Assisted Housing Drug Elimination Act of 1990 (42 U.S.C. 11909) is amended—

(1) in the first sentence of subsection (a), by striking "$175,000,000 for fiscal year 1993" and all that follows through the end of the sentence and inserting "$265,000,000 for fiscal year 1994 and $325,000,000 for fiscal year 1995."; and

(2) in subsection (b)—

(A) in the heading, by striking "SET-ASIDES" and inserting "SET-ASIDE"; and

(B) by striking the second sentence.

(i) REPEAL.—Section 520(k) of the Cranston-Gonzalez National Affordable Housing Act (42 U.S.C. 11908) is hereby repealed.

(j) TECHNICAL ASSISTANCE.—The Public and Assisted Housing Drug Elimination Act of 1990 (42 U.S.C. 11901 et seq.) is further amended by adding at the end the following new section:

"SEC. 5131. TECHNICAL ASSISTANCE.

"Of the amounts appropriated annually for each of fiscal years 1994 and 1995 to carry out this chapter, the Secretary shall use not more than $10,000,000, directly or indirectly, under grants, contracts, or cooperative agreements, to provide training, information services, and other technical assistance to public housing agencies and other entities with respect to their participation in the program authorized by this chapter. Such technical assistance may include the establishment and operation of the clearinghouse on drug abuse in public housing and the regional training program on drug abuse in public housing under sections 5143 and 5144 of this Act. The Secretary is also authorized to use the foregoing amounts for obtaining assistance in establishing and managing assessment and evaluation criteria and specifications, and obtaining the opinions of experts in relevant fields.".

TITLE III—TECHNICAL AND OTHER AMENDMENTS

Subtitle A—Public and Assisted Housing

SEC. 301. CORRECTION TO DEFINITION OF FAMILY.

The first sentence of section 3(b)(3)(B) of the United States Housing Act of 1937 (42 U.S.C. 1437a(b)(3)(B)) is amended—

(1) by striking "means" and inserting "includes"; and

(2) by inserting "and" immediately after "children,".

SEC. 302. IDENTIFICATION OF CIAP REPLACEMENT NEEDS.

Section 14 of the United States Housing Act of 1937 (42 U.S.C. 14371) is amended—

(1) in subsection (d)—

(A) by striking paragraph (2); and

(B) in paragraph (4)—

(i) by striking "and replacements,"; and

(ii) by striking "(1), (2), and (3)" and inserting "(1) and (3)"; and

(2) in subsection (f)(1)—

(A) by striking subparagraph (B); and

(B) in subparagraph (D), by striking "(1), (2), and (3)" and inserting "(1) and (3)".

SEC. 303. APPLICABILITY OF PUBLIC HOUSING AMENDMENTS TO INDIAN HOUSING.

(a) AMENDMENT.—Section 201(b) of the United States Housing Act of 1937 (42 U.S.C. 1437aa(b)) is amended to read as follows:

"(b) APPLICABILITY OF TITLE I.—Except as otherwise provided by law, the provisions of title I shall apply to low-income housing developed or operated pursuant to a contract between the Secretary and an Indian housing authority.".

(b) APPLICABILITY OF AMENDMENT.—The amendment made by subsection (a) shall not affect provisions of the United States Housing Act of 1937 that were made applicable to public housing developed or operated pursuant to a contract between the Secretary and an Indian housing authority in accordance with section 201(b)(2) of such Act, as such section existed before the effective date of this section.

(c) APPLICABILITY OF HOUSING AND COMMUNITY DEVELOPMENT ACT OF 1992.—Sections 103(a)(1), 112, 114, 116, 118, 903, and 927 of the Housing and Community Development Act of 1992 shall apply to public housing developed or operated pursuant to a contract between the Secretary and an Indian housing authority.

SEC. 304. PROJECT-BASED ACCOUNTING.

Section 6(c)(4)(E) of the United States Housing Act of 1937 (42 U.S.C. 1437d(c)(4)(E)) is amended by striking "250" and inserting "500".

SEC. 305. OPERATING SUBSIDY ADJUSTMENTS FOR ANTICIPATED FRAUD RECOVERIES.

Section 9(a) of the United States Housing Act of 1937 (42 U.S.C. 1437g(a)) is amended by adding at the end the following new paragraph:

"(4) Adjustments to a public housing agency's operating subsidy made by the Secretary under this section shall reflect actual changes in rental income collections resulting from the application of section 904 of the Stewart B. McKinney Homeless Assistance Amendments Act of 1988.".

SEC. 306. TECHNICAL ASSISTANCE FOR LEAD HAZARD REDUCTION GRANTEES.

Section 1011(g) of the Housing and Community Development Act of 1992 (42 U.S.C. 5318 note) is hereby repealed.

SEC. 307. ENVIRONMENTAL REVIEW IN CONNECTION WITH GRANTS FOR LEAD-BASED PAINT HAZARD REDUCTION.

Section 1011 of the Housing and Community Development Act of 1992 (42 U.S.C. 5318 note) is amended—

(1) by redesignating subsection (o) as subsection (p); and

(2) by adding after subsection (n) the following new subsection:

"(o) ENVIRONMENTAL REVIEW.—

"(1) IN GENERAL.—For purposes of environmental review, decisionmaking, and action pursuant to the National Environmental Policy Act of 1960 and other provisions of law that further the purposes of such Act, a grant under this section shall be treated as assistance under the HOME Investment Partnership Act, established under title II of the Cranston-Gonzalez National Affordable Housing Act, and shall be subject to the regulations promulgated by the Secretary to implement section 288 of such Act.

"(2) APPLICABILITY.—This subsection shall apply to—

"(A) grants awarded under this section; and

"(B) grants awarded to States and units of general local government for the abatement of significant lead-based paint and lead dust hazards in low- and moderate-income owner-occupied units and low-income privately owned rental units pursuant to title II of the Departments of Veterans Affairs and Housing and Urban Development, and Independent Agencies Appropriations Act, 1992 (Public Law 102-139, 105 Stat. 736).".

SEC. 308. FIRE SAFETY IN FEDERALLY ASSISTED HOUSING.

Section 31(c)(2)(A)(i) of the Federal Fire Prevention and Control Act of 1974 (15 U.S.C. 2227(c)(2)(A)(i)) is amended by adding "(or equivalent level of safety)" after "system".

SEC. 309. SECTION 23 CONVERSION PROJECTS.

(a) SECTION 23 CONVERSION.—

(1) AUTHORIZATION.—Notwithstanding contracts entered into pursuant to section 14(b)(2) of the United States Housing Act of 1937, the Secretary is authorized to enter into obligations for conversion of Leonard Terrace Apartments in Grand Rapids, Michigan, from a leased housing contract under section 23 of such Act to a project-based rental assistance contract under section 8 of such Act.

(2) REPAYMENT REQUIRED.—The authorization made in paragraph (1) is conditioned on the repayment to the Secretary of all amounts received by the public housing agency under the comprehensive improvement assistance program under section 14 of the United States Housing Act of 1937 for the Leonard Terrace Apartment project and the amounts, as determined by the Secretary, received by the public housing agency under the formula in section 14(k) of such Act by reason of the project.

(b) CONTRACT RENEWAL.—

(1) IN GENERAL.—Leased housing contracts under section 23 of the United States Housing Act of 1937, as such section existed before the date of enactment of the Housing and Community Development Act of 1974, that—

(A) were converted to section 8 contracts on terms similar to or the same as the terms of the section 8 new construction program; and

(B) expire during fiscal year 1994 or 1995;

shall be extended for a period not to exceed 5 years as if the rents on such projects were established under the section 8 new construction program, except that section 8(c)(2)(C) of the United States Housing Act of 1937 shall not apply to such contracts.

(2) BUDGET COMPLIANCE.—To the extent that paragraph (1) results in additional costs under this section, such paragraph shall be effective only to the extent that amounts to cover such additional costs are provided in advance in appropriation Acts.

SEC. 310. INDEMNIFICATION OF CONTRACTORS FOR INTELLECTUAL PROPERTY RIGHTS DISPUTES.

A recipient of Federal housing assistance may not use such funds to indemnify contractors or subcontractors against costs associated with litigating or settling disputes concerning the infringement of intellectual property rights.

SEC. 311. ASSUMPTION OF ENVIRONMENTAL REVIEW RESPONSIBILITIES UNDER UNITED STATES HOUSING ACT OF 1937 PROGRAMS.

Title I of the United States Housing Act of 1937 (42 U.S.C. 1437 et seq.) is amended by adding at the end the following new section:

"SEC. 26. ENVIRONMENTAL REVIEWS.

"(a) IN GENERAL.—

"(1) RELEASE OF FUNDS.—In order to assure that the policies of the National Environmental Policy Act of 1969 and other provisions of law which further the purposes of such Act (as specified in regulations issued by the Secretary) are most effectively implemented in connection with the expenditure of funds under this title, and to assure to the public undiminished protection of the environment, the Secretary may, under such regulations, in lieu of the environmental protection procedures otherwise applicable, provide for the release of funds for projects or activities under this title, as specified by the Secretary upon the request of a public housing agency under this section, if the State or unit of general local government, as designated by the Secretary in accordance with regulations, assumes all of the responsibilities for environmental review, decisionmaking, and action pursuant to such Act, and such other provisions of law as the regulations of the Secretary may specify, which would otherwise apply to the Secretary with respect to the release of funds.

"(2) IMPLEMENTATION.—The Secretary, after consultation with the Council on Environmental Quality, shall issue such regulations as may be necessary to carry out this section. Such regulations shall specify the programs to be covered.

"(b) PROCEDURE.—The Secretary shall approve the release of funds subject to the procedures authorized by this section only if, not less than 15 days prior to such approval and prior to any commitment of funds to such projects or activities, the public housing agency has submitted to the Secretary a request for such release accompanied by a certification of the State or unit of general local government which meets the requirements of subsection (c). The Secretary's approval of any such certification shall be deemed to satisfy the Secretary's responsibilities under the National Environmental Policy Act of 1969 and such other provisions of law as the regulations of the Secretary specify insofar as those responsibilities relate to the release of funds which are covered by such certification.

"(c) CERTIFICATION.—A certification under the procedures authorized by this section shall—

"(1) be in a form acceptable to the Secretary;

"(2) be executed by the chief executive officer or other officer of the State or unit of general local government who qualifies under regulations of the Secretary;

"(3) specify that the State or unit of general local government under this section has fully carried out its responsibilities as described under subsection (a); and

"(4) specify that the certifying officer—

"(A) consents to assume the status of a responsible Federal official under the National Environmental Policy Act of 1969 and agrees to comply with each provision of law specified in regulations issued by the Secretary insofar as the provisions of such Act or other such provision of law apply pursuant to subsection (a); and

"(B) is authorized and consents on behalf of the State or unit of general local government and himself or herself to accept the jurisdiction of the Federal courts for the purpose of enforcement of his or her responsibilities as such an official.

"(d) APPROVAL BY STATES.—In cases in which a unit of general local government carries out the responsibilities described in subsection (c), the Secretary may permit the State to perform those actions of the Secretary described in subsection (b) and the performance of such actions by the State, where permitted by the Secretary, shall be deemed to satisfy the Secretary's responsibilities referred to in the second sentence of subsection (b).".

SEC. 312. INCREASED STATE FLEXIBILITY IN THE LOW-INCOME HOME ENERGY ASSISTANCE PROGRAM.

Section 927 of the Housing and Community Development Act of 1992 (42 U.S.C. 8624) is amended—

(1) in subsection (a)—

(A) in the heading, by striking "(a) ELIGIBILITY.—" and inserting the following:

"(a) IN GENERAL.—";

(B) by striking "(including but not limited to the Low-Income Home Energy Assistance Program)"; and

(C) by inserting ", except as provided in subsection (d)" before the period at the end;

(2) in subsection (b)—

(A) by striking "such" and inserting "or receiving energy"; and

(B) by inserting before the period at the end "for any program in which eligibility or benefits are based on need, except as provided in subsection (d)"; and

(3) by adding at the end the following new subsection:

"(d) SPECIAL RULE FOR LOW-INCOME HOME ENERGY ASSISTANCE PROGRAM.—For purposes of the Low-Income Home Energy Assistance Program, tenants described in subsection (a)(2) shall not have their eligibility automatically denied. States may consider the amount of the heating or cooling component of utility allowances received by such tenants when setting benefit levels under the Low-Income Home Energy Assistance Program. Any reduction in fuel assistance benefits must be reasonably related to the amount of the heating or cooling component of the utility allowance received. States shall ensure that the highest level of assistance will be provided to those households with the highest energy burdens, in accordance with section 2605(b)(5) of the Low-Income Home Energy Assistance Act of 1981.".

Subtitle B—Multifamily Housing

SEC. 321. CORRECTION OF MULTIFAMILY MORTGAGE LIMITS.

The National Housing Act (12 U.S.C. 1701 et seq.) is amended in sections 207(c)(3), 213(b)(2), 220(d)(3)(B)(iii), and 234(e)(3) by striking "$59,160" each place it appears and inserting "$56,160".

SEC. 322. FHA MULTIFAMILY RISK-SHARING; HFA PILOT PROGRAM AMENDMENTS.

(a) IN GENERAL.—Section 542(c) of the Housing and Community Development Act of 1992 (12 U.S.C. 1707 note) is amended—

(1) in paragraph (1), by inserting after "qualified housing finance agencies" the following: "(including entities established by States that provide mortgage insurance)";

(2) in paragraph (2)—

(A) in subparagraph (C), by striking the last sentence and inserting the following: "Such agreements shall specify that the qualified housing finance agency and the Secretary shall share any loss in accordance with the risk-sharing agreement."; and

(B) by adding at the end the following new subparagraph:

"(F) DISCLOSURE OF RECORDS.—Qualified housing finance agencies shall make available to the Secretary such financial and other records as the Secretary deems necessary for program review and monitoring purposes.";

(3) in paragraph (7)—

(A) by striking "very low-income"; and

(B) by striking "(2)"; and

(4) by adding at the end the following new paragraphs:

"(9) ENVIRONMENTAL AND OTHER REVIEWS.—

"(A) ENVIRONMENTAL REVIEWS.—

"(i) IN GENERAL.—(I) In order to assure that the policies of the National Environmental Policy Act of 1969 and other provisions of law which further the purposes of such Act (as specified in regulations issued by the Secretary) are most effectively implemented in connection with the insurance of mortgages under subsection (c)(2), and to assure to the public undiminished protection of the environment, the Secretary may, under such regulations, in lieu of the environmental protection procedures otherwise applicable, provide for agreements to endorse for insurance mortgages under subsection (c)(2) upon the request of qualified housing finance agencies under this subsection, if the State or unit of general local government, as

designated by the Secretary in accordance with regulations, assumes all of the responsibilities for environmental review, decision-making, and action pursuant to such Act, and such other provisions of law as the regulations of the Secretary may specify, that would otherwise apply to the Secretary with respect to the insurance of mortgages on particular properties.

"(II) The Secretary shall issue regulations to carry out this subparagraph only after consultation with the Council on Environmental Quality. Such regulations shall, among other matters, provide—

"(aa) for the monitoring of the performance of environmental reviews under this subparagraph;

"(bb) subject to the discretion of the Secretary, for the provision or facilitation of training for such performance; and

"(cc) subject to the discretion of the Secretary, for the suspension or termination by the Secretary of the qualified housing finance agency's responsibilities under subclause (I).

"(III) The Secretary's duty under subclause (II) shall not be construed to limit any responsibility assumed by a State or unit of general local government with respect to any particular property under subclause (I).

"(ii) PROCEDURE.—The Secretary shall approve a mortgage for the provision of mortgage insurance subject to the procedures authorized by this paragraph only if, not less than 15 days prior to such approval, prior to any approval, commitment, or endorsement of mortgage insurance on the property on behalf of the Secretary, and prior to any commitment by the qualified housing finance agency to provide financing under the risk-sharing agreement with respect to the property, the qualified housing finance agency submits to the Secretary a request for such approval, accompanied by a certification of the State or unit of general local government that meets the requirements of clause (iii). The Secretary's approval of any such certification shall be deemed to satisfy the Secretary's responsibilities under the National Environmental Policy Act of 1969 and such other provisions of law as the regulations of the Secretary specify insofar as those responsibilities relate to the provision of mortgage insurance on the property that is covered by such certification.

"(iii) CERTIFICATION.—A certification under the procedures authorized by this paragraph shall—

"(I) be in a form acceptable to the Secretary;

"(II) be executed by the chief executive officer or other officer of the State or unit of general local government who qualifies under regulations of the Secretary;

"(III) specify that the State or unit of general local government under this section has fully carried out its responsibilities as described under clause (i); and

"(IV) specify that the certifying officer consents to assume the status of a responsible Federal official under the National Environmental Policy Act of 1969 and under each provision of law specified in regulations issued by the Secretary insofar as the provisions of such Act or such other provisions of law apply pursuant to clause (i), and is authorized and consents on behalf of the State or unit of general local government and himself or herself to accept the jurisdiction of the Federal courts for the purpose of enforcement of the responsibilities as such an official.

"(iv) APPROVAL BY STATES.—In cases in which a unit of general local government carries out the responsibilities described in clause (i), the Secretary may permit the State to perform those actions of the Secretary described in clause (ii) and the performance of such actions by the State, where permitted by the Secretary, shall be deemed to satisfy the Secretary's responsibilities referred to in the second sentence of clause (ii).

"(B) LEAD-BASED PAINT POISONING PREVENTION.—In carrying out the requirements of section 302 of the Lead-Based Paint Poisoning Prevention Act, the Secretary may provide by regulation for the assumption of all or part of the Secretary's duties under such Act by qualified housing finance agencies, for purposes of this section.

"(C) CERTIFICATION OF SUBSIDY LAYERING COMPLIANCE.—The requirements of section 102(d) of the Department of Housing and Urban Development Reform Act of 1989 may be satisfied in connection with a commitment to insure a mortgage under this subsection by a certification by a housing credit agency (including an entity established by a State that provides mortgage insurance) to the Secretary that the combination of assistance within the jurisdiction of the Secretary and other government assistance provided in connection with a property for which a mortgage is to be insured shall not be any greater than is necessary to provide affordable housing.

"(10) DEFINITIONS.—For purposes of this subsection, the following definitions shall apply:

"(A) MORTGAGE.—The term 'mortgage' means a first mortgage on real estate that is—

"(i) owned in fee simple; or

"(ii) subject to a leasehold interest that—

"(I) has a term of not less than 99 years and is renewable; or

"(II) has a remaining term that extends beyond the maturity of the mortgage for a period of not less than 10 years.

"(B) FIRST MORTGAGE.—The term 'first mortgage' means a single first lien given to secure advances on, or the unpaid purchase price of, real estate, under the laws of the State in which the real estate is located, together with the credit instrument, if any, secured thereby. Any other financing permitted on property insured under this section must be expressly subordinate to the insured mortgage.

"(C) UNIT OF GENERAL LOCAL GOVERNMENT; STATE.—The terms 'unit of general local government' and 'State' have the same meanings as in section 102(a) of the Housing and Community Development Act of 1974.".

(b) DEFINITION OF MULTIFAMILY HOUSING.—Section 544(1) of the Housing and Community Development Act of 1992 (12 U.S.C. 1707 note) is amended to read as follows:

"(1) The term 'multifamily housing' means housing accommodations on the mortgaged property that are designed principally for residential use, conform to standards satisfactory to the Secretary, and consist of not less than 5 rental units on 1 site. These units may be detached, semidetached, row house, or multifamily structures.".

SEC. 323. SUBSIDY LAYERING REVIEW.

Section 911 of the Housing and Community Development Act of 1992 (42 U.S.C. 3545 note) is amended—

(1) by striking subsection (a) and inserting the following:

"(a) CERTIFICATION OF SUBSIDY LAYERING COMPLIANCE.—The requirements of section 102(d) of the Department of Housing and Urban Development Reform Act of 1989 may be satisfied in connection with a project receiving assistance under a program that is within the jurisdiction of the Department of Housing and Urban Development and under section 42 of the Internal Revenue Code of 1986 by a certification by a housing credit agency to the Secretary, submitted in accordance with guidelines established by the Secretary, that the combination of assistance within the jurisdiction of the Secretary and other government assistance provided in connection with a property for which assistance is to be provided within the jurisdiction of the Department of Housing and Urban Development and under section 42 of the Internal Revenue Code of 1986 shall not be any greater than is necessary to provide affordable housing."; and

(2) by striking subsection (c) and inserting the following:

"(c) REVOCATION BY SECRETARY.—If the Secretary determines that a housing credit agency has failed to comply with the guidelines established under subsection (a), the Secretary—

"(1) may inform the housing credit agency that the agency may no longer submit certification of subsidy layering compliance under this section; and

"(2) shall carry out section 102(d) of the Housing and Urban Development Reform Act relating to affected projects allocated a low-income housing tax credit pursuant to section 42 of the Internal Revenue Code of 1986.".

Subtitle C—Miscellaneous and Technical Amendments

SEC. 331. TECHNICAL CORRECTION TO RURAL HOUSING PRESERVATION PROGRAM.

Section 515(c)(1) of the Housing Act of 1949 (42 U.S.C. 1485(c)(1)) is amended by striking "December 21, 1979" and inserting "December 15, 1989".

SEC. 332. CDBG TECHNICAL AMENDMENT.

Notwithstanding any other provision of law, the city of Slidell, Louisiana may submit, not later than 10 days following the enactment of this Act, and the Secretary of Housing and Urban Development shall consider and accept, the final statement of community development objectives and projected use of funds required by section 104(a)(1) of the Housing and Community Development Act of 1974 in connection with a grant to the city of Slidell under title 1 of such Act for fiscal year 1994.

SEC. 333. ENVIRONMENTAL REVIEW IN CONNECTION WITH SPECIAL PROJECTS.

(a) IN GENERAL.—

(1) RELEASE OF FUNDS.—In order to assure that the policies of the National Environmental Policy Act of 1969 and other provisions of law which further the purposes of such Act (as specified in regulations issued by the Secretary) are most effectively implemented in connection with the expenditure of funds for special projects appropriated under an appropriations Act for the Department of Housing and Urban Development, such as special projects under the head "Annual Contributions for Assisted Housing" in title II of the Departments of Veterans Affairs and Housing and Urban Development, and Independent Agencies Appropriations Act, 1993, and to assure to the public undiminished protection of the environment, the Secretary of Housing and Urban Development may, under such regulations, in lieu of the environmental protection procedures otherwise applicable, provide for the release of funds for particular special projects upon the request of recipients of special projects assistance, if the State or unit of general local government, as designated by the Secretary in accordance with regulations, as-

sumes all of the responsibilities for environmental review, decisionmaking, and action pursuant to such Act, and such other provisions of law as the regulations of the Secretary specify, that would otherwise apply to the Secretary were the Secretary to undertake such special projects as Federal projects.

(2) IMPLEMENTATION.—The Secretary shall issue regulations to carry out this section only after consultation with the Council on Environmental Quality. Such regulations shall—

(A) provide for monitoring of the performance of environmental reviews under this section;

(B) in the discretion of the Secretary, provide for the provision or facilitation of training for such performance; and

(C) subject to the discretion of the Secretary, provide for suspension or termination by the Secretary of the assumption under paragraph (1).

(3) RESPONSIBILITIES OF STATE OR UNIT OF GENERAL LOCAL GOVERNMENT.—The Secretary's duty under paragraph (2) shall not be construed to limit any responsibility assumed by a State or unit of general local government with respect to any particular release of funds under paragraph (1).

(b) PROCEDURE.—The Secretary shall approve the release of funds for projects subject to the procedures authorized by this section only if, not less than 15 days prior to such approval and prior to any commitment of funds to such projects, the recipient submits to the Secretary a request for such release, accompanied by a certification of the State or unit of general local government which meets the requirements of subsection (c). The Secretary's approval of any such certification shall be deemed to satisfy the Secretary's responsibilities under the National Environmental Policy Act of 1969 and such other provisions of law as the regulations of the Secretary specify insofar as those responsibilities relate to the releases of funds for special projects to be carried out pursuant thereto which are covered by such certification.

(c) CERTIFICATION.—A certification under the procedures authorized by this section shall—

(1) be in a form acceptable to the Secretary;

(2) be executed by the chief executive officer or other officer of the State or unit of general local government who qualifies under regulations of the Secretary;

(3) specify that the State or unit of general local government under this section has fully carried out its responsibilities as described under subsection (a); and

(4) specify that the certifying officer—

(A) consents to assume the status of a responsible Federal official under the National Environmental Policy Act of 1969 and agrees to comply with each provision of law specified in regulations issued by the Secretary insofar as the provisions of such Act or other such provision of law apply pursuant to subsection (a); and

(B) is authorized and consents on behalf of the State or unit of general local government and himself or herself to accept the jurisdiction of the Federal courts for the purpose of enforcement of the responsibilities as such an official.

(d) APPROVAL BY STATES.—In cases in which a unit of general local government carries out the responsibilities described in subsection (a), the Secretary may permit the State to perform those actions of the Secretary described in subsection (b) and the performance of such actions by the State, where permitted by the Secretary, shall be deemed to satisfy the Secretary's responsibilities referred to in the second sentence of subsection (b).

TITLE IV—GENERAL PROVISIONS

SEC. 401. MOUNT RUSHMORE COMMEMORATIVE COIN ACT.

(a) DISTRIBUTION OF SURCHARGES.—Section 8 of the Mount Rushmore Commemorative Coin Act (31 U.S.C. 5112 note) is amended by striking paragraphs (1) and (2) and inserting the following:

"(1) the first $18,750,000 shall be paid during fiscal year 1994 by the Secretary to the Society to assist the Society's efforts to improve, enlarge, and renovate the Mount Rushmore National Memorial; and

"(2) the remainder shall be returned to the United States Treasury for purposes of reducing the national debt.".

(b) RETROACTIVE EFFECT.—If, prior to the date of enactment of this Act, any amount of surcharges have been received by the Secretary of the Treasury and paid into the United States Treasury pursuant to section 8(1) of the Mount Rushmore Commemorative Coin Act, as in effect prior to the date of enactment of this Act, that amount shall be paid out of the Treasury to the extent necessary to comply with section 8(1) of the Mount Rushmore Commemorative Coin Act, as in effect after the date of enactment of this Act. Amounts paid pursuant to the preceding sentence shall be out of funds not otherwise appropriated.

SEC. 402. MINORITY COMMUNITY DEVELOPMENT GRANTS FOR COMMUNITIES WITH SPECIAL NEEDS.

(a) AUTHORIZATION.—There are hereby authorized to be expended from sums appropriated for water infrastructure financing and other wastewater activities for cities with special needs, not more than $25,000,000, for wastewater treatment projects, including the construction of facilities and related expenses in minority communities with special needs to—

(1) improve the housing stock infrastructure in the special needs communities; and

(2) abate health hazards caused by groundwater contamination from septage in arid areas with high groundwater levels.

(b) TREATMENT PROJECTS.—The wastewater treatment projects authorized under this section shall include innovative technologies such as vacuum systems and constructed wetlands.

(c) DEFINITIONS.—For purposes of this section—

(1) the term "cities with special needs" includes minority communities with special needs;

(2) the term "minority" means an African-American, a Hispanic-American, an Asian-American, or a Native American; and

(3) the term "minority community with special needs" means an unincorporated community—

(A) that, based on the latest census data, has a minority population in excess of 50 percent;

(B) that has been unable to issue bonds or otherwise finance a wastewater treatment system itself because its attempts to change its political subdivision have been rejected by the State legislature; and

(C) for which the State legislature has appropriated funds to help pay for a wastewater treatment project.

MOTION OFFERED BY MR. GONZALEZ

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

The Clerk read as follows:

Mr. GONZALEZ moves to strike out all after the enacting clause of the Senate bill, S. 1299, and to insert in lieu thereof the provisions of H.R. 4067, as passed by the House.

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

The motion was agreed to.

The Senate bill was ordered to be read a third time, was read the third time, and passed.

The title of the Senate bill was amended so as to read:

An Act to amend section 203 of the Housing and Community Development Amendments of 1978 to provide for the disposition of multifamily properties owned by the Secretary of Housing and Urban Development, to provide for other reforms in programs administered by the Secretary, and to make certain technical amendments, and for other purposes.

A motion to reconsider was laid on the table.

A similar House bill (H.R. 4067) was laid on the table.

URBAN RECREATION AND AT-RISK YOUTH ACT OF 1994

The SPEAKER pro tempore. The unfinished business is the question of suspending the rules and passing the bill, H.R. 4034, as amended.

The Clerk read the title of the bill.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Minnesota [Mr. VENTO] that the House suspend the rules and pass the bill, H.R. 4034, as amended, on which the yeas and nays are ordered.

The vote was taken by electronic device, and there were—yeas 361, nays 59, not voting 13, as follows:

[Roll No. 82]

YEAS—361

Abercrombie	Boucher	Cunningham
Ackerman	Brewster	Danner
Andrews (ME)	Brooks	Darden
Andrews (NJ)	Browder	de la Garza
Andrews (TX)	Brown (CA)	Deal
Bacchus (FL)	Brown (FL)	DeFazio
Baesler	Brown (OH)	DeLauro
Baker (CA)	Bryant	Dellums
Baker (LA)	Buyer	Derrick
Barca	Byrne	Deutsch
Barcia	Callahan	Diaz-Balart
Barlow	Calvert	Dickey
Barrett (WI)	Canady	Dicks
Bartlett	Cantwell	Dingell
Barton	Cardin	Dixon
Bateman	Carr	Dooley
Becerra	Castle	Doolittle
Beilenson	Chapman	Dunn
Bentley	Clayton	Durbin
Berman	Clement	Edwards (CA)
Bevill	Clinger	Edwards (TX)
Bilbray	Clyburn	Ehlers
Bilirakis	Coleman	Emerson
Bishop	Collins (IL)	Engel
Blackwell	Collins (MI)	English
Bliley	Condit	Eshoo
Blute	Conyers	Evans
Boehlert	Cooper	Everett
Boehner	Coppersmith	Ewing
Bonilla	Costello	Farr
Bonior	Coyne	Fawell
Borski	Cramer	Fazio

Fields (LA)
Filner
Fingerhut
Flake
Foglietta
Ford (MI)
Ford (TN)
Fowler
Frank (MA)
Franks (CT)
Franks (NJ)
Frost
Furse
Gallegly
Gejdenson
Gekas
Gephardt
Geren
Gibbons
Gilchrest
Gilman
Glickman
Gonzalez
Goodling
Gordon
Goss
Grams
Green
Greenwood
Gunderson
Gutierrez
Hall (OH)
Hall (TX)
Hamburg
Hamilton
Harman
Hastert
Hayes
Hefner
Hilliard
Hinchey
Hoagland
Hobson
Hochbrueckner
Hoke
Holden
Horn
Houghton
Hoyer
Huffington
Hughes
Hunter
Hutchinson
Hutto
Hyde
Inhofe
Inslee
Istook
Jacobs
Jefferson
Johnson (CT)
Johnson (GA)
Johnson (SD)
Johnson, E. B.
Johnston
Kanjorski
Kaptur
Kasich
Kennedy
Kennelly
Kildee
Kim
Kleczka
Klein
Klug
Kolbe
Kopetski
Kreidler
Kyl
LaFalce
Lambert
Lancaster
Lantos
LaRocco
Laughlin
Lazio
Lehman
Levin
Levy
Lewis (CA)
Lewis (FL)
Lewis (GA)
Lipinski
Livingston
Lloyd
Long
Lowey
Machtley
Mann
Manton
Manzullo
Margolies-Mezvinsky
Markey
Martinez
Matsui
Mazzoli
McCandless
McCloskey
McCollum
McCrery
McCurdy
McDade
McDermott
McHale
McInnis
McKeon
McKinney
McMillan
McNulty
Meehan
Meek
Menendez
Meyers
Mfume
Mica
Michel
Miller (CA)
Miller (FL)
Mineta
Minge
Mink
Moakley
Molinari
Mollohan
Montgomery
Moran
Morella
Murphy
Murtha
Myers
Nadler
Neal (MA)
Neal (NC)
Oberstar
Obey
Olver
Ortiz
Orton
Owens
Oxley
Pallone
Parker
Pastor
Payne (NJ)
Payne (VA)
Pelosi
Peterson (FL)
Peterson (MN)
Petri
Pickett
Pickle
Pombo
Pomeroy
Porter
Portman
Poshard
Price (NC)
Pryce (OH)
Quinn
Rahall
Rangel
Ravenel
Reed
Regula
Reynolds
Richardson
Ridge
Roemer
Ros-Lehtinen
Rose
Rostenkowski
Roth
Roukema
Rowland
Roybal-Allard
Rush
Sabo
Sanders
Sangmeister
Sarpalius
Sawyer
Saxton
Schaefer
Schenk
Schiff
Schroeder
Schumer
Scott
Serrano
Sharp
Shaw
Shays
Shepherd
Sisisky
Skaggs
Skeen
Skelton
Slattery
Slaughter
Smith (IA)
Smith (NJ)
Smith (OR)
Smith (TX)
Snowe
Spratt
Stark
Stearns
Stenholm
Stokes
Strickland
Studds
Stupak
Swett
Swift
Synar
Talent
Tanner
Tauzin
Taylor (MS)
Tejeda
Thomas (CA)
Thompson
Thornton
Thurman
Torkildsen
Torres
Torricelli
Towns
Traficant
Tucker
Unsoeld
Upton
Valentine
Velazquez
Vento
Visclosky
Volkmer
Vucanovich
Walsh
Waters
Watt
Waxman
Weldon
Wheat
Whitten
Williams
Wilson
Wise
Wolf
Woolsey
Wyden
Wynn
Yates
Young (AK)
Young (FL)

NAYS—59

Allard
Applegate
Archer
Armey
Bachus (AL)
Barrett (NE)
Bereuter
Bunning
Burton
Camp
Coble
Collins (GA)
Combest
Cox
Crane
Crapo
DeLay
Dornan
Dreier
Duncan
Fields (TX)
Gingrich
Goodlatte
Hancock
Hansen
Hefley
Herger
Hoekstra
Inglis
Johnson, Sam
King
Kingston
Klink
Knollenberg
Lightfoot
Linder
McHugh
Moorhead
Nussle
Packard
Paxon
Penny
Ramstad
Roberts
Rogers
Rohrabacher
Royce
Santorum
Sensenbrenner
Shuster
Smith (MI)
Solomon
Spence
Stump
Taylor (NC)
Thomas (WY)
Walker
Zeliff
Zimmer

NOT VOTING—13

Ballenger
Clay
Fish
Gallo
Gillmor
Grandy
Hastings
Leach
Maloney
Natcher
Quillen
Sundquist
Washington

□ 1816

So (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

PERSONAL EXPLANATION

Mr. BALLENGER. Mr. Speaker, I missed rollcall votes 81 and 82. Had I been present, I would have voted "yea" in support of the Multifamily Housing Property Disposition Reform Act of 1994 and "nay" against the Urban Recreation and At-Risk Youth Act of 1994.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. Pursuant to the provisions of clause 5, rule I, the Chair announces that he will postpone further proceedings today on each motion to suspend the rules on which a recorded vote or the yeas and nays are ordered, or on which the vote is objected to under clause 4 of rule XV.

Such rollcall votes, if postponed, will be taken on Wednesday, March 23, 1994.

MARINE MAMMAL PROTECTION ACT AMENDMENTS OF 1994

Mr. STUDDS. Mr. Speaker, I move to suspend the rules and pass the Senate bill (S. 1636) to authorize appropriations for the Marine Mammal Protection Act of 1972 and to improve the program to reduce the incidental taking of marine mammals during the course of commercial fishing operations, and for other purposes, as amended.

The Clerk read as follows:

S. 1636

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 "Marine Mammal Protection Act Amendments of 1994".

SEC. 2. AMENDMENT OF MARINE MAMMAL PROTECTION ACT OF 1972.

Except as otherwise expressly provided, whenever in this Act an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Marine Mammal Protection Act of 1972 (16 U.S.C. 1361 et seq.).

SEC. 3. FINDINGS AND DECLARATION OF POLICY.

Section 2 (16 U.S.C. 1361) is amended—

(1) in paragraph (2) by inserting "essential habitats, including" after "made to protect"; and

(2) in paragraph (5) in the matter following subparagraph (B) by inserting "and their habitats" before "is therefore necessary".

SEC. 4. MORATORIUM AND EXCEPTIONS.

(a) Section 101(a) (16 U.S.C. 1371(a)) is amended—

(1) by amending paragraph (1) to read as follows:

"(1) Consistent with the provisions of section 104, permits may be issued by the Secretary for taking, and importation for purposes of scientific research, public display, photography for educational or commercial purposes, or enhancing the survival or recovery of a species or stock, or for importation of polar bear parts (other than internal organs) taken in sport hunts in Canada. Such permits, except permits issued under section 104(c)(5), may be issued if the taking or importation proposed to be made is first reviewed by the Marine Mammal Commission and the Committee of Scientific Advisors on Marine Mammals established under title II. The Commission and Committee shall recommend any proposed taking or importation, other than importation under section 104(c)(5), which is consistent with the purposes and policies of section 2 of this Act. If the Secretary issues such a permit for importation, the Secretary shall issue to the importer concerned a certificate to that effect in such form as the Secretary of the Treasury prescribes, and such importation may be made upon presentation of the certificate to the customs officer concerned.";

(2) in paragraph (2) in the first sentence by inserting immediately before the period at the end the following: ", or in lieu of such permits, authorizations may be granted therefor under section 118, subject to regulations prescribed under that section by the Secretary without regard to section 103";

(3) in paragraph (3)(B)—

(A) by inserting ", photography for educational or commercial purposes," after "purposes"; and

(B) by inserting "or as provided for under paragraph (5) of this subsection," after "subsection,";

(4) by amending paragraph (4) to read as follows:

"(4)(A) Except as provided in subparagraph (B) and (C), the provisions of this Act shall not apply to the use of measures—

"(i) by the owner of fishing gear or catch, or an employee or agent of such owner, to deter a marine mammal from damaging the gear or catch;

"(ii) by the owner of other private property, or an agent, bailee, or employee of such owner, to deter a marine mammal from damaging private property;

"(iii) by any person, to deter a marine mammal from endangering personal safety; or

"(iv) by a government employee, to deter a marine mammal from damaging public property,

so long as such measures do not result in the death or serious injury of a marine mammal.

"(B) The Secretary shall, through consultation with appropriate experts, and after notice and opportunity for public comment,

publish in the Federal Register a list of guidelines for use in safely deterring marine mammals. In the case of marine mammals listed as endangered species or threatened species under the Endangered Species Act of 1973, the Secretary shall recommend specific measures which may be used to nonlethally deter marine mammals. Actions to deter marine mammals consistent with such guidelines or specific measures shall not be a violation of this Act.

"(C) If the Secretary determines, using the best scientific information available, that certain forms of deterrence have a significant adverse effect on marine mammals, the Secretary may prohibit such deterrent methods, after notice and opportunity for public comment, through regulation under this Act.

"(D) The authority to deter marine mammals pursuant to subparagraph (A) applies to all marine mammals, including all stocks designated as depleted under this Act.";

(5) in paragraph (5) by adding at the end the following new subparagraphs:

"(D)(i) Upon request therefor by citizens of the United States who engage in a specified activity (other than commercial fishing) within a specific geographic region, the Secretary shall authorize, for periods of not more than 1 year, subject to such conditions as the Secretary may specify, the incidental, but not intentional, taking by harassment of small numbers of marine mammals of a species or population stock by such citizens while engaging in that activity within that region if the Secretary finds that such harassment during each period concerned—

"(I) will have a negligible impact on such species or stock, and

"(II) will not have an unmitigable adverse impact on the availability of such species or stock for taking for subsistence uses pursuant to subsection (b), or section 109(f) or pursuant to a cooperative agreement under section 119.

"(ii) The authorization for such activity shall prescribe, where applicable—

"(I) permissible methods of taking by harassment pursuant to such activity, and other means of effecting the least practicable impact on such species or stock and its habitat, paying particular attention to rookeries, mating grounds, and areas of similar significance, and on the availability of such species or stock for taking for subsistence uses pursuant to subsection (b) or section 109(f) or pursuant to a cooperative agreement under section 119,

"(II) the measures that the Secretary determines are necessary to ensure no unmitigable adverse impact on the availability of the species or stock for subsistence uses pursuant to subsection (b) or section 109(f) or pursuant to a cooperative agreement under section 119, and

"(III) requirements pertaining to the monitoring and reporting of such taking by harassment, including requirements for the independent peer review of proposed monitoring plans or other research proposals where the proposed activity may affect the availability of a species or stock for taking for subsistence uses pursuant to subsection (b) or section 109(f) or pursuant to a cooperative agreement under section 119.

"(iii) The Secretary shall publish a proposed authorization not later than 45 days after receiving an application under this subparagraph and request public comment through notice in the Federal Register, newspapers of general circulation, and appropriate electronic media and to all locally affected communities for a period of 30 days after publication. Not later than 45 days after the close of the public comment period, if the Secretary makes the findings set forth in clause (i), the Secretary shall issue an authorization with appropriate conditions to meet the requirements of clause (ii).

"(iv) The Secretary shall modify, suspend, or revoke an authorization if the Secretary finds that the provisions of clauses (i) or (ii) are not being met.

"(v) A person conducting an activity for which an authorization has been granted under this subparagraph shall not be subject to the penalties of this Act for taking by harassment that occurs in compliance with such authorization.

"(E)(i) During any period of up to three consecutive years, the Secretary shall allow the incidental, but not the intentional, taking by persons using vessels of the United States or vessels which have valid fishing permits issued by the Secretary in accordance with section 204(b) of the Magnuson Fishery Conservation and Management Act (16 U.S.C. 1824(b)), while engaging in commercial fishing operations, of marine mammals from a species or stock designated as depleted because of its listing as an endangered species or threatened species under the Endangered Species Act of 1973 (16 U.S.C. 1531 et seq.) if the Secretary, after notice and opportunity for public comment, determines that—

"(I) the incidental mortality and serious injury from commercial fisheries will have a negligible impact on such species or stock;

"(II) a recovery plan has been developed or is being developed for such species or stock pursuant to the Endangered Species Act of 1973; and

"(III) where required under section 118, a monitoring program is established under subsection (d) of such section, vessels engaged in such fisheries are registered in accordance with such section, and an incidental take reduction plan has been developed or is being developed for such species or stock.

"(ii) Upon a determination by the Secretary that the requirements of clause (i) have been met, the Secretary shall publish in the Federal Register a list of those fisheries for which such determination was made, and, for vessels required to register under section 118, shall issue an appropriate permit for each authorization granted under such section to vessels to which this paragraph applies. Vessels engaged in a fishery included in the notice published by the Secretary under this clause which are not required to register under section 118 shall not be subject to the penalties of this Act for the incidental taking of marine mammals to which this paragraph applies, so long as the owner or master of such vessel reports any incidental mortality or injury of such marine mammals to the Secretary in accordance with section 118.

"(iii) If, during the course of the commercial fishing season, the Secretary determines that the level of incidental mortality or serious injury from commercial fisheries for which a determination was made under clause (i) has resulted or is likely to result in an impact that is more than negligible on the endangered or threatened species or stock, the Secretary shall use the emergency authority granted under section 118 to protect such species or stock, and may modify any permit granted under this paragraph as necessary.

"(iv) The Secretary may suspend for a time certain or revoke a permit granted under this subparagraph only if the Secretary determines that the conditions or limitations set forth in such permit are not being complied with. The Secretary may amend or modify, after notice and opportunity for public comment, the list of fisheries published under clause (ii) whenever the Secretary determines there has been a significant change in the information or conditions used to determine such list.

"(v) Sections 103 and 104 shall not apply to the taking of marine mammals under the authority of this subparagraph.

"(vi) This paragraph shall not govern the incidental taking of California sea otters and shall not be deemed to amend or repeal the Act of November 7, 1986 (Public Law 99-625; 100 Stat. 3500).."; and

(6) by adding at the end the following new paragraph:

"(6)(A) A marine mammal product may be imported into the United States if the product—

"(i) was legally possessed and exported by any citizen of the United States in conjunction with travel outside the United States, provided that the product is imported into the United States by the same person upon the termination of travel;

"(ii) was acquired outside of the United States as part of a cultural exchange by an Indian, Aleut, or Eskimo residing in Alaska; or

"(iii) is owned by a Native inhabitant of Russia, Canada, or Greenland and is imported for noncommercial purposes in conjunction with travel within the United States or as part of a cultural exchange with an Indian, Aleut, or Eskimo residing in Alaska.

"(B) For the purposes of this paragraph, the term—

"(i) 'Native inhabitant of Russia, Canada, or Greenland' means a person residing in Russia, Canada, or Greenland who is related by blood, is a member of the same clan or ethnological grouping, or shares a common heritage with an Indian, Aleut, or Eskimo residing in Alaska; and

"(ii) 'cultural exchange' means the sharing or exchange of ideas, information gifts, clothing, or handicrafts between an Indian, Aleut, or Eskimo residing in Alaska and a Native inhabitant of Russia, Canada, or Greenland, including rendering of raw marine mammal parts as part of such exchange into clothing or handicrafts through carving, painting, sewing, or decorating.".

"(b) ACTIONS AFFECTING SECTION 101(b).—Section 101(b) is amended by adding at the end the following new sentence: "In promulgating any regulation or making any assessment pursuant to a hearing or proceeding under this subsection or section 117(b)(2), or in making any determination of depletion under this subsection or finding regarding unmitigable adverse impacts under subsection(a)(5) of this Act that affects stocks or persons to which this subsection applies, the Secretary shall be responsible for demonstrating that such regulation, assessment, determination, or finding is supported by substantial evidence on the basis of the record as a whole. The preceding sentence shall only be applicable in an action brought by one or more Alaska Native organizations representing persons to which this subsection applies."

(c) Section 101(c) 16 U.S.C. 1371(c)) is amended to read as follows:

"(c) It shall not be a violation of this Act to take a marine mammal if such taking is imminently necessary in self-defense or to save the life of a person in immediate danger, and such taking is reported to the Secretary within 48 hours. The Secretary may seize and dispose of the carcass.".

SEC. 5. PERMITS.

(a) PROHIBITIONS.—Section 102(a) (16 U.S.C. 1372(a)) is amended—

(1) in paragraph (2)(B) by striking "for any purpose in any way connected with the taking or importation of" and inserting "to take or import"; and

(2) in paragraph (4) by—

(A) striking "or offer to purchase or sell" and inserting "export, or offer to purchase, sell, or export";

(B) striking "product; and" and inserting "product—"; and

(C) inserting after and below the text of the paragraph the following:

"(A) that is taken in violation of this Act; or

"(B) for any purpose other than public display, scientific research, or enhancing the survival of a species or stock as provided for under subsection 104(c); and".

(b) PERMITS.—Section 104 (16 U.S.C. 1374) is amended—

(1) in subsection (a) by inserting "except for the incidental taking of marine mammals in the course of commercial fishing operations" before the period at the end;

(2) in subsection (c)—

(A) in paragraph (1) in the first sentence by striking "and after";

(B) by amending paragraph (2) to read as follows:

"(2)(A) A permit may be issued to take or import a marine mammal for the purpose of public display only to a person which the Secretary determines—

"(i) offers a program for education or conservation purposes that is based on professionally recognized standards of the public display community;

"(ii) is registered or holds a license issued under 7 U.S.C. 2131 et seq.; and

"(iii) maintains facilities for the public display of marine mammals that are open to the public on a regularly scheduled basis and that access to such facilities is not limited or restricted other than by charging of an admission fee.

"(B) A permit under this paragraph shall grant to the person to which it is issued the right, without obtaining any additional permit or authorization under this Act, to—

"(i) take, import, purchase, offer to purchase, possess, or transport the marine mammal that is the subject of the permit; and

"(ii) sell, export, or otherwise transfer possession of the marine mammal, or offer to sell, export, or otherwise transfer possession of the marine mammal—

"(I) for the purpose of public display, to a person that meets the requirements of clauses (i), (ii), and (iii) of subparagraph (A);

"(II) for the purpose of scientific research, to a person that meets the requirements of paragraph (3); or

"(III) for the purpose of enhancing the survival or recovery of a species or stock, to a person that meets the requirements of paragraph (4).

"(C) A person to which a marine mammal is sold or exported or to which possession of a marine mammal is otherwise transferred under the authority of subparagraph (B) shall have the rights and responsibilities described in subparagraph (B) with respect to the marine mammal without obtaining any additional permit or authorization under this Act. Such responsibilities shall be limited to—

"(i) for the purpose of public display, the responsibility to meet the requirements of clauses (i), (ii), and (iii) of subparagraph (A),

"(ii) for the purpose of scientific research, the responsibility to meet the requirements of paragraph (3), and

"(iii) for the purpose of enhancing the survival or recovery of a species or stock, the responsibility to meet the requirements of paragraph (4).

"(D) If the Secretary—

"(i) finds in concurrence with the Secretary of Agriculture, that a person that holds a permit under this paragraph for a marine mammal, or a person exercising rights under subparagraph (C), no longer meets the requirements of subparagraph (A)(ii) and is not reasonably likely to meet those requirements in the near future, or

"(ii) finds that a person that holds a permit under this paragraph for a marine mammal, or a person exercising rights under subparagraph (C), no longer meets the requirements of subparagraph (A)(i) or (iii) and is not reasonably likely to meet those requirements in the near future,

the Secretary may revoke the permit in accordance with section 104(e), seize the marine mammal, or cooperate with other persons authorized to hold marine mammals under this Act for disposition of the marine mammal. The Secretary may recover from the person expenses incurred by the Secretary for that seizure.

"(E) No marine mammal held pursuant to a permit issued under subparagraph (A), or by a person exercising rights under subparagraph (C), may be sold, purchased, exported, or transported unless the Secretary is notified of such action no later than 15 days before such action, and such action is for purposes of public display, scientific research, or enhancing the survival or recovery of a species or stock. The Secretary may only require the notification to include the information required for the inventory established under paragraph (10).";

(C) by amending paragraph (3) to read as follows:

"(3)(A) The Secretary may issue a permit under this paragraph for scientific research purposes to an applicant which submits with its permit application information indicating that the taking is required to further a bona fide scientific purpose. The Secretary may issue a permit under this paragraph before the end of the public review and comment period required under subsection (d)(2) if delaying issuance of the permit could result in harm to a species, population, or individual, or in loss of unique research opportunities.

"(B) No permit issued for purposes of scientific research shall authorize the lethal taking of a marine mammal unless the applicant demonstrates that a nonlethal method of conducting the research is not feasible. The Secretary shall not issue a permit for research which involves the lethal taking of a marine mammal from a species or stock that is depleted, unless the Secretary determines that the results of such research will directly benefit that species or stock, or that such research fulfills a critically important research need.

"(C) Not later than 120 days after the date of enactment of the Marine Mammal Protection Act Amendments of 1994, the Secretary shall issue a general authorization and implementing regulations allowing bona fide scientific research that may result only in taking by Level B harassment of a marine mammal. Such authorization shall apply to persons which submit, by 60 days before commencement of such research, a letter of intent via certified mail to the Secretary containing the following:

"(i) The species or stocks of marine mammals which may be harassed.

"(ii) Geographic location of the research.

"(iii) The period of time over which the research will be conducted.

"(iv) The purpose of the research, including a description of how the definition of bona fide research as established under this Act would apply.

"(v) Methods to be used to conduct the research.

Not later than 30 days after receipt of a letter of intent to conduct scientific research under the general authorization, the Secretary shall notify the applicant if the proposed research is likely to result in the taking, including Level A harassment, of a marine mammal, and that subparagraph (A) applies, or shall issue a letter confirming that the general authorization applies. If no such notification is received, the proposed research shall be covered under the general authorization."; and

(D) by adding at the end the following new paragraphs:

"(5)(A) The Secretary may issue a permit for the importation of polar bear parts (other than internal organs) taken in sport hunts in Canada, including polar bears taken prior to the date of enactment of the Marine Mammal Protection Act Amendments of 1994, to an applicant which submits with its permit application proof that the polar bear was legally harvested in Canada. Such a permit shall be issued if the Secretary, in consultation with the Marine Mammal Commission and after notice and opportunity for public comment, finds that—

"(i) Canada has a monitored and enforced sport hunting program consistent with the purposes of the Agreement on the Conservation of Polar Bears;

"(ii) Canada has a sport hunting program based on scientifically sound quotas ensuring the maintenance of a sustainable population;

"(iii) the export and subsequent import are consistent with the provisions of the Convention on International Trade in Endangered Species of Wild Fauna and Flora and other international agreements and conventions; and

"(iv) the export and subsequent import are not likely to contribute to illegal trade in bear parts.

"(B) The Secretary shall establish and charge a reasonable fee for permits issued under this paragraph. All fees collected under this paragraph shall be available to the Secretary for use in developing and implementing cooperative research and management programs for the conservation of polar bears in Alaska and Russia pursuant to section 113(d).

"(6) A permit may be issued for photography for educational or commercial purposes involving marine mammals in the wild only to an applicant which submits with its permit application information indicating that the taking will be limited to Level B harassment, and the manner in which the products of such activities will be made available to the public.

"(7) Upon request by a person for a permit under paragraph (2), (3), or (4) for a marine mammal which is in the possession of any person authorized to possess it under this Act and which is determined under guidance under section 402(a) not to be releasable to the wild, the Secretary shall issue the permit to the person requesting the permit if that person—

"(A) meets the requirements of clauses (i), (ii), and (iii) of paragraph (2)(A), in the case of a request for a permit under paragraph (2);

"(B) meets the requirements of paragraph (3), in the case of a request for a permit under that paragraph; or

"(C) meets the requirements of paragraph (4), in the case of a request for a permit under that paragraph.

"(8)(A) No additional permit or authorization shall be required to possess, sell, purchase, transport, export, or offer to sell or purchase the progeny of marine mammals taken or imported under this subsection, if such possession, sale, purchase, transport, export, or offer to sell or purchase is—

"(i) for the purpose of public display, and by or to, respectively, a person which meets the requirements of clauses (i), (ii), and (iii) of paragraph (2)(A);

"(ii) for the purpose of scientific research, and by or to, respectively, a person which meets the requirements of paragraph (3), or

"(iii) for the purpose of enhancing the survival or recovery of a species or stock, and by or to, respectively, a person which meets the requirements of paragraph (4).

"(B)(i) A person which has a permit under paragraph (2), or a person exercising rights under paragraph (2)(C), which has possession of a marine mammal that gives birth to progeny shall—

"(I) notify the Secretary of the birth of such progeny within 30 days after the date of birth; and

"(II) notify the Secretary of the sale, purchase, or transport of such progeny no later than 15 days before such action.

"(ii) The Secretary may only require notification under clause (i) to include the information required for the inventory established under paragraph (10).

"(C) Any progeny of a marine mammal born in captivity before the date of the enactment of the Marine Mammal Protection Act Amendments of 1994 and held in captivity for the purpose of public display shall be treated as though born after that date of enactment.

"(9) No marine mammal may be exported for the purpose of public display, scientific research, or enhancing the survival or recovery of a species or stock unless the receiving facility meets standards that are comparable to the requirements that a person must meet to receive a permit under this subsection for that purpose.

"(10) The Secretary shall establish and maintain an inventory of all marine mammals possessed pursuant to permits issued under paragraph (2)(A), by persons exercising rights under paragraph (2)(C), and all progeny of such marine mammals. The inventory shall contain, for each marine mammal, only the following information which shall be provided by a person holding a marine mammal under this Act:

"(A) The name of the marine mammal or other identification.

"(B) The sex of the marine mammal.

"(C) The estimated or actual birth date of the marine mammal.

"(D) The date of acquisition or disposition of the marine mammal by the permit holder.

"(E) The source from whom the marine mammal was acquired including the location of the take from the wild, if applicable.

"(F) If the marine mammal is transferred, the name of the recipient.

"(G) A notation if the animal was acquired as the result of a stranding.

"(H) The date of death of the marine mammal and the cause of death when determined."; and

(3) in subsection (e)(1) by—

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

(B) striking the period at the end of subparagraph (B) and inserting ", or"; and

(C) adding at the end the following new subparagraph:

"(C) if, in the case of a permit under subsection (c)(5) authorizing importation of polar bear parts, the Secretary, in consultation with the appropriate authority in Canada, determines that the sustainability of Canada's polar bear populations are being adversely affected or that sport hunting may be having a detrimental effect on maintaining polar bear populations throughout their range.".

(c) EXISTING PERMITS.—Any permit issued under section 104(c)(2) of the Marine Mammal Protection Act of 1972 (16 U.S.C. 1374(c)(2)) before the date of the enactment of this Act is hereby modified to be consistent with that section as amended by this Act.

SEC. 6. PURPOSE AND USE OF THE FUND.

Section 405 (16 U.S.C. 1421d) as amended by this Act is further amended—

(1)(A) in subsection (b)(1)(A) by striking "and" at the end of clause (ii); and

(B) by inserting a new clause (iii) as follows:

"(iii) for care and maintenance of a marine mammal seized under section 104(c)(2)(C); and"; and

(2) in subsection (d) by striking "For purposes of carrying out this title, the" and inserting "The".

SEC. 7. APPLICATION TO OTHER TREATIES AND CONVENTIONS.

Section 113 (16 U.S.C. 1383) is amended by—

(1) designating the existing paragraph as subsection (a); and

(2) adding at the end the following new subsections:

"(b) Not later than 1 year after the date of enactment of the Marine Mammal Protection Act Amendments of 1994, the Secretary of the Interior shall, in consultation with the contracting parties, initiate a review of the effectiveness of the Agreement on the Conservation of Polar Bears, as provided for in Article IX of the Agreement, and establish a process by which future reviews shall be conducted.

"(c) The Secretary of the Interior, in consultation with the Secretary of State and the Marine Mammal Commission, shall review the effectiveness of United States implementation of the Agreement on the Conservation of Polar Bears, particularly with respect to the habitat protection mandates contained in Article II. The Secretary shall report the results of this review to the Committee on Merchant Marine and Fisheries of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate not later than April 1, 1995.

"(d) Not later than 6 months after the date of enactment of the Marine Mammal Protection Act Amendments of 1994, the Secretary of the Interior, acting through the Secretary of State and in consultation with the Marine Mammal Commission and the State of Alaska, shall consult with the appropriate officials of the Russian Federation on the development and implementation of enhanced cooperative research and management programs for the conservation of polar bears in Alaska and Russia. The Secretary shall report the results of this consultation and provide periodic progress reports on the research and management programs to the Committee on Merchant Marine and Fisheries of the House of Representatives and the Committee on Commerce, Science and Transportation of the Senate.".

SEC. 8. CONSERVATION PLANS.

Section 115(b) (16 U.S.C. 1383b(b) is amended by adding at the end the following new paragraph:

"(4) If the Secretary determines that a take reduction plan is necessary to reduce the incidental taking of marine mammals in the course of commercial fishing operations from a strategic stock, or for species or stocks which interact with a commercial fishery for which the Secretary has made a determination under section 118(b)(1), any conservation plan prepared under this subsection for such species or stock shall incorporate the take reduction plan required under section 118 for such species or stock.".

SEC. 9. AUTHORIZATION OF APPROPRIATIONS.

(a) DEPARTMENT OF COMMERCE.—Title I is amended by inserting after section 115 the following:

"SEC. 116. AUTHORIZATION OF APPROPRIATIONS.

"(a) DEPARTMENT OF COMMERCE.—(1) There are authorized to be appropriated to the Department of Commerce, for purposes of carrying out such functions and responsibilities as it may have been given under title I and title IV of the Marine Mammal Protection Act of 1972 (other than sections 117 and 118 of that Act), $12,138,000 for fiscal year 1994, $12,623,000 for fiscal year 1995, $13,128,000 for fiscal year 1996, $13,653,000 for fiscal year 1997, $14,200,000 for fiscal year 1998, and $14,768,000 for fiscal year 1999.

"(2) There are authorized to be appropriated to the Department of Commerce, for purposes of carrying out sections 117 and 118 of the Marine Mammal Protection Act of 1972, $20,000,000 for each of the fiscal years 1994 through 1999.

"(b) DEPARTMENT OF THE INTERIOR.—There are authorized to be appropriated to the Department of the Interior, for purposes of carrying out such functions and responsibilities as it may have been given under title I of the Marine Mammal Protection Act of 1972, $8,000,000 for fiscal year 1994, $8,600,000 for fiscal year 1995, $9,000,000 for fiscal year 1996, $9,400,000 for fiscal year 1997, $9,900,000 for fiscal year 1998, and $10,296,000 for fiscal year 1999.".

(b) CLERICAL AMENDMENT.—The table of contents in the first section is amended by inserting after the item relating to section 115 the following:

"Sec. 116. Authorization of appropriations.".

(c) AUTHORIZATION.—Title II (16 U.S.C. 1401 et seq.) is amended by adding at the end the following:

"SEC. 207. AUTHORIZATION OF APPROPRIATIONS.

"There are authorized to be appropriated to the Marine Mammal Commission for carrying out this title $1,500,000 for fiscal year 1994, $1,550,000 for fiscal year 1995, $1,600,000 for fiscal year 1996, $1,650,000 for fiscal year 1997, $1,700,000 for fiscal year 1998, and $1,750,000 for fiscal year 1999.".

(d) CLERICAL AMENDMENT.—The table of contents in the first section is amended by inserting after the item relating to section 206 the following:

"Sec. 207. Authorization of appropriations.".

SEC. 10. STOCK ASSESSMENTS.

Title I is amended by adding at the end the following new section:

"SEC. 117. STOCK ASSESSMENTS.

"(a) IN GENERAL.—Not later than August 1, 1994, the Secretary shall, in consultation with the appropriate regional scientific review group established under subsection (d), prepare a draft stock assessment for each marine mammal stock which occurs in waters under the jurisdiction of the United States. Each draft stock assessment, based on the best scientific information available, shall—

"(1) describe the geographic range of the affected stock, including any seasonal or temporal variation in such range;

"(2) provide for such stock the minimum population estimate, current and maximum net productivity rates, and current population trend, including a description of the information upon which these are based;

"(3) estimate the annual human-caused mortality and serious injury of the stock by source and, for a strategic stock, other factors that may be causing a decline or impeding recovery of the stock, including effects on marine mammal habitat and prey;

"(4) describe commercial fisheries that interact with the stock, including—

"(A) the approximate number of vessels actively participating in each such fishery;

"(B) the estimated level of incidental mortality and serious injury of the stock by each such fishery on an annual basis;

"(C) seasonal or area differences in such incidental mortality or serious injury; and

"(D) the rate, based on the appropriate standard unit of fishing effort, of such incidental mortality and serious injury, and an analysis stating whether such level is insignificant and is approaching a zero mortality and serious injury rate;

"(5) categorize the status of the stock as one that either—

"(A) has a level of human-caused mortality and serious injury that is not likely to cause the stock to be reduced below its optimum sustainable population; or

"(B) is a strategic stock, with a description of the reasons therefor; and

"(6) estimate the potential biological removal level for the stock, describing the information used to calculate it, including the recovery factor.

"(b) PUBLIC COMMENT.—(1) The Secretary shall publish in the Federal Register a notice of the availability of a draft stock assessment or any revision thereof and provide an opportunity for public review and comment during a period of 90 days. Such notice shall include a summary of the assessment and a list of the sources of information or published reports upon which the assessment is based.

"(2) Subsequent to the notice of availability required under paragraph (1), if requested by a person to which section 101(b) applies, the Secretary shall conduct a proceeding on the record prior to publishing a final stock assessment or any revision thereof for any stock subject to taking under section 101(b).

"(3) After consideration of the best scientific information available, the advice of the appropriate regional scientific review group established under subsection (d), and the comments of the general public, the Secretary shall publish in the Federal Register a notice of availability and a summary of the final stock assessment or any revision thereof, not later than 90 days after—

"(A) the close of the public comment period on a draft stock assessment or revision thereof; and

"(B) final action on an agency proceeding pursuant to paragraph (2).

"(c) REVIEW AND REVISION.—

"(1) The Secretary shall review stock assessments in accordance with this subsection—

"(A) at least annually for stocks which are specified as strategic stocks

"(B) at least annually for stocks for which significant new information is available; and

"(C) at least once every 3 years for all other stocks.

"(2) If the review under paragraph (1) indicates that the status of the stock has changed or can be more accurately determined, the Secretary shall revise the stock assessment in accordance with subsection (b).

"(d) REGIONAL SCIENTIFIC REVIEW GROUPS.—(1) Not later than 60 days after the date of enactment of this section, the Secretary of Commerce shall, in consultation with the Secretary of Interior (with respect to marine mammals under that Secretary's jurisdiction), the Marine Mammal Commission, the Governors of affected adjacent coastal States, regional fishery and wildlife management authorities, Alaska Native organizations and Indian tribes, and environmental and fishery groups, establish at least 3 independent regional scientific review groups representing Alaska, the Pacific Coast (including Hawaii), and the Atlantic Coast (including the Gulf of Mexico) consisting of individuals with expertise in marine mammal biology and ecology, population dynamics and modeling, commercial fishing technology and practices, and stocks taken under section 101(b). The Secretary of Commerce shall, to the maximum extent practicable, attempt to achieve a balanced representation of viewpoints among the individuals on each regional scientific review group. The regional scientific review groups shall advise the Secretary on—

"(A) population estimates and the population status and trends of such stocks;

"(B) uncertainties and research needed regarding stock separation, abundance, or trends, and factors affecting the distribution, size, or productivity of the stock;

"(C) uncertainties and research needed regarding the species, number, ages, gender, and reproductive status of marine mammals;

"(D) research needed to identify modifications in fishing gear and practices likely to reduce the incidental mortality and serious injury of marine mammals in commercial fishing operations;

"(E) the potential impacts of habitat destruction, including marine pollution and natural environmental change, on specific marine mammal species or stocks; and

"(F) any other issue which the Secretary or the groups consider appropriate.

"(2) The scientific review groups established under this subsection shall not be subject to the Federal Advisory Committee Act (5 App. U.S.C.).

"(3) Members of the scientific review groups shall serve without compensation, but may be reimbursed by the Secretary, upon request, for reasonable travel costs and expenses incurred in performing their obligations.

"(4) The Secretary may appoint or reappoint individuals to the regional scientific review groups under paragraphs (1) as needed.

"EFFECT ON SECTION 101(b). This section shall not affect or otherwise modify the provisions of section 101(b).".

SEC. 11. TAXING OF MARINE MAMMALS INCIDENTAL TO COMMERCIAL FISHING OPERATIONS.

Title I as amended by this Act, is further amended by adding at the end the following new section:

"SEC. 118. TAKING OF MARINE MAMMALS INCIDENTAL TO COMMERCIAL FISHING OPERATIONS.

"(a) IN GENERAL.—(1) Effective on the date of enactment of this section, and except as provided in section 114 and in paragraphs (2), (3), and (4) of this subsection, the provisions of this section shall govern the incidental taking of marine mammals in the course of commercial fishing operations by persons using vessels of the United States or vessels which have valid fishing permits issued by the Secretary in accordance with section 204(b) of the Magnuson Fishery Conservation and Management Act (16 U.S.C. 1824(b)). In any event it shall be the immediate goal that the incidental mortality or serious injury of marine mammals occurring in the course of commercial fishing operations be reduced to insignificant levels approaching a zero mortality and serious injury rate within seven years of the date of enactment of this section.

"(2) In the case of the incidental taking of marine mammals from species or stocks designated under this Act as depleted on the basis of their listing as threatened species or endangered species under the Endangered Species Act of 1973 (16 U.S.C. 1531 et seq.), both this section and section 101(a)(5)(E) of this Act shall apply.

"(3) Sections 104(h) and title III, and not this section, shall govern the taking of marine mammals in the course of commercial purse seine fishing for yellowfin tuna in the eastern tropical Pacific Ocean.

"(4) This section shall not govern the incidental taking of California sea otters and shall not be deemed to amend or repeal the Act of November 7, 1986 (Public Law 99-625; 100 Stat. 3500).

"(5) Except as provided in section 101(c), the intentional lethal take of any marine mammal in the course of commercial fishing operations is prohibited.

"(6) Sections 103 and 104 shall not apply to the incidental taking of marine mammals under the authority of this section.

"(b) ZERO MORTALITY RATE GOAL.—(1) Commercial fisheries shall reduce incidental mortality and serious injury of marine mammals to insignificant levels approaching a zero mortality and serious injury rate within seven years after the date of enactment of this section.

"(2) Fisheries which maintain insignificant serious injury and mortality levels approaching a zero rate shall not be required to further reduce their mortality and serious injury rates.

"(3) Three years after such date of enactment, the Secretary shall review the progress of all commercial fisheries, by fishery toward reducing incidental mortality and serious injury to insignificant levels approaching a zero rate. The Secretary shall submit to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Merchant Marine and Fisheries of the House of Representatives a report setting forth the results of such review within 1 years after commencement of the review. The Secretary shall note any commercial fishery for which additional information is required to a accurately assess the level of incidental mortality and serious injury of marine mammals in the fishery.

"(4) If the Secretary determines after review under paragraph (3) that the rate of incidental mortality and serious injury of marine mammals in a commercial fishery is not consistent with paragraph (1), then the Secretary shall take appropriate action under subsection (f).

"(c) REGISTRATION AND AUTHORIZATION.—(1) The Secretary shall, within 90 days after the date of enactment of this section—

"(A) publish in the Federal Register for public comment, for a period of not less than 90 days, any necessary changes to the Secretary's list of commercial fisheries published under section 114 (b)(1) are which is in existence on March 31, 1994 (along with an explanation of such changes and a statement

describing the marine mammal stocks interacting with, and the approximate number of vessels or persons actively involved in, each such fishery) and have—

"(i) frequent incidental mortality and serious injury of marine mammals;

"(ii) occasional incidental mortality and serious injury of marine mammals; or

"(iii) a remote likelihood of or no known incidental mortality or serious injury of marine mammals;

"(B) after the close of the period for such public comment, publish in the Federal Register a revised list of commercial fisheries and an update of information required by subparagraph (A), together with a summary of the provisions of this section and information sufficient to advise vessel owners on how to obtain an authorization and otherwise comply with the requirements of this section; and

"(C) at least once each year thereafter, and at such other times as the Secretary considers appropriate, reexamine, based on information gathered under this Act and other relevant sources and after notice and opportunity for public comment, the classification of commercial fisheries and other determinations required under subparagraph (A) and publish in the Federal Register any necessary changes.

"(2)(A) An authorization shall be granted by the Secretary in accordance with this section for a vessel engaged in a commercial fishery listed under paragraph (1)(A)(i) or (ii), upon receipt by the Secretary of a completed registration form providing the name of the vessel owner and operator, the name and description of the vessel, the fisheries in which it will be engaged, the approximate time, duration, and location of such fishery operations, and the general type and nature of use of the fishing gear and techniques used. Such information shall be in a readily usable format that can be efficiently entered into and utilized by an automated or computerized data processing system. A decal or other physical evidence that the authorization is current and valid shall be issued by the Secretary at the time an authorization is granted, and so long as the authorization remains current and valid, shall be reissued annually thereafter.

"(B) No authorization may be granted under this section to the owner of a vessel unless such vessel—

"(i) is a vessel of the United States; or

"(ii) has a valid fishing permit issued by the Secretary in accordance with section 204(b) of the Magnuson Fishery Conservation and Management Act (16 U.S.C. 1824(b)).

"(C) Except as provided in subsection (a), an authorization granted under this section shall allow the incidental taking of all species and stocks of marine mammals to which this Act applies.

"(3)(A) An owner of a vessel engaged in any fishery listed under paragraph (1)(A)(i) or (ii) shall, in order to engage in the lawful incidental taking of marine mammals in a commercial fishery—

"(i) have registered as required under paragraph (2) with the Secretary in order to obtain for each such vessel owned and used in the fishery an authorization for the purpose of incidentally taking marine mammals in accordance with this section, except that owners of vessels holding valid certificates of exemption under section 114 are deemed to have registered for purposes of this subsection for the period during which such registration is valid;

"(ii) ensure that a decal or such other physical evidence of a current and valid authorization as the Secretary may require is displayed on or is in the possession of the master of each such vessel;

"(iii) report as required by subsection (e); and

"(iv) comply with a take reduction plan and emergency regulations issued under this section.

"(B) Any owner of a vessel receiving an authorization under this section for any fishery listed under paragraph (1)(A)(i) or (ii) shall, as a condition of that authorization, take on board an observer if requested to do so by the Secretary.

"(C) An owner of a vessel engaged in a fishery listed under paragraph (1)(A)(i) or (ii) who—

"(i) fails to obtain from the Secretary an authorization for such vessel under this section;

"(ii) fails to maintain a current and valid authorization for such vessel; or

"(iii) fails to ensure that a decal or other physical evidence of such authorization issued by the Secretary is displayed on or is in possession of the master of the vessel,

and the master of any such vessel engaged in such fishery, shall be deemed to have violated this title, and for violations of clauses (i) and (ii) shall be subject to the penalties of this title, and for violations of clause (iii) shall be subject to a fine of not more than $100 for each offense.

"(D) If the owner of a vessel has obtained and maintains a current and valid authorization from the Secretary under this section and meets the requirements set forth in this section, including compliance with any regulations to implement a take reduction plan under this section, the owner of such vessel, and the master and crew members of the vessel, shall not be subject to the penalties set forth in this title for the incidental taking of marine mammals while such vessel is engaged in a fishery to which the authorization applies.

"(E) Each owner of a vessel engaged in any fishery not listed under paragraph (1)(A)(i) or (ii), and the master and crew members of such a vessel, shall not be subject to the penalties set forth in this title for the incidental taking of marine mammals if such owner reports to the Secretary, in the form and manner required under subsection (e), instances of incidental mortality or injury of marine mammals in the course of that fishery.

"(4)(A) The Secretary shall suspend or revoke an authorization granted under this section and shall not issue a decal or other physical evidence of the authorization for any vessel until the owner of such vessel complies with the reporting requirements under subsection (e) and such requirements to take on board an observer under paragraph (3)(B) as are applicable to such vessel. Previous failure to comply with the requirements of section 114 shall not bar authorization under this section for an owner who complies with the requirements of this section.

"(B) The Secretary may suspend or revoke an authorization granted under this subsection, and may not issue a decal or other physical evidence of the authorization for any vessel which fails to comply with a take reduction plan or emergency regulations issued under this section.

"(C) The owner and master of a vessel which fails to comply with a take reduction plan shall be subject to the penalties of section 105 and 107, and may be subject to section 106.

"(5)(A) The Secretary shall develop, in consultation with the appropriate States, affected Regional Fishery Management Councils, and other interested persons, the means by which the granting and administration of authorizations under this section shall be integrated and coordinated, to the maximum extent practicable, with existing fishery licenses, registrations, and related programs.

"(B) The Secretary shall utilize newspapers of general circulation, fishery trade associations, electronic media, and other means of advising commercial fishermen of the provisions of this section and the means by which they can comply with its requirements.

"(C) The Secretary is authorized to charge a fee for the granting of an authorization under this section. The level of fees charged under this subparagraph shall not exceed the administrative costs incurred in granting an authorization. Fees collected under this subparagraph shall be available to the Under Secretary of Commerce for Oceans and Atmosphere for expenses incurred in the granting and administration of authorizations under this section.

"(d) MONITORING OF INCIDENTAL TAKES.—

"(1) The Secretary shall establish a program to monitor incidental mortality and serious injury of marine mammals during the course of commercial fishing operations. The purposes of the monitoring program shall be to—

"(A) obtain statistically reliable estimates of incidental mortality and serious injury;

"(B) determine the reliability of reports of incidental mortality and serious injury under subsection (e); and

"(C) identify changes in fishing methods or technology that may increase or decrease incidental mortality and serious injury.

"(2) Pursuant to paragraph (1), the Secretary may place observers on board vessels as necessary, subject to the provisions of this section. Observers may, among other tasks—

"(A) record incidental mortality and injury, or by-catch of other nontarget species;

"(B) record numbers of marine mammals sighted; and

"(C) perform other scientific investigations.

"(3) In determining the distribution of observers among commercial fisheries and vessels within a fishery, the Secretary shall be guided by the following standards:

"(A) The requirement to obtain statistically reliable information.

"(B) The requirement that assignment of observers is fair and equitable among fisheries and among vessels in a fishery.

"(C) The requirement that no individual person or vessel, or group of persons or vessels, be subject to excessive or overly burdensome observer coverage.

"(D) To the extent practicable, the need to minimize costs and avoid duplication.

"(4) To the extent practicable, the Secretary shall allocate observers among commercial fisheries in accordance with the following priority:

"(A) The highest priority for allocation shall be for commercial fisheries that have incidental mortality or serious injury of marine mammals from stocks listed as endangered species or threatened species under the Endangered Special Act of 1973 (16 U.S.C. 1531 et seq.).

"(B) The second highest priority for allocation shall be for commercial fisheries that have incidental mortality and serious injury of marine mammals from strategic stocks.

"(C) The third highest priority for allocation shall be for commercial fisheries that have incidental mortality or serious injury

of marine mammals from stocks for which the level of incidental mortality and serious injury is uncertain.

"(5) The Secretary may establish an alternative observer program to provide statistically reliable information on the species and number of marine mammals incidentally taken in the course of commercial fishing operations. The alternative observer program may include direct observation of fishing activities from vessels, airplanes, or points on shore.

"(6) The Secretary is not required to place an observer on a vessel in a fishery if the Secretary finds that—

"(A) in a situation in which harvesting vessels are delivering fish to a processing vessel and the catch is not taken on board the harvesting vessel, statistically reliable information can be obtained from an observer on board the processing vessel to which the fish are delivered;

"(B) the facilities on a vessel for quartering of an observer, or for carrying out observer functions, are so inadequate or unsafe that the health or safety of the observer or the safe operation of the vessel would be jeopardized; or

"(C) for reasons beyond the control of the Secretary, an observer is not available.

"(7) The Secretary may, with the consent of the vessel owner, station an observer on board a vessel engaged in a fishery not listed under subsection (c)(1)(A) (i) or (ii).

"(8) Any proprietary information collected under this subsection shall be confidential and shall not be disclosed except—

"(A) to Federal employees whose duties require access to such information;

"(B) to State or tribal employees pursuant to an agreement with the Secretary that prevents public disclosure of the identity or business of any person;

"(C) when required by court order; or

"(D) in the case of scientific information involving fisheries, to employees of Regional Fishery Management Councils who are responsible for fishery management plan development and monitoring.

"(9) The Secretary shall prescribe such procedures as may be necessary to preserve such confidentiality, except that the Secretary shall release or make public upon request any such information in aggregate, summary, or other form which does not directly or indirectly disclose the identity or business of any person.

"(e) REPORTING REQUIREMENT.—The owner or operator of a commercial fishing vessel subject to this Act shall report all incidental mortality and injury of marine mammals in the course of commercial fishing operations to the Secretary by mail or other means acceptable to the Secretary within 48 hours after the end of each fishing trip on a standard postage-paid form to be developed by the Secretary under this section. Such form shall be capable of being readily entered into and usable by an automated or computerized data processing system and shall require the vessel owner or operator to provide the following:

"(1) The vessel name, and Federal, State, or tribal registration numbers of the registered vessel.

"(2) The name and address of the vessel owner or operator.

"(3) The name and description of the fishery.

"(4) The species of each marine mammal incidentally killed or injured, and the date, time, and approximate geographic location of such occurrence.

"(f) TAKE REDUCTION PLANS.—(1) The Secretary shall develop and implement take reduction plan designed to assist in the recovery or prevent the depletion of each strategic stock which interacts with a commercial fishery listed under subsection (c)(1)(A)(i) or (ii), and may develop and implement such a plan for any other marine mammal stocks which interact with a commercial fishery listed under subsection (c)(1)(A)(i) which the Secretary determines, after notice and opportunity for public comment, has a high level of mortality and serious injury across a number of such marine mammal stocks.

"(2) The immediate goal of a take reduction plan shall be to reduce, within 6 months of its implementation, the incidental mortality or serious injury of marine mammals incidentally taken in the course of commercial fishing operations to levels less than the potential biological removal level established in this section. The long-term goal of the plan shall be to reduce, within 5 years of its implementation, the incidental mortality or serious injury of marine mammals incidentally taken in the course of commercial fishing operations to insignificant levels approaching a zero mortality and serious injury rate, taking into account the economics of the fishery, the availability of existing technology, and existing State or regional fishery management plans.

"(3) If there is insufficient funding available to develop and implement take reduction plan for all such stocks that interact with commercial fisheries listed under subsection (c)(1)(A)(i) or (ii), the Secretary shall give highest priority to the development and implementation of take reduction plans for species or stocks whose level of incidental mortality and serious injury exceeds the potential biological removal level, those that have a small population size, and those which are declining most rapidly.

"(4) Each take reduction plan shall include—

"(A) a review of the information in the final stock assessment published under subsection (c) and any substantial new information;

"(B) an estimate of the total number and, if possible, age and gender, of animals from the stock that are being incidentally lethally taken or seriously injured each year during the course of commercial fishing operations, by fishery;

"(C) recommended regulatory or voluntary measures for the reduction of incidental mortality and serious injury,

"(D) recommended dates for achieving the specific objectives of the plan.

(5)(A) For any stock in which incidental mortality and serious injury from commercial fisheries exceeds the potential biological removal level established under section 117, the plan shall include measures the Secretary expects will reduce, within 6 months after of the plan's implementation, such mortality and serious injury to a level blow the potential biological removal level.

"(B) For any stock in which human-casued mortality and serious injury exceeds the potential biological removal level, other than a stock to which subparagraph (A) applies, the plan shall include measures the Secretary expects will reduce, to the maximum extent practicable within 6 months of the plan's implementation, the incidental mortality and serious injury by such commercial fisheries from that stock. For purposes of this subparagraph, the term 'maximum extent practicable' means to the lowest level that is feasible for such fisheries within the 6-month period.

(6)(A) At the earliest possible time (not later than 30 days) after the Secretary issues a final stock assessment for a strategic stock, the Secretary shall, and for stocks that interact with a fishery listed under subsection (c)(1)(A)(i) for which the Secretary has made a determination under paragraph (1), the Secretary may—

"(i) establish a take reduction team for such stock and appoint the members of such team in accordance with subparagraph (C); and

"(ii) publish in the Federal Register a notice of the team's establishment, the names of the team's appointed members, the full geographic range of such stock, and a list of all commercial fisheries that cause incidental mortality and serious injury of marine mammals from such stock.

"(B) The Secretary may request a take reduction team to address a stock that extends over one or more regions or fisheries, or multiple stocks within a region or fishery, if the Secretary determines that doing so would facilitate the development and implementation of plans required under this subsection.

"(C) Members of take reduction teams shall have expertise regarding the conservation or biology of the marine mammal species which the incidental take plan will address, or the fishing practices which result in the incidental mortality and serious injury of such species. Members shall include representatives of Federal agencies, each coastal State which has fisheries which interact with the species or stock, appropriate Regional Fishery Management Councils, interstate fisheries commissions, academic and scientific organizations, environmental groups, all commercial and recreational fisheries groups and gear types which incidentally take the species or stock, Alaska Native organizations or Indian tribal organizations, and others as the Secretary deems appropriate. Take reduction teams shall, to the maximum extent practicable, consist of an equitable balance among representatives of resource user interests and nonuser interests.

"(D) Take reduction teams shall not be subject to the Federal Advisory Committee Act (5 App. U.S.C.). Meetings of take reduction teams shall be open to the public, and prior notice of meetings shall be made public in a timely fashion.

"(E) Members of take reduction teams shall serve without compensation, but may be reimbursed by the Secretary, upon request, for reasonable travel costs and expenses incurred in performing their duties as members of the team.

"(7) Where the human-caused mortality and serious injury from a strategic stock is estimated to be equal to or greater than the potential biological removal level established under section 117 for such stock and such stock interacts with a fishery listed under subsection (c)(1)(A)(i) or (ii), the following procedures shall apply in the development of the take reduction plan for the stock:

"(A)(i) Not later than 6 months after the date of establishment of take reduction team for the stock, the team shall submit a draft take reduction plan for such stock to the Secretary, consistent with the other provisions of this section.

"(ii) Such draft take reduction plan shall be developed by consensus. In the event consensus cannot be reached, the team shall advise the Secretary in writing on the range of possibilities considered by the team, and the views of both the majority and minority.

"(B)(i) The Secretary shall take the draft take reduction plan into consideration and, not later than 60 days after the submission of

the draft plan by the team, the Secretary shall publish in the Federal Register the plan proposed by the team, any changes proposed by the Secretary with an explanation of the reasons therefor, and proposed regulations to implement such plan, for public review and comment during a period of not to exceed 90 days.

"(ii) In the event that the take reduction team does not submit a draft plan to the Secretary within 6 months, the Secretary shall, not later than 8 months after the establishment of the team, publish in the Federal Register a proposed take reduction plan and implementing regulations, for public review and comment during a period of not to exceed 90 days.

"(C) Not later than 60 days after the close of the comment period required under subparagraph (B), the Secretary shall issue a final take reduction plan and implementing regulations, consistent with the other provisions of this section.

"(D) The Secretary shall during a period of 30 days after publication of a final take reduction plan, utilize newspapers of general circulation, fishery trade associations, electronic media, and other means of advising commercial fishermen of the requirements of the plan and how to comply with them.

"(E) The Secretary and the take reduction team shall meet every 6 months, or at such other intervals as the Secretary determines are necessary, to monitor the implementation of the final take reduction plan until such time that the Secretary determines that the objectives of such plan have been met.

"(F) The Secretary shall amend the take reduction plan and implementing regulations as necessary to meet the requirements of this section, in accordance with the procedures in this section for the issuance of such plans and regulations.

"(8) Where the human-caused mortality and serious injury from a strategic stock is estimated to be less than the potential biological removal level established under section 117 for such stock and such stock interacts with a fishery listed under subsection (c)(1)(A) (i) or (ii), or for any marine mammal stocks which interact with a commercial fishery listed under subsection (c)(1)(A)(i) for which the Secretary has made a determination under paragraph (1), the following procedures shall apply in the development of the take reduction plan for such stock:

"(A)(i) Not later than 11 months after the date of establishment of a take reduction team for the stock, the team shall submit a draft take reduction plan for the stock to the Secretary, consistent with the other provisions of this section.

"(ii) Such draft take reduction plan shall be developed by consensus. In the event consensus cannot be reached, the team shall advise the Secretary in writing on the range of possibilities considered by the team, and the views of both the majority and minority.

"(B)(i) The Secretary shall take the draft take reduction plan into consideration and, not later than 60 days after the submission of the draft plan by the team, the Secretary shall publish in the Federal Register the plan proposed by the team, any changes proposed by the Secretary with an explanation of the reasons therefor, and proposed regulations to implement such plan, for public review and comment during a period of not to exceed 90 days.

"(ii) In the event that the take reduction team does not submit a draft plan to the Secretary within 11 months, the Secretary shall, not later than 13 months after the establishment of the team, publish in the Federal Register a proposed take reduction plan and implementing regulations, for public review and comment during a period of not to exceed 90 days.

"(C) Not later than 60 days after the close of the comment period required under subparagraph (B), the Secretary shall issue a final take reduction plan and implementing regulations, consistent with the other provisions of this section.

"(D) The Secretary shall, during a period of 30 days after publication of a final take reduction plan, utilize newspapers of general circulation, fishery trade associations, electronic media, and other means of advising commercial fishermen of the requirements of the plan and how to comply with them.

"(E) The Secretary and the take reduction team shall meet on an annual basis, or at such other intervals as the Secretary determines are necessary, to monitor the implementation of the final take reduction plan until such time that the Secretary determines that the objectives of such plan have been met.

"(F) The Secretary shall amend the take reduction plan and implementing regulations as necessary to meet the requirements of this section, in accordance with the procedures in this section for the issuance of such plans and regulations.

"(9) In implementing a take reduction plan developed pursuant to this subsection, the Secretary may, where necessary to implement a take reduction plan to protect or restore a marine mammal stock or species covered by such plan, promulgate regulations which include, but are not limited to, measures to—

"(A) establish fishery-specific limits on incidental mortality and serious injury of marine mammals in commercial fisheries or restrict commercial fisheries by time or area;

"(B) require the use of alternative commercial fishing gear or techniques and new technologies, encourage the development of such gear or technology, or convene expert skippers' panels;

"(C) educate commercial fishermen, through workshops and other means, on the importance of reducing the incidental mortality and serious injury of marine mammals in affected commercial fisheries; and

"(D) monitor in accordance with subsection (d), the effectiveness of measures taken to reduce the level of incidental mortality and serious injury of marine mammals in the course of commercial fishing operations.

"(10)(A) Notwithstanding paragraph (5), in the case of any stock to which paragraph (5) applies for which a final stock assessment has not been published under section 117(b)(3) by April 1, 1995, due to a proceeding under section 117(b)(2), or any Federal court review of such proceeding, the Secretary shall establish a take reduction team under paragraph (6) for such stock as if a final stock assessment had been published.

"(B) The draft stock assessment published for such stock under section 117(b)(1) shall be deemed the final stock assessment for purposes of preparing and implementing a take reduction plan for such stock under this section.

"(C) Upon publication of a final stock assessment for such stock under section 117(b)(3) the Secretary shall immediately reconvene the take reduction team for such stock for the purpose of amending the take reduction plan, and any regulations issued to implement such plan, if necessary, to reflect the final stock assessment or court action. Such amendments shall be made in accordance with paragraph (7)(F) or (8)(F), as appropriate.

"(D) A draft stock assessment may only be used as the basis for a take reduction plan under this paragraph for a period of not to exceed two years, or until a final stock assessment is published, whichever is earlier. If, at the end of the two-year period, a final stock assessment has not been published, the Secretary shall categorize such stock under section 117(a)(5)(A) and shall revoke any regulations to implement a take reduction plan for such stock.

"(E) Subparagraph (D) shall not apply for any period beyond two years during which a final stock assessment for such stock has not been published due to review of a proceeding on such stock assessment by a Federal court. Immediately upon final action by such court, the Secretary shall proceed under subparagraph (C).

"(11) Take reduction plans developed under this section for a species or stock listed as a threatened species or endangered species under the Endangered Species Act of 1973 (16 U.S.C. 1531 et seq.) shall be consistent with any recovery plan developed for such species or stock under section 4 of such Act.

"(g) EMERGENCY REGULATIONS.—(1) If the Secretary finds that the incidental mortality and serious injury of marine mammals from commercial fisheries is having, or is likely to have, an immediate and significant adverse impact on a stock or species, the Secretary shall take actions as follows:

"(A) In the case of a stock or species for which a take reduction plan is in effect, the Secretary shall—

"(i) prescribe emergency regulations that, consistent with such plan to the maximum extent practicable, reduce incidental mortality and serious injury in that fishery; and

"(ii) approve and implement, on an expedited basis, any amendments to such plan that are recommended by the take reduction team to address such adverse impact.

"(B) In the case of a stock or species for which a take reduction plan is being developed, the Secretary shall—

"(i) prescribe emergency regulations to reduce such incidental mortality and serious injury in that fishery; and

"(ii) approve and implement, on an expedited basis, such plan, which shall provide methods to address such adverse impact if still necessary.

"(C) In the case of a stock or species for which a take reduction plan does not exist and is not being developed, or in the case of a commercial fishery listed under subsection (c)(1)(A)(iii) which the Secretary believes may be contributing to such adverse impact, the Secretary shall—

"(i) prescribe emergency regulations to reduce such incidental mortality and serious injury in that fishery, to the extent necessary to mitigate such adverse impact;

"(ii) immediately review the stock assessment for such stock or species and the classification of such commercial fishery under this section to determine if a take reduction team should be established; and

"(iii) may, where necessary to address such adverse impact on a species listed as a threatened species or endangered species under the Endangered Species Act of 1973 (16 U.S.C. 1531 et seq., place observers on vessels in a commercial fishery listed under subsection (c)(1)(A)(iii), if the Secretary has reason to believe such vessels may be causing the incidental mortality and serious injury to marine mammals from such stock.

"(2) Prior to taking action under paragraph (1) (A), (B), or (C), the Secretary shall consult with the Marine Mammal Commission, all appropriate Regional Fishery Management Councils, State fishery managers, and the appropriate take reduction team (if established).

"(3) Emergency regulations prescribed under this subsection—

"(A) shall be published in the Federal Register, together with an explanation thereof;

"(B) shall remain in effect for not more than 180 days or until the end of the applicable commercial fishing season, whichever is earlier; and

"(C) may be terminated by the Secretary at an earlier date by publication in the Federal Register of a notice of termination, if the Secretary determines that the reasons for emergency regulations no longer exist.

"(4) If the Secretary finds that incidental mortality and serious injury of marine mammals in a commercial fishery is continuing to have an immediate and significant adverse impact on a stock or species, the Secretary may extend the emergency regulations for an additional period of not more than 90 days or until reasons for the emergency no longer exist, whichever is earlier.

"(h) PENALTIES.—Except as provided in subsection (c), any person who violates this section shall be subject to the provisions of section 105 and 107, and may be subject to section 106 as the Secretary establishes by regulations.

"(i) ASSISTANCE.—The Secretary shall provide assistance to Regional Fishery Management Councils, States, interstate fishery commissions, and Indian tribal organizations in meeting the goal of reducing incidental mortality and serious injury to insignificant levels approaching a zero mortality and serious injury rate.

"(j) CONTRIBUTIONS.—For purposes of carrying out this section, the Secretary may accept, solicit, receive, hold, administer, and use gifts, devises, and bequests.

"(k) CONSULTATION WITH SECRETARY OF THE INTERIOR.—The Secretary shall consult with the Secretary of the Interior prior to taking actions or making determinations under this section that affect or relate to species or population stocks of marine mammals for which the Secretary of the Interior is responsible under this title.

"(l) DEFINITIONS.—As used in this section, each of the terms 'fishery' and '* * * of the United States' has the same meaning as it does in section 3 of the Magnuson Fishery Conservation and Management Act (16 U.S.C. 1802).".

SEC. 12. DEFINITIONS.

Section 3 (16 U.S.C. 1362) is amended—

(1) in paragraph (13) by inserting "harm," before "harass" each place it appears; and

(2) by adding at the end the following:

"(18)(A) The term 'harassment' means any act of pursuit, torment, or annoyance which—

"(i) has the potential to injure a marine mammal or marine mammal stock in the wild; or

"(ii) has the potential to disturb a marine mammal or marine mammal stock in the wild by causing disruption of behavioral patterns, including, but not limited to, migration, breathing, nursing, breeding, feeding, or sheltering.

"(B) The term 'Level A harassment' means harassment described in subparagraph (A)(i).

"(C) The term 'Level B harassment' means harassment described in subparagraph (A)(ii).

"(19) The term 'harm' means an act or series of acts which is likely to result in significant habitat modification or degradation that is likely to threaten the survival or recovery of a stock.

"(20) The term 'strategic stock' means a marine mammal population or stock—

"(A) for which the level of direct human-caused mortality exceeds the potential biological removal level;

"(B) which, based on the best available scientific information, is declining and is likely to be listed as a threatened species under the Endangered Species Act of 1973 within the foreseeable future; or

"(C) is listed as a threatened species or endangered species under the Endangered Species Act of 1973 (16 U.S.C. 1531 et seq.), or is designated as depleted under the Act.

"(21) The term 'potential biological removal level' means the maximum number of animals, not including natural mortalities, that may be removed from a marine mammal stock while allowing that stock to reach or maintain its optimum sustainable population. The potential biological removal level is the product of the following factors:

"(A) The minimum population estimate of the stock.

"(B) One-half the maximum theoretical or estimated net productivity rate of the stock at a small population size.

"(C) A recovery factor of between 0.1 and 1.0.

"(22) The term 'Regional Fishery Management Council' means a Regional Fishery Management Council established under section 302 of the Magnuson Fishery Conservation and Management Act.

"(23) The term 'bona fide research' means scientific research on marine mammals, the results of which—

"(A) likely would be accepted for publication in a referred scientific journal;

"(B) are likely to contribute to the basic knowledge of marine mammal biology or ecology; or

"(C) are likely to identify, evaluate, or resolve conservation problems.

"(24) The term 'Alaska Native organization' means a group designated by law or formally chartered which represents or consists of Indians, Aleuts, or Eskimos residing in Alaska.

"(25) The term 'take reduction plan' means a plan developed under section 118.

"(26) The term 'take reduction team' means a team established under section 118.

"(27) The term 'net productivity rate' means the annual per capita rate of increase in a stock resulting from additions due to reproduction, less losses due to mortality.

"(28) The term 'minimum population estimate' means an estimate of the number of animals in a stock that—

"(A) is based on the best available scientific information on abundance, incorporating the precision and variability associated with such information; and

"(B) provides reasonable assurance that the stock size is equal to or greater than the estimate.".

SEC. 13. PENALTIES; PROHIBITIONS.

"(a) CIVIL PENALTIES.—Section 105(a)(1) of the Marine Mammal Protection Act of 1972 (16 U.S.C. 1375(a)(1)) is amended by inserting", except as provided in section 118," immediately after "thereunder" and by inserting ", harassment," immediately after "taking".

"(b) CRIMINAL PENALTIES.—Section 105(b) of the Marine Mammal Protection Act of 1972 (16 U.S.C. 1375(b)) is amended by inserting "except as provided in section 118)" immediately after "thereunder".

"(c) PROHIBITIONS.—Section 102(a) of the Marine Mammal Protection Act of 1972 (16 U.S.C. 1372(a)) is amended by striking "and 114 of this title or title III" and inserting in lieu thereof "114, and 118 of this title and title IV".

SEC. 14. INDIAN TREATY RIGHTS; ALASKA NATIVE SUBSISTENCE.

Nothing in this Act, including any amendments to the Marine Mammal Protection Act of 1972 made by this Act—

(1) alters or is intended to alter any treaty between the United States and one or more Indian tribes; or

"(2) affects or otherwise modifies the provisions of section 101(b) of the Marine Mammal Protection Act of 1972 (16 U.S.C. 1371(b)), except as specifically provided in the amendment made by section 4(h) of this Act.

SEC. 15. TRANSITION RULE; IMPLEMENTING REGULATIONS.

"(a) TRANSITION RULE.—Section 114(a)(1) of the Marine Mammal Protection Act of 1972 (16 U.S.C. 1383a(a)(1)) is amended by striking "ending April 1, 1994," and inserting in lieu thereof "until superseded by regulations prescribed under section 118, or until September 1, 1995, whichever is earlier,".

(b) IMPLEMENTING REGULATIONS.—Except as provided otherwise in this Act, or the amendments to the Marine Mammal Protection Act of 1972 (16 U.S.C. 1361 et seq.) made by this Act, the Secretary of Commerce or the Secretary of the Interior, as appropriate, shall, after notice and opportunity for public comment, promulgate regulations to implement this Act and the amendments made by this Act by January 1, 1995.

SEC. 16. TECHNICAL AND CONFORMING AMENDMENTS.

(a) DEFINITIONS.—Section 3 of the Marine Mammal Protection Act of 1972 (16 U.S.C. 1362) is amended—

(1) by striking paragraph (17); and

(2) by redesignating the second paragraph (15) and paragraph (16) as paragraphs (16) and (17), respectively.

(b) MARINE MAMMAL HEALTH AND STRANDING RESPONSE.—The Marine Mammal Protection Act of 1972 (16 U.S.C. 1361 et seq.) is amended—

(1) by redesignating title III, as added by Public Law 102-587 (106 Stat. 5060), as title IV; and

(2) by redesignating the sections of that title (16 U.S.C. 1421 through 1421h) as sections 401 through 409, respectively.

(c) UNUSUAL MORTALITY EVENT FUND.—Section 405(a) of the Marine Mammal Protection Act of 1972 (16 U.S.C. 1421d(a)), as so redesignated by subsection (b)(2) of this section, is amended by striking "a fund" and inserting in lieu thereof "an interest bearing fund".

SEC. 17. HUMAN ACTIVITIES WITHIN PROXIMITY OF WHALES.

(a) LAWFUL APPROACHES.—In waters of the United States surrounding the State of Hawaii, it is lawful for a person subject to the jurisdiction of the United States to approach, by any means other than an aircraft, no closer than 100 yards to a humpback whale or any other whale, regardless of whether the approach is made in waters designated under section 222.31 of title 50, Code of Federal Regulations, as cow/calf waters.

(b) TERMINATION OF LEGAL EFFECT OF CERTAIN REGULATIONS.—Subsection (b) of section 222.31 of title 50, Code of Federal Regulations, shall cease to be in force and effect.

SEC. 18. SCRIMSHAW EXEMPTIONS.

Notwithstanding any other provision of law, any valid certificate of exemption renewed by the Secretary (or deemed to be renewed) under section 10(f)(8) of the Endangered Species Act of 1973 (16 U.S.C. 1539(f)(8)) for any person holding such a certificate

with respect to the possession of pre-Act finished scrimshaw products or raw material for such products shall remain valid for a period not to exceed 5 years beginning on the date of enactment of this Act.

SEC. 19. MARINE MAMMAL COOPERATIVE AGREEMENTS IN ALASKA.

Title I of the Marine Mammal Protection Act of 1972 (16 U.S.C. 1371 et seq.), as amended by this Act, is further amended by adding at the end the following new section:

"SEC. 119. MARINE MAMMAL COOPERATIVE AGREEMENTS IN ALASKA.

"(a) IN GENERAL.—The Secretary may enter into cooperative agreements with Alaska Native organizations to conserve marine mammals and provide co-management of subsistence use by Alaska Natives.

"(b) GRANTS.—Agreements entered into under this section may include grants to Alaska Native organizations for, among other purposes—

"(1) collecting and analyzing data on marine mammal populations;

"(2) monitoring the harvest of marine mammals for subsistence use;

"(3) participating in marine mammal research conducted by the Federal Government, States, academic institutions, and private organizations; and

"(4) developing marine mammal co-management structures with Federal and State agencies.

"(c) EFFECT OF JURISDICTION.—Nothing in this section is intended or shall be construed—

"(1) as authorizing any expansion or change in the respective jurisdiction of Federal, State, or tribal governments over fish and wildlife resources; or

"(2) as altering in any respect the existing political or legal status or Alaska Natives, or the governmental or jurisdictional status of Alaska Native communities or Alaska Native entities.

"(d) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated for the purposes of carrying out this section—

"(1) $1,500,000 to the Secretary of Commerce for each of the fiscal years 1994, 1995, 1996, 1997, 1998, and 1999; and

"(2) $1,000,000 to the Secretary of Interior for each of the fiscal years 1994, 1995, 1996, 1997, 1998, and 1999. The amounts authorized to be appropriated under this subsection are in addition to the amounts authorized to be appropriated under section 7 of the Act entitled 'An Act to improve the operation of the Marine Mammal Protection Act of 1972, and for other purposes', approved October 9, 1981 (16U.S.C. 1384).".

SEC. 20. MARINE ECOSYSTEM PROTECTION.

Section 110 (16 U.S.C. 1380) is amended by striking subsection (c) and inserting the following:

"(c)(1) No later than 1 year after the date of enactment of the Marine Mammal Protection Act Amendments of 1994, the Secretary of Commerce shall convene a regional workshop for the Gulf of Maine to assess human-caused factors affecting the health and stability of that marine ecosystem, of which marine mammals are a part. The workshop shall be conducted in consultation with the Marine Mammal Commission, the adjacent coastal States, individuals with expertise in marine mammal biology and ecology, representatives from environmental organizations, the fishing industry, and other appropriate persons. The goal of the workshop shall be to identify such factors, and to recommend a program of research and management to restore or maintain that marine ecosystem and its key components that—

"(A) protects and encourages marine mammals to develop to the greatest extent feasible commensurate with sound policies of resource management;

"(B) has as the primary management objective the maintenance of the health and stability of the marine ecosystems;

"(C) ensures the fullest possible range of management options for future generations; and

"(D) permits nonwasteful, environmentally sound development of renewable and nonrenewable resources.

"(2) On or before December 31, 1995, the Secretary of Commerce shall submit to the Committee on Merchant Marine and Fisheries of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate a report containing the results of the workshop under this subsection, proposed regulatory or research actions, and recommended legislative action.

"(d)(1) The Secretary of Commerce, in consultation with the Secretary of the Interior, the Marine Mammal Commission, the State of Alaska, and Alaska Native organizations, shall, not later than 180 days after the date of enactment of the Marine Mammal Protection Act Amendments of 1994, undertake a scientific research program to monitor the health and stability of the Bering Sea marine ecosystem and to resolve uncertainties concerning the causes of population declines of marine mammals, sea birds, and other living resources of that marine ecosystem. The program shall address the research recommendations developed by previous workshops on Bering Sea living marine resources, and shall include research on subsistence uses of such resources and ways to provide for the continued opportunity for such uses.

"(2) To the maximum extent practicable, the research program undertaken pursuant to subsection (d)(1) shall be conducted in Alaska. The Secretary shall utilize, where appropriate, traditional local knowledge and may contract with a qualified Alaska Native organization to conduct such research.

"(3) The Secretary of Commerce, the Secretary of the Interior, and the Commission shall address the status and findings of the research program in their annual reports to Congress required by sections 103(f) and 204 of this Act.".

SEC. 21. INTERJURISDICTIONAL FISHERIES ACT OF 1986.

Section 308(b) of the Interjurisdictional Fisheries Act of 1986 (16 U.S.C. 4107(b)) is amended by striking "$2,500,000 for each of the fiscal years 1989, 1990, 1991, 1992, 1993, 1994, and 1995" and inserting in lieu thereof "$65,000,000 for each of the fiscal years 1994 and 1995".

SEC. 22. COASTAL ECOSYSTEM HEALTH.

(a) REQUIEMENT TO CONVEY.—Not later than September 30, 1994, the Secretary of the Navy shall convey, without payment or other consideration, to the Secretary of Commerce, all right, title, and interest to the property comprising that portion of the Naval Base, Charleston, South Carolina, bounded by Hobson Avenue, the Cooper River, the landward extension of the northwest side of Pier R, and the fenceline between the buildings known as RTC-1 and 200. Such property shall include Pier R, the buildings known as RTC-1 and RTC-4, and all walkways and parking areas associated with such buildings and Pier R.

(b) SURVEY: EFFECT ON LIABILITY OF SECRETARY OF NAVY.—The acreage and legal description of the property to be conveyed pursuant to this section shall be determined by a survey approved by the Secretary of the Navy. Such conveyance shall not release the Secretary of the Navy from any liability arising prior to, during, or after such conveyance as a result of the ownership or occupation of the property by the United States Navy.

(c) USE BY NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION.—The property conveyed pursuant to this section shall be used by the Secretary of Commerce in support of the operations of the National Oceanic and Atmospheric Administration.

(d) REVERSION RIGHTS.—Conveyance of the property pursuant to this section shall be subject to the condition that all right, title, and interest in and to the property so conveyed shall immediately be conveyed to the public entity vested with ownership of the remainder of the Charleston Naval Base, if and when—

(1) continued ownership and occupation of the property by the National Oceanic and Atmospheric Administration no longer is compatible with the comprehensive plan for reuse of the Charleston Naval Base developed by the community reuse committee and approved by the Secretary of the Navy; and

(2) such public entity provides for relocation of the programs and personnel of the National Oceanic and Atmospheric Administration occupying such property, at no further cost to the United States Government, to a comparable facility, including adjacent waterfront and pier, within the Charleston area.

SEC. 23. PACIFIC COAST TASK FORCE; GULF OF MAINE.

Title I of the Marine Mammal Protection Act of 1972 (16 U.S.C. 1371 et seq.), as amended by this Act, is further amended by adding at the end the following new section:

"SEC. 120. PACIFIC COAST TASK FORCE.

"(a) PINNIPED REMOVAL AUTHORITY.—Notwithstanding any other provision of this title, the Secretary may permit the lethal removal of pinnipeds in accordance with this section.

"(b) APPLICATION.—(1) Any State may apply to the Secretary to authorize the lethal removal of individually identifiable pinnipeds which are having a significant negative impact on the decline or recovery of salmonid fishery stocks which—

"(A) have been listed as threatened species or endangered species under the Endangered Species Act of 1973;

"(B) the Secretary finds are approaching endangered species or threatened species status (as those terms are defined in that Act); or

"(C) migrate through Ballard Locks at Seattle, Washington.

"(2) Any such application shall include a means of identifying the individual pinniped or pinnipeds, and shall include a detailed description of the problem interaction and expected benefits of the removal.

"(c) ACTIONS IN RESPONSE TO APPLICATION.—(1) Within 15 days of receiving an application, the Secretary shall determine whether the application has produced sufficient evidence to warrant establishing a Pinniped-Fishery Interaction Task Force to address the situation described in the application. If the Secretary determines that such sufficient evidence has been provided, the Secretary shall establish a Pinniped-Fishery Interaction Task Force and publish a notice in the Federal Register requesting public comment on the application.

"(2) A Pinniped-Fishery Interaction Task Force established under paragraph (1) shall consist of designated employees of the De-

partment of Commerce, scientists who are knowledgeable about the pinniped interaction that the application addresses, representatives of affected conservation and fishery community organizations, Indian Treaty tribes, the States, and such other organizations as the Secretary deems appropriate.

"(3) Within 60 days after establishment, and after reviewing public comments in response to the Federal Register notice, the Pinniped-Fishery Interaction Task Force shall—

"(A) recommend to the Secretary whether to approve or deny the proposed lethal removal of the pinniped or pinnipeds, including along with the recommendation a description of the specific pinniped individual or individuals, the proposed location, time, and method of removal, criteria for evaluating the success of the action, and the duration of the authority; and

"(B) suggest nonlethal alternatives, if available and practicable, including a recommended course of action.

"(4) Within 30 days after receipt of recommendations from the Pinniped-Fishery Interaction Task Force, the Secretary shall either approve or deny the application. If such application is approved, the Secretary shall immediately take steps to implement the lethal removal, which shall be performed by Federal or State agencies, or qualified individuals under contract to such agencies.

"(5) After implementation of an approved application, the Pinniped-Fishery Interaction Task Force shall evaluate the effectiveness of the permitted lethal removal or alternative actions implemented. If implementation was ineffective in eliminating the problem interaction, the Task Force shall recommend additional actions. If the implementation was effective, the Task Force shall so advise the Secretary, and the Secretary shall disband the Task Force.

"(d) CONSIDERATIONS.—In considering whether an application should be approved or denied, the Task Force and the Secretary shall consider—

"(1) population trends, feeding habits, the location of the pinniped interaction, how and when the interaction occurs, and how many individual pinnipeds are involved;

"(2) past efforts to nonlethally deter such pinnipeds, and whether the applicant has demonstrated that no feasible and prudent alternatives exist and that the applicant has taken all reasonable nonlethal steps without success;

"(3) the extent to which such pinnipeds are causing undue harm, impact, or imbalance with other species in the ecosystem, including fish populations; and

"(4) the extent to which such pinnipeds are exhibiting behavior that presents an ongoing threat to public safety.

"(e) LIMITATION.—The Secretary shall not approve lethal removal for any pinniped from a species or stock that is—

"(1) listed as threatened or endangered under the Endangered Species Act of 1973;

"(2) designated as depleted under this Act; or

"(3) specified under section 117(a)(7) of this Act.

"(f) CALIFORNIA SEA LIONS AND PACIFIC HARBOR SEALS; INVESTIGATION AND REPORT.—

"(1) The Secretary of Commerce shall engage in a scientific investigation to determine whether California sea lions and Pacific harbor seals—

"(A) are having a significant negative impact on the recovery of salmonid fishery stocks which have been listed as threatened species or endangered species under the endangered Species Act of 1973 (16 U.S.C. 1531 et seq.) or which the Secretary finds are approaching endangered or threatened species status; or

"(B) are having broader impacts on the coastal ecosystems of Washington, Oregon, and California.

The Secretary shall conclude this investigation and prepare a report on its results no later than October 1, 1995.

"(2) Upon completion of the scientific investigation required under paragraph (1), the Secretary shall enter into discussions with the Pacific States Marine Fisheries Commission on behalf of the States of Washington, Oregon, and California for the purpose of addressing any issues or problems identified as a result of the scientific investigation, and to develop recommendations to address such issues or problems. Any recommendations resulting from such discussions shall be submitted, along with the report, to the Committee on Merchant Marine and Fisheries of the United States House of Representatives and the Committee on Commerce, Science, and Transportation of the United States Senate.

"(3) The Secretary shall make the report and the recommendations submitted under paragraph (2) available to the public for review and comment for a period of 90 days.

"(4) There are authorized to be appropriated to the Secretary such sums as are necessary to carry out the provisions of this subsection.

"(5) The Pacific States Marine Fisheries Commission is authorized to use funds appropriated under section 308(c) of the Interjurisdictional Fisheries Act (16 U.S.C. 4107(c)) to participate in discussions with the Secretary under paragraph (2).

"(g) REGIONWIDE PINNIPED-FISHERY INTERACTION STUDY.—

(1)(A) The Secretary may conduct a study, of not less than three high predation areas in anadromous fish migration corridors with the Northwest Region of the National Marine Fisheries Service, on the interaction between fish and pinnipeds. In conducting the study, the Secretary shall consult with other State and Federal agencies with expertise in pinniped-fishery interaction. The study shall evaluate—

"(i) fish behavior in the presence of predators generally;

"(ii) holding times and passage rates of anadromous fish stocks in areas where such fish are vulnerable to predation;

"(iii) whether additional facilities exist, or could be reasonably developed, that could improve escapement for anadromous fish; and

"(iv) other issues the Secretary considers relevant.

"(B) Subject to the availability of appropriations, the Secretary may, not later than 18 months after the commencement of the study under this subsection, transmit a report on the results of the study to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Merchant Marine and Fisheries of the House of Representatives.

"(2) The study conducted under this subsection may not be used by the Secretary as a reason for delaying or deferring a determination under subsection (c).

"(h) GULF OF MAINE TASK FORCE.—The Secretary shall establish a Pinniped Fishery Interaction Task Force to advise the Secretary on issues or problems regarding seals interacting in a dangerous or damaging manner with aquaculture resources in the Gulf of Maine. No later than 2 years from the date of enactment, the Secretary shall submit to the Committee on Merchant Marine and Fisheries of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate a report containing recommended available alternatives to mitigate such interactions.

(i) GULF OF MAINE HARBOR PORPOISE.—(1) Nothing in section 117 shall prevent the Secretary from publishing a stock assessment for Gulf of Maine harbor porpoise in an expedited fashion.

"(2) In developing and implementing a take and reduction plan under section 118 for Gulf of Maine harbor porpoise, the Secretary shall consider all actions already taken to reduce incidental mortality and serious injury of such stock, and may, based on the recommendations of the take reduction team for such stock, modify the time period for compliance with section 118(f)(5)(A), to be no later than April 1, 1997.".

SEC. 24. FURTHER TECHNICAL AND CONFORMING AMENDMENTS.

(a) AMENDMENTS RELATING TO DEFINITION OF SECRETARY.—

(1) EXECUTION OF PRIOR AMENDMENTS.—The amendments set forth in section 3004(b) of the Marine Mammal Health and Stranding Response Act (106 Stat. 5067)—

(A) are deemed to have been made by that section to section 3(12) of the Marine Mammal Protection Act of 1972 (16 U.S.C. 1362(12)); and

(B) shall not be considered to have been made by that section to section 3(11) of that Act (16 U.S.C. 1362(11)).

(2) FURTHER TECHNICAL AND CONFORMING AMENDMENTS.—Section 3(12)(B) of the Marine Mammal Protection Act of 1972, as deemed by paragraph (1)(A) of this subsection to have been amended by section 3004(b) of the Marine Mammal Health and Stranding Response Act (106 Stat. 5067), is further amended in subparagraph (B) by striking "in title III" and inserting "In section 118 and title IV".

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall be effective as if enacted as part of section 3004 of the Marine Mammal Health and Stranding Response Act (106 Stat. 5067).

(c) FURTHER AMENDMENTS TO TITLE IV. The Act is amended—

(1) in section 401(b)(3) (as redesignated by this section) by striking "304" and inserting "404";

(2) in section 405(b)(1)(A)(i) (as redesignated by this section) by striking "304(b)" and inserting "404(b)";

(3) in section 406(a)(2)(A) (as redesignated by this section) by striking "304(b)" and inserting "404(b)";

(4) in section 406(a)(2)(B) (as redesignated by this section) by striking "304(c)" and inserting "404(c)";

(5) in section 408(1) (as redesignated by this section)—

(A) by striking "305" and inserting "405", and

(B) by striking "307" and inserting "407";

(6) in section 408(2) (as redesignated by this section) by striking "307" and inserting "407";

(7) in section 409(1) (as redesignated by this section) by striking "305(a)" and inserting "405(a)";

(8) in section 409(5) (as redesignated by this section) by striking "307(a)" and inserting "407(a)";

(9) in section 102(a) (16 U.S.C. 1372(a)) by striking "title III" and inserting "title IV";

(10) in section 109(h)(1) (16 U.S.C. 1379(h)(1)) by striking "title III" and inserting "title IV";

(11) in section 112(c) (16 U.S.C. 1382(c)) by striking "or title III" and inserting "or title IV"; and

(12) in the table of contents in the first section, by striking the items relating to the title that is redesignated by paragraph (2) of this section and the sections that are redesignated by paragraph (3) of this section and inserting the following:

"TITLE IV—MARINE MAMMAL HEALTH AND STRANDING RESPONSE

"Sec. 401. Establishment of program.
"Sec. 402. Determination; data collection and dissemination.
"Sec. 403. Stranding response agreements.
"Sec. 404. Unusual mortality event response.
"Sec. 405. Unusual mortality event activity funding.
"Sec. 406. Liability.
"Sec. 407. National Marine Mammal Tissue Bank and tissue analysis.
"Sec. 408. Authorization of appropriations.
"Sec. 409. Definitions."

SEC. 25. TRANSFER.

Of amounts appropriated by Public Law 103-139 to the Department of the Navy for Shipbuilding and Conversion, Navy, the Secretary of the Navy shall transfer $8,000,000 not later than April 15, 1994, to the Administrator of the Maritime Administration for the conversion of the USNS CHAUVENET to a training ship for the Texas Maritime Academy's Training Program.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Massachusetts [Mr. STUDDS] will be recognized for 20 minutes, and the gentleman from Texas [Mr. FIELDS] will be recognized for 20 minutes.

The Chair recognizes the gentleman from Massachusetts [Mr. STUDDS].

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

Mr. Speaker, yesterday the House passed H.R. 2760, the Marine Mammal Protection Act Amendments of 1994. At the same time, the Senate passed S. 1636, similar legislation which also reauthorizes and improves the act. The bills as passed are similar in content and purpose, although not identical.

For the past 24 hours, members of this committee have been working with the members of the Senate Committee on Commerce, Science, and Transportation to achieve consensus on this important legislation, and I am pleased to bring before you today a committee amendment that consists of an agreed-to text.

Substantive changes to the bill passed yesterday include:

Improved protection measures for the subsistence rights of Alaska Natives;

A requirement that the National Marine Fisheries Service report on the status of all the marine mammal stocks in U.S. waters that this act seeks to protect; and

Reasonable goals that will allow fishermen to continue fishing and still reduce the number of marine mammals that are accidentally killed during the course of commercial fishing operations.

In short, Mr. Speaker, the committee amendment which we bring before you today is an even better bill than that passed by this body yesterday, and I strongly urge my colleagues to support it.

I wish to include in my statement a copy of a letter that I had sent to Chairman DE LA GARZA regarding a jurisdictional matter between the Agriculture Committee and the Merchant Marine and Fisheries Committee with respect to the Marine Mammal Protection Act.

I would like to insert the letter in the RECORD so that there is no misunderstanding about that issue.

Hon. E DE LA GARZA,
Chairman, Committee on Agriculture, Longworth House Office Building, Washington, DC.

DEAR MR. CHAIRMAN: I want to thank you and your staff for your assistance in the reauthorization of the Marine Mammal Protection Act of 1972.

As you are aware, on March 16, our Committee approved H.R. 2760, the Marine Mammal Protection Act [MMPA] Amendments of 1994. One of the issues of concern during consideration of the bill was the role of the Department of Agriculture's Animal and Plant Health Inspection Service [APHIS] and the Department of Commerce's National Marine Fisheries Service in the issuance of MMPA public display permits.

Currently, the practice of the Department of Commerce is to issue an MMPA permit for the public display of a marine mammal only to those public display facilities that are registered or licensed by the APHIS under the Animal Welfare Act. Although this is not required by law, it is a practice which was developed pursuant to a Memorandum of Understanding (effective September 20, 1979) between the Departments of Agriculture, Interior and Commerce.

In section 6 of H.R. 2760, we have codified this practice to ensure that the Secretary of Commerce issues MMPA public display permits only to those facilities registered or licensed with APHIS. The legislation does not amend the Animal Welfare Act nor does it infringe upon or alter the responsibilities of the Secretary of Agriculture. The bill simply clarifies the authority of the Secretary of Commerce in issuing MMPA public display permits.

None of the amendments made to the MMPA in H.R. 2760 amend any statute within the jurisdiction of your Committee nor do they limit the authority of the Secretary of Agriculture under the Animal Welfare Act. APHIS has also reviewed these provisions to ensure that they do not alter any existing authority or jurisdiction.

I hope this letter clarifies the provisions in H.R. 2760 which may be of interest to you and again, I want to thank you for all your help.

With kind regards.

GERRY E. STUDDS,
Chairman.

Mr. FIELDS of Texas. Mr. Speaker, I yield myself such time as I may consume.

□ 1820

Mr. Speaker, I rise in strong support of S. 1636, a bill to reauthorize and amend the Marine Mammal Protection Act [MMPA] of 1972.

The MMPA governs a variety of subjects including public display, scientific research, subsistence use of marine mammals, and the incidental take of marine mammals during commercial fishing operations.

During the past year, the Committee on Merchant Marine and Fisheries held a number of hearings to consider various reauthorization issues. It was a pleasure working with you, Chairman STUDDS, and other members to draft the language that has been incorporated within this consensus document. While there may be a difference of opinion on certain isolated provisions, S. 1636 is the result of many long hours of hard work, determination, and compromise.

Mr. Speaker, as you know, we face an April 1, 1994, deadline to reauthorize the act. I believe the language outlined in the bill governing the interaction of commercial fishing activities with marine mammals will not be overburdensome. It uses good science through the establishment of scientific working groups and take reduction teams, stock assessments, and the determination of critical stocks. This information is vital in order to make rational decisions based on science rather than emotion or moral judgments.

S. 1636 also allows the importation of polar bear trophies from Canada—a country whose polar bear population is healthy. Canada's management program is based on science, which ensures a sustainable polar bear population, and is consistent with international conservation agreements. The bill ensures that conservation of polar bears worldwide is not compromised in any way.

S. 1636 also addresses the authority to grant permits for public display, clarifies the roles of various Federal agencies, provides for the welfare of the marine mammals, and meets the needs of the public display community.

Again, Mr. Speaker, it was a pleasure having the opportunity to work with Chairman STUDDS and Congressman YOUNG to ensure that our marine mammal resources are properly managed in the future. I support adoption and urge all Members to vote "aye" on this important legislation.

Mr. STUDDS. Mr. Speaker, I yield 2 minutes to the gentlewoman from Washington [Ms. CANTWELL].

Ms. CANTWELL. Mr. Speaker, I rise in support of S. 1636, as amended, and ask unanimous consent to revise and extend my remarks.

Mr. Speaker, I want to thank Chairman STUDDS and the ranking members of both the Merchant Marine and Fisheries Committee and the Subcommittee on Environment and Natural Resources for bringing the Marine Mammal Protection Act reauthorization bill before this House today. I know their work on this vital legislation has been extremely challenging, but we now have a bill that addresses several important issues for the people of the Northwest and our need to manage ma-

rine mammal populations and their interaction with other species.

This bill establishes a compromise that balances industry and environmental interests, and represents a new era in managing the interaction between marine mammals and the commercial fishing industry. The legislation not only reduces the incidental killing or injuring of marine mammals by the fishing industry, but also gives the industry a clear process for dealing more effectively with marine mammal populations.

Northwest salmon resources are in serious trouble. Comprehensive and decisive action must be taken to address the threat to salmon ecosystems. Loss of habitat caused by development, logging, agriculture, and dams has contributed to the decline of fish runs throughout the Northwest, but the Cedar River steelhead in Washington State have been driven to the brink of extinction by a robust population of California sea lions. This bill will give us one of the tools we need not only to take positive action on behalf of the Cedar River steelhead, but also to intervene in other potentially critical situations as they develop.

Since the early 1980's a group of California sea lions—collectively known as Herschel—have been eating Cedar River steelhead, which migrate through a fish ladder at the Ballard Locks in Seattle. Normally, sea lions feeding on healthy fish stocks is natural, but this is not a normal situation. For the Cedar River steelhead run to be sustained, 1,600 fish must return to spawn each year. The last time that goal was reached was in the 1985–86 season. Since then, the steelhead have been declining steadily. Only 21 steelheads have passed through the Ballard fish ladder this year.

This legislation will allow Washington State to address one of the forces contributing to the critical status of the Cedar River steelhead run: California sea lions. By establishing a task force to advise the Secretary of Commerce on managing conflicts between species—such as the one at the Ballard Locks—and providing intervention options before those conflicts become critical. I hope we will be able to avoid other critical situations in the future.

I commend Chairman STUDDS for his commitment to enacting legislation that will enable States to manage the interaction of species more effectively. The clash of species has become an emotional and divisive dilemma in the Northwest. The State of Washington, or any State with a similar problem, must be given the tools to deal with conflicts between species before they become critical and threaten the survival of one or more of those species. This legislation recognizes and gives us those tools.

Mr. Speaker, I urge my colleagues to support this legislation.

Mr. FIELDS of Texas. Mr. Speaker, I yield such time as he may consume to the gentleman from Alaska [Mr. YOUNG].

Mr. YOUNG of Alaska. Mr. Speaker, yesterday the House and Senate each passed their versions of the Marine Mammal Protection Act Amendments of 1994. Last night, the staff of the House and Senate, in a marathon work session, completed work on combined version of the two bills. What we are considering today is a compromise text acceptable to the two bodies which protects marine mammals, allows U.S. fishermen to continue to operate, protects Native Alaskan subsistence users, removes bureaucratic roadblocks for scientists and others, clarifies the responsibility of the Federal Government in regard to public display, and generally makes the Marine Mammal Protection Act a better law.

Again, I want to thank the chairman of the committee, Mr. STUDDS, for his leadership in conserving marine resources and his willingness to deal fairly with all the difficult issues that faced us.

Mr. Speaker, I urge adoption of the bill.

Mr. McDERMOTT. Mr. Speaker, I commend the Merchant Marine and Fisheries Committee and, in particular, its distinguished chairman, for the long hours of work dedicated to bringing this bill to the floor. I have worked with the committee to resolve some of the complex and contentious issues in the bill but, unfortunately, I am unable to support this conference report.

At the heart of the conflict over this bill is the question of when, and under what circumstances, to sanction the killing of a marine mammal. The committee's struggle to resolve that issue mirrors one that has been ongoing in my district at the Ballard Locks for more than a decade. Each year from January to May, California sea lions gather in the channel leading to the locks and consume up to 60 percent of a Lake Washington steelhead run now on the brink of extinction.

It has become clear that survival of the steelhead may depend upon the option to kill the sea lions that feed upon them at the Ballard Locks. Annually, more than 1,600 returning steelhead are needed to sustain the population, but so far this winter fewer than 50 fish have passed through the fish ladder at the locks. As the number of spawning steelhead returning from the open sea declines, it becomes all the more critical to protect them from predation by sea lions at the locks. For this reason, I am not opposed to the idea of allowing States to petition the Secretary of Commerce for permission to remove sea lions by lethal means, in urgent instances.

Regrettable, however, this conference report does not address adequately the crisis my constituents are facing at the Ballard Locks. Last November, marine mammal experts in my district recommended that a fish tracking study be conducted by the appropriate State and Federal fisheries agencies. This study is the first of its kind in which scientists have been able to track movement of fish through the area of predation at the locks, and it is critical that we continue to build upon the knowledge we gain from this study.

I have sought unsuccessfully to amend the Marine Mammal Protection Act to authorize additional money to both continue studying fish behavior and identify and construct fish passage and fish ladder improvements at the Ballard Locks, to aid the recovery of salmonid fishery stocks. Such an authorization would help my constituents pursue any reasonable measure to protect steelhead and minimize predation upon them by sea lions. The committee has given the Secretary of Commerce permission to conduct the studies, but there is neither a directive nor funding to carry out this work that will address a long-term solution.

In addition, the lethal taking provision in this bill, in cases specific to the Ballard Locks, will allow the Secretary to authorize killing of marine mammals that feed on fish not in danger of becoming listed under the Endangered Species Act. This provision gives license to kill sea lions even if they are not threatening a fish run, thus making the sea lions vulnerable to unnecessary lethal removal.

I regret that I am unable to support this bill, because it offers the potential to address critical conflicts between declining fish runs and marine mammals. Instead, I will request that the Committee on Appropriations provide money to the appropriate natural resources agencies and the Army Corps of Engineers to study and modify obstructions to fish passage at the Ballard Locks. This should improve both understanding of fish behavior in the locks and operation of the fish ladder, thereby enhancing the passage of many species of fish through the locks. I am hopeful that these changes will significantly strengthen the very fragile steelhead run at the locks and overcome the difficult conflict between fish and marine mammals.

Mr. FIELDS of Texas. Mr. Speaker, I urge my colleagues to support this piece of legislation.

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

Mr. STUDDS. Madam Speaker, I would simply say that the staff on both sides deserves extraordinary commendation for the amount of effort displayed here, especially Mrs. Karen Steuer. This has been an ordeal for them, and I think we have done it.

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

The SPEAKER pro tempore (Ms. ESHOO). The question is on the motion offered by the gentleman from Massachusetts [Mr. STUDDS], that the House suspend the rules and pass the Senate bill, S. 1636, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the Senate bill, as amended, was passed.

A motion to reconsider was laid on the table.

AUTHORIZING THE CLERK TO MAKE TECHNICAL CORRECTIONS IN ENGROSSMENT OF S. 1636, MARINE MAMMAL PROTECTION ACT AMENDMENTS OF 1994

Mr. STUDDS. Madam Speaker, I ask unanimous consent that the Clerk be

authorized to make technical corrections in the engrossment of the bill, S. 1636, including corrections in spelling, punctuation, section numbering, and cross-referencing.

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

There was no objection.

GENERAL LEAVE

Mr. STUDDS. Madam Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks and include therein extraneous material on S. 1636, as amended, the Senate bill just passed.

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

There was no objection.

INTERSTATE BANKING EFFICIENCY ACT OF 1994

Mr. NEAL of North Carolina. Madam Speaker, I move to suspend the rules and pass the bill (H.R. 3841) to amend the Bank Holding Company Act of 1956, the Revised Statutes of the United States, and the Federal Deposit Insurance Act to provide for interstate banking and branching, as amended.

The Clerk read as follows:

H.R. 3841

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

SECTION 1. SHORT TITLE AND TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the "Interstate Banking Efficiency Act of 1994".

(b) TABLE OF CONTENTS.—

Sec. 1. Short title and table of contents.

TITLE I—INTERSTATE BANKING AND BRANCHING

Sec. 101. Interstate banking.
Sec. 102. Interstate branching by national banks.
Sec. 103. Interstate branching by State banks.
Sec. 104. Branching by foreign banks.
Sec. 105. Interstate consolidations.
Sec. 106. Branch closures.
Sec. 107. Prohibition against deposit production offices.
Sec. 108. Federal Reserve Board study on bank fees.
Sec. 109. Restatement of existing law.

TITLE II—CRA EVALUATIONS

Sec. 201. State-by-State CRA evaluations of depository institutions with interstate branches.

TITLE I—INTERSTATE BANKING AND BRANCHING

SEC. 101. INTERSTATE BANKING.

(a) INTERSTATE ACQUISITIONS.—Section 3(d) of the Bank Holding Company Act of 1956 (12 U.S.C. 1842(d)) is amended to read as follows:

"(d) INTERSTATE ACQUISITIONS.—

"(1) APPROVALS AUTHORIZED.—

"(A) IN GENERAL.—Subject to paragraph (2), the Board may approve an application under this section by a bank holding company to acquire, directly or indirectly, any voting shares of, interest in, or all or substantially all of the assets of any additional bank or any bank holding company located in any State other than the home State of the applicant bank holding company.

"(B) CONCENTRATION LIMITS.—

"(i) IN GENERAL.—The Board may not approve an application under subparagraph (A) if—

"(I) the applicant (including all insured depository institutions which are affiliates of the applicant) controls, or upon completion of the acquisition would control, more than 10 percent of the total amount of insured depository institution deposits in the United States; or

"(II) the applicant (including all insured depository institutions which are affiliates of the applicant) controls, or upon completion of the acquisition would control, 30 percent or more of the total amount of insured depository institution deposits in the State in which the bank to be acquired is located.

"(ii) WAIVER BY STATE.—A State may waive the application of clause (i)(II) to an acquisition in such State.

"(2) APPLICABILITY OF STATE LAW TO ACQUISITIONS.—

"(A) INAPPLICABILITY OF CERTAIN STATE LAWS TO ACQUISITIONS.—Subject to paragraph (3), any acquisition described in paragraph (1)(A) which has been approved under this section may be consummated notwithstanding any law of any State that would prohibit or otherwise limit such acquisition on the basis of—

"(i) the location or size of the acquiring company or any subsidiary of such company;

"(ii) the number of bank subsidiaries of such company; or

"(iii) any other factor that—

"(I) directly or indirectly, has the effect of prohibiting or limiting the acquisition of shares or control of a bank or bank holding company located in such State by an out-of-State bank holding company; and

"(II) is not applied with similar effect with respect to acquisitions of banks or bank holding companies located in such State by bank holding companies located in the State.

"(B) APPLICABILITY OF STATE LAW ON THE FORM OF ACQUISITION.—

"(i) IN GENERAL.—Notwithstanding any other provision of this subsection and subject to clause (ii), any law of a host State which—

"(I) is in existence on the date of the enactment of the Interstate Banking Efficiency Act of 1994 or is enacted after such date; and

"(II) allows an out-of-State bank or bank holding company to establish a bank in the host State only by acquiring an existing bank in the host State,

shall apply with respect to the establishment or acquisition of a bank in the host State under this subsection.

"(ii) APPLICABILITY OF PROVISIONS RELATING TO MINIMUM PERIOD OF EXISTENCE OF ACQUIRED BANK.—In the case of any State law referred to in clause (i) which is enacted after the date of the enactment of the Interstate Banking Efficiency Act of 1994 and requires the bank to be acquired to have been in existence (as of the date of the transaction) for a period of time greater than 5 years, such law shall be applied under clause (i) by substituting '5-year period' for such greater period.

"(3) APPLICABILITY OF STATE LAW TO INTERSTATE BANKING OPERATIONS.—

"(A) STATE TAXATION AUTHORITY NOT AFFECTED.—No provision of this subsection shall be construed as affecting the authority of any State or political subdivision of any State to apply and administer any tax or method of taxation to any bank, bank holding company, or foreign bank, or any affiliate of any bank or bank holding company, to the extent such tax or tax method is otherwise permissible by or under the Constitution of the United States of America or other Federal law.

"(B) APPLICABILITY OF DEPOSIT CAPS AND ANTITRUST LAWS.—No provision of this subsection shall be construed as affecting—

"(i) the authority of any State to limit the percentage of the total amount of insured depository institution deposits in the State which may be held or controlled by any bank to the extent the application of such limitation does not discriminate against out-of-State banks or bank holding companies; or

"(ii) the applicability of the antitrust laws or any State law which is similar to the antitrust laws.

"(4) DEFINITIONS.—For purposes of this subsection, the following definitions shall apply:

"(A) ANTITRUST LAWS.—The term 'antitrust laws'—

"(i) has the same meaning as in subsection (a) of the 1st section of the Clayton Act; and

"(ii) includes section 5 of the Federal Trade Commission Act to the extent such section 5 relates to unfair methods of competition.

"(B) DEPOSITS.—The term 'deposits' has the same meaning as in section 3(l) of the Federal Deposit Insurance Act.

"(C) HOME STATE.—The term 'home State' means, with respect to a bank holding company, the State in which the total deposits of all banking subsidiaries of such company were the largest on the later of July 1, 1966, or the date on which the company becomes a bank holding company.

"(D) HOST STATE.—The term 'host State' means, with respect to a bank holding company acquiring or establishing a bank in a State other than such company's home State, the State in which the bank being acquired or established is located.

"(E) INSURED DEPOSITORY INSTITUTION.—The term 'insured depository institution' has the same meaning as in section 3 of the Federal Deposit Insurance Act.

"(F) OUT-OF-STATE BANK HOLDING COMPANY.—The term 'out-of State bank holding company' means, with respect to any State, a bank holding company the home State of which is another State.".

(b) SUBSIDIARY DEPOSITORY INSTITUTIONS AS AGENTS.—Section 18 of the Federal Deposit Insurance Act (12 U.S.C. 1828) by adding at the end the following new subsection:

"(q) SUBSIDIARY DEPOSITORY INSTITUTIONS AS AGENTS FOR CERTAIN AFFILIATES.—

"(1) IN GENERAL.—Any depository institution subsidiary of a depository institution holding company may receive deposits, renew time deposits, close loans, disburse proceeds of loans, and receive payments on loans and other obligations as agent for a depository institution affiliate located in another State.

"(2) DEPOSITORY INSTITUTION ACTING AS AGENT IS NOT A BRANCH.—Notwithstanding any other provision of law, a depository institution acting as agent in accordance with paragraph (1) for a depository institution affiliate shall not be considered to be a branch of the affiliate.

"(3) ACTIVITIES AS AGENT.—Paragraph (1) shall not be construed as authorizing a State depository institution to engage in activities

as an agent in which such institution is not authorized to engage as principal under the laws of the State in which such institution acts as agent.

"(4) PLAN ON MEETING LOCAL CREDIT NEEDS.—

"(A) IN GENERAL.—If a depository institution holding company controls any depository institution which acts as agent for another depository institution subsidiary of such company pursuant to paragraph (1), the depository institution holding company shall file a local credit needs plan with the appropriate Federal banking agency for the subsidiary which acts as agent before the date on which the subsidiary begins acting as agent.

"(B) LOCAL CREDIT NEEDS PLAN DEFINED.—The term 'local credit needs plan' means a plan for meeting local credit needs in the communities served by any depository institution subsidiary (of a bank holding company) which acts as agent pursuant to paragraph (1), which includes an estimate of the extent to which the amount of the anticipated savings attributable to the use of depository institution subsidiaries as agents under this subsection will be available to meet such local credit needs.".

(c) EFFECTIVE DATE.—The amendment made by this section shall apply after the end of the 12-month period beginning on the date of the enactment of this Act.

SEC. 102. INTERSTATE BRANCHING BY NATIONAL BANKS.

Section 5155 of the Revised Statutes (12 U.S.C. 36) is amended—

(1) by redesignating subsections (d) through (h) as subsections (g) through (k), respectively;

(2) by inserting after subsection (c) the following new subsections:

"(d) INTERSTATE BRANCHING BY NATIONAL BANKS.—

"(1) APPROVALS OF ACQUISITION OF EXISTING BRANCHES AUTHORIZED.—Subject to paragraphs (3) and (4) and subsections (e) and (f), after the end of the 3-year period beginning on the date of the enactment of the Interstate Banking Efficiency Act of 1994, the Comptroller of the Currency may approve an application to allow a national bank to—

"(A) acquire a bank or branch located outside the home State of such bank in a State in which the bank does not maintain a branch; and

"(B) operate such bank or branch (including any branch of such bank) as a branch,

if the conditions established in paragraph (6) are met.

"(2) STATE 'OPT-IN' ELECTION TO PERMIT INTERSTATE BRANCHING THROUGH DE NOVO BRANCHES.—Subject to subsections (e) and (f), the Comptroller of the Currency may approve an application by a national bank to establish and operate a de novo branch outside the home State of such bank in a State in which the bank does not maintain a branch if—

"(A) there is in effect in the host State a law that—

"(i) expressly permits all out-of-State banks to establish de novo branches in such State; and

"(ii) applies equally to national and State banks; and

"(B) the conditions established in paragraph (6) are met.

"(3) STATE 'OPT-OUT' ELECTION TO PROHIBIT INTERSTATE BRANCHING BY ACQUISITION OF EXISTING BANKS.—

"(A) IN GENERAL.—An application by a national bank to establish a branch in a State other than the home State of such bank through the acquisition of an existing bank or branch in the host State may not be approved by the Comptroller of the Currency if there is in effect in the host State a law which—

"(i) expressly prohibits all out-of-State banks from acquiring a branch located in such State through the acquisition of an existing bank or branch in the host State;

"(ii) was enacted during the period beginning on January 1, 1990, and ending 3 years after the date of the enactment of the Interstate Banking Efficiency Act of 1994; and

"(iii) applies equally to national and State banks.

"(B) EFFECT OF PROHIBITION.—A national bank whose home State has in effect a prohibition described in subparagraph (A) may not acquire or establish, under this subsection, a branch located in any other State.

"(4) STATE LAWS REQUIRING MINIMUM PERIOD OF EXISTENCE FOR ACQUISITIONS BY OUT-OF-STATE BANKS.—

"(A) LAWS ENACTED BEFORE INTERSTATE BANKING ACT.—In the case of a State in which a law is in effect which—

"(i) allows an out-of-State bank or bank holding company to establish a bank in the host State only by acquiring a bank or branch (in the host State) which has been in existence for not less than the minimum time period specified in such law; and

"(ii) took effect on or before the date of the enactment of the Interstate Banking Efficiency Act of 1994,

an out-of-State national bank which has no branch in such State may establish a branch in the State under this subsection only by acquiring a bank or branch which has been in existence for not less than the minimum time period specified in such law.

"(B) SUBSEQUENT ENACTMENTS.—In the case of a State in which a law is in effect which—

"(i) allows an out-of-State bank or bank holding company to establish a branch in the host State only by acquiring a bank or branch (in the host State) which has been in existence for not less than the minimum time period specified in such law; and

"(ii) took effect after the date of the enactment of the Interstate Banking Efficiency Act of 1994,

an out-of-State national bank which has no branch in such State may establish a branch in the State under this subsection only by acquiring a bank or branch which has been in existence for not less than the lesser of the minimum time period specified in such law or 5 years.

"(5) EARLY APPROVAL AUTHORIZED IF STATE LAW PERMITS.—The Comptroller of the Currency may approve an application under paragraph (1) before the expiration of the 3-year period described in such paragraph if the State in which the branch is or will be located has in effect a law which expressly permits interstate branching by all national and State banks.

"(6) CONDITIONS APPLICABLE TO THE ESTABLISHMENT OR ACQUISITION OF INTERSTATE BRANCHES.—The Comptroller of the Currency may approve an application under paragraph (1) or (2) by a national bank to acquire or establish a branch only if—

"(A) the national bank is adequately capitalized (as defined under section 38 of the Federal Deposit Insurance Act) as of the date the application is filed; and

"(B) the Comptroller of the Currency determines that—

"(i) the national bank will continue to be adequately capitalized upon the consummation of the acquisition or establishment of the branch; and

"(ii) on the basis of an evaluation conducted by the Comptroller, the management of the bank has the necessary management skills to manage the operations of the bank upon the consummation of the acquisition or establishment of the branch.

"(e) PROVISIONS APPLICABLE TO APPLICATION AND APPROVAL PROCESS.—

"(1) CONSULTATION WITH STATE BANK SUPERVISOR.—In determining whether to grant approval of an application under subsection (d), the Comptroller of the Currency shall consider the views of any appropriate State bank supervisor of the bank which submits the application regarding the bank's compliance with applicable State community reinvestment laws.

"(2) COMPLIANCE WITH STATE FILING REQUIREMENTS.—

"(A) IN GENERAL.—An out-of-State national bank that files an application under subsection (d) to acquire or establish a branch within a host State shall—

"(i) comply with any filing requirement of the host State that—

"(I) is not discriminatory in nature; and

"(II) is similar in effect to any requirement imposed by the host State on a nonbanking corporation from another State that seeks to engage in business in the host State; and

"(ii) submit a copy of the application to the State bank supervisor of the host State.

"(B) PENALTY FOR FAILURE TO COMPLY.—The Comptroller of the Currency may not approve an application under subsection (d) by an out-of-State national bank which materially fails to comply with subparagraph (A) with respect to such application.

"(3) CONCENTRATION LIMITS.—

"(A) IN GENERAL.—The Comptroller of the Currency may not approve an application by a bank under subsection (d) if—

"(i) the bank (including all insured depository institutions which are affiliates of the bank) controls, or upon completion of the acquisition would control, more than 10 percent of the total amount of insured depository institution deposits in the United States; or

"(ii) the bank (including all insured depository institutions which are affiliates of the bank) controls, or upon completion of the acquisition would control, 30 percent or more of the total amount of insured depository institution deposits in the State in which the proposed branch would be located.

"(B) NOT APPLICABLE TO DE NOVO OUT-OF-STATE BRANCHES.—Subparagraph (A) shall not apply to the establishment of a de novo branch outside the home State of a national bank.

"(C) WAIVER BY STATE.—A State may waive the application of subparagraph (A)(ii) to the acquisition of banks or branches in such State.

"(4) CONSIDERATION OF BANK AFFILIATES.—In determining whether to grant approval of an application under subsection (d) with respect to a proposed branch by a national bank which, as of the date of the application, does not have a branch in the host State (of the proposed branch), the Comptroller of the Currency shall take into account the most recent written evaluation under section 807 of the Community Reinvestment Act of 1977 of each bank affiliate of the bank which submits the application.

"(5) DEFINITIONS.—For purposes of this subsection and subsections (d) and (f) the following definitions shall apply:

"(A) AFFILIATE.—The term 'affiliate' has the same meaning as in section 2(k) of the Bank Holding Company Act of 1956.

"(B) ANTITRUST LAWS.—The term 'antitrust laws'—

"(i) has the same meaning as in subsection (a) of the 1st section of the Clayton Act; and

"(ii) includes section 5 of the Federal Trade Commission Act to the extent such section 5 relates to unfair methods of competition.

"(C) DE NOVO BRANCH.—The term 'de novo branch' means a branch of a national bank which—

"(i) is originally established by the national bank as a branch; and

"(ii) does not become a branch of such bank as a result of—

"(I) the acquisition by the bank of an insured depository institution or a branch of an insured depository institution; or

"(II) the conversion, merger, or consolidation of any such institution or branch.

"(D) DEPOSITS.—The term 'deposits' has the same meaning as in section 3(l) of the Federal Deposit Insurance Act.

"(E) HOME STATE.—The term 'home State' means, with respect to a national bank, the State in which the main office of the bank is located.

"(F) HOST STATE.—The term 'host State' means any State in which a national bank establishes or maintains a branch other than the home State of such bank.

"(G) INSURED DEPOSITORY INSTITUTION.—The term 'insured depository institution' has the same meaning as in section 3(c)(2) of the Federal Deposit Insurance Act.

"(H) OUT-OF-STATE BANK.—The term 'out-of-State bank' means, with respect to any State, a bank whose home State is another State.

"(I) OUT-OF-STATE BANK HOLDING COMPANY.—The term 'out-of-State bank' means, with respect to any State, a bank holding company whose home State (as defined in section 3(d)(4)(D) of the Bank Holding Company Act of 1956) is another State.

"(J) STATE BANK.—The term 'State bank' has the same meaning as in section 3(a)(2) of the Federal Deposit Insurance Act.

"(K) STATE BANK SUPERVISOR.—The term 'State bank supervisor' has the same meaning as in section 3(r) of the Federal Deposit Insurance Act.

"(f) APPLICABILITY OF STATE AND FEDERAL LAW TO INTERSTATE BRANCHING OPERATIONS.—

"(1) CERTAIN STATE LAWS APPLICABLE TO NATIONAL BANK BRANCHES.—

"(A) IN GENERAL.—Any branch of an out-of-State national bank shall be subject to the laws of the host State with respect to intrastate branching, consumer protection, fair lending, and community reinvestment as if the branch were a branch of a bank chartered by that State, except to the extent any such State law is preempted by Federal law regarding the same subject.

"(B) PROHIBITION ON DISCRIMINATORY EFFECT.—Notwithstanding subparagraph (A), a branch of an out-of-State national bank shall not be subject to a State law described in such subparagraph to the extent the Comptroller of the Currency determines that the application of the law has, or would have, a discriminatory effect on the branch in comparison with the effect the application of such law has with respect to branches of a bank chartered by the State.

"(C) ENFORCEMENT OF APPLICABLE STATE LAWS.—The provisions of any State law to which a branch of a national bank is subject under this paragraph shall be enforced, with respect to such branch, by the Comptroller of the Currency.

"(2) TREATMENT OF BRANCH AS BANK.—All laws of a host State, other than the laws described in paragraph (1) or laws pertaining to the application or administration of any tax or method of taxation, shall apply to a branch (in such State) of an out-of-State national bank in the same manner and to the same extent such laws would apply if the branch were a national bank located in that State.

"(3) STATE TAXATION AUTHORITY NOT AFFECTED.—No provision of this subsection or subsection (d) or (e) shall be construed as affecting the authority of any State or political subdivision of any State to apply and administer any tax or method of taxation to any national bank, including any branch of a national bank, any bank holding company which controls a national bank, or any affiliate of any such bank or bank holding company to the extent such tax or tax method is otherwise permissible by or under the Constitution of the United States of America or other Federal law.

"(4) STATE-IMPOSED NOTICE REQUIREMENTS.—A host State may impose any notification or reporting requirement on a branch established or acquired under subsection (d) if the requirement—

"(A) does not discriminate against out-of-State banks or bank holding companies; and

"(B) is not preempted by any Federal law regarding the same subject.

"(5) APPLICABILITY OF DEPOSIT CAPS AND ANTITRUST LAWS.—No provision of this subsection or subsection (d) or (e) shall be construed as affecting—

"(A) the authority of any State to limit the percentage of the total amount of insured depository institution deposits in the State which may be held or controlled by any bank (including all insured depository institutions which are affiliates of the bank) to the extent the application of such limitation does not discriminate against out-of-State banks or bank holding companies; or

"(B) the applicability of the antitrust laws or any State law which is similar to the antitrust laws."; and

(3) in subsection (i) (as so redesignated by the amendment made by paragraph (1) of this section), by striking "The term" and inserting "BRANCH.—Except as provided in section 18(q) of the Federal Deposit Insurance Act, the term".

SEC. 103. INTERSTATE BRANCHING BY STATE BANKS.

(a) IN GENERAL.—The Federal Deposit Insurance Act (12 U.S.C. 1811 et seq.) is amended by adding at the end the following new section:

"SEC. 44. STATE BANK BRANCHES.

"(a) CONSENT OF CORPORATION.—

"(1) ESTABLISHMENT OF BRANCHES.—No State nonmember insured bank (except a District bank) may establish and operate any new domestic branch without the prior written consent of the Corporation.

"(2) CHANGE OF LOCATION OF STATE BANK OFFICES AND BRANCHES.—No State nonmember insured bank (except a District bank) may move the main office or any domestic branch of such bank from 1 location to another without the prior written consent of the Corporation.

"(3) CHANGE OF LOCATION OF INSURED BRANCH OF FOREIGN BANK.—No foreign bank may move any insured branch from 1 location to another without the prior written consent of the Corporation.

"(4) FACTORS TO BE CONSIDERED.—The Corporation shall consider the factors enumerated in section 6 in making any determination under this subsection.

"(b) ESTABLISHMENT OF FOREIGN BRANCHES.—

"(1) IN GENERAL.—No State nonmember insured bank shall establish or operate any foreign branch without the prior written consent of the Corporation.

"(2) CONDITIONS AND REGULATIONS.—The Corporation may establish such conditions and prescribe such regulations for the establishment and operation of foreign branches of State nonmember banks as the Corporation may determine to be appropriate.

"(c) INTERSTATE BRANCHING BY STATE BANKS.—

"(1) APPROVALS OF ACQUISITION OF EXISTING BRANCHES AUTHORIZED.—Subject to paragraphs (3) and (4) and subsections (d) and (e), after the end of the 3-year period beginning on the date of the enactment of the Interstate Banking Efficiency Act of 1994, the appropriate Federal banking agency may approve an application under this section to allow an insured State bank to—

"(A) acquire a bank or branch located outside the home State of such bank in a State in which the bank does not maintain a branch; and

"(B) operate such bank or branch (including any branch of such bank) as a branch,

if the conditions established in paragraph (6) are met.

"(2) STATE 'OPT-IN' ELECTION TO PERMIT INTERSTATE BRANCHING THROUGH DE NOVO BRANCHES.—Subject to subsections (d) and (e), the appropriate Federal banking agency may approve an application by a State bank to establish and operate a de novo branch outside the home State of such bank in a State in which the bank does not maintain a branch if—

"(A) there is in effect in the host State a law that—

"(i) expressly permits all out-of-State banks to establish de novo branches in such State; and

"(ii) applies equally to national and State banks; and

"(B) the conditions established in paragraph (6) are met.

"(3) STATE 'OPT-OUT' ELECTION TO PROHIBIT INTERSTATE BRANCHING BY ACQUISITION OF EXISTING BANKS.—

"(A) IN GENERAL.—An application by an insured State bank to establish a branch in a State other than the home State of such bank through the acquisition of an existing bank or branch in the host State may not be approved by the appropriate Federal banking agency if there is in effect in the host State a law which—

"(i) expressly prohibits all out-of-State banks from acquiring a branch located in such State through the acquisition of an existing bank or branch in the host State;

"(ii) was enacted during the period beginning on January 1, 1990, and ending 3 years after the date of the enactment of the Interstate Banking Efficiency Act of 1994; and

"(iii) applies equally to national and State banks.

"(B) EFFECT OF PROHIBITION.—An insured State bank whose home State has in effect a prohibition described in subparagraph (A) may not acquire or establish, under subsection (c), a branch located in any other State.

"(4) STATE LAWS REQUIRING MINIMUM PERIOD OF EXISTENCE FOR ACQUISITIONS BY OUT-OF-STATE BANKS.—

"(A) LAWS ENACTED BEFORE INTERSTATE BANKING ACT.—In the case of a State in which a law is in effect which—

"(i) allows an out-of-State bank or bank holding company to establish a bank in the host State only by acquiring a bank or branch (in the host State) which has been in

existence for not less than the minimum time period specified in such law; and

"(ii) took effect on or before the date of the enactment of the Interstate Banking Efficiency Act of 1994,

an out-of-State insured State bank which has no branch in such State may establish a branch in the State under this subsection only by acquiring a bank or branch which has been in existence for not less than the minimum time period specified in such law.

"(B) SUBSEQUENT ENACTMENTS.—In the case of a State in which a law is in effect which—

"(i) allows an out-of-State bank or bank holding company to establish a branch in the host State only by acquiring a bank or branch (in the host State) which has been in existence for not less than the minimum time period specified in such law; and

"(ii) took effect after the date of the enactment of the Interstate Banking Efficiency Act of 1994,

an out-of-State insured State bank which has no branch in such State may establish a branch in the State under this subsection only by acquiring a bank or branch which has been in existence for not less than the lesser of the minimum time period specified in such law or 5 years.

"(5) EARLY APPROVAL AUTHORIZED IF STATE LAW PERMITS.—The appropriate Federal banking agency may approve an application under paragraph (1) before the expiration of the 3-year period described in such paragraph if the State in which the branch is or will be located has in effect a law which expressly permits interstate branching by all national and State banks.

"(6) CONDITIONS APPLICABLE TO THE ESTABLISHMENT OR ACQUISITION OF INTERSTATE BRANCHES.—The appropriate Federal banking agency may approve an application under paragraph (1) or (2) by an insured State bank to acquire or establish a branch only if—

"(A) the bank is adequately capitalized (as defined under section 38) as of the date the application is filed;

"(B) the bank is authorized to establish branches in other States under the law of the home State of the bank; and

"(C) the appropriate Federal banking agency determines that—

"(i) the bank will continue to be adequately capitalized upon the consummation of the acquisition or establishment of the branch; and

"(ii) on the basis of an evaluation conducted by the agency, the management of the bank has the necessary management skills to manage the operations of the bank upon the consummation of the acquisition or establishment of the branch.

"(d) PROVISIONS APPLICABLE TO APPLICATION AND APPROVAL PROCESS.—

"(1) CONSULTATION WITH STATE BANK SUPERVISOR.—In determining whether to grant approval of an application under subsection (c), the appropriate Federal banking agency shall consider the views of any appropriate State bank supervisor of the bank which submits the application regarding the bank's compliance with applicable State community reinvestment laws.

"(2) COMPLIANCE WITH STATE FILING REQUIREMENTS.—

"(A) IN GENERAL.—An out-of-State insured State bank that files an application under subsection (c) to acquire or establish a branch within a host State shall—

"(i) comply with any filing requirement of the host State that—

"(I) is not discriminatory in nature; and

"(II) is similar in effect to a requirement imposed by the host State on a nonbanking corporation from another State that seeks to engage in business in the host State; and

"(ii) submit a copy of the application to the State bank supervisor of the host State.

"(B) PENALTY FOR FAILURE TO COMPLY.—The appropriate Federal banking agency may not approve an application under subsection (c) by an insured State bank which materially fails to comply with subparagraph (A) with respect to such application.

"(3) CONCENTRATION LIMITS.—

"(A) IN GENERAL.—The appropriate Federal banking agency may not approve an application by a bank under subsection (c) if—

"(i) the bank (including all insured depository institutions which are affiliates of the bank) controls, or upon completion of the acquisition would control, more than 10 percent of the total amount of insured depository institution deposits in the United States; or

"(ii) the bank (including all insured depository institutions which are affiliates of the bank) controls, or upon completion of the acquisition would control, 30 percent or more of the total amount of insured depository institution deposits in the State in which the proposed branch would be located.

"(B) NOT APPLICABLE TO DE NOVO OUT-OF-STATE BRANCHES.—Subparagraph (A) shall not apply to the establishment of a de novo branch outside the home State of an insured State bank.

"(C) WAIVER BY STATE.—A State may waive the application of subparagraph (A)(ii) to the acquisition of banks or branches in such State.

"(4) CONSIDERATION OF BANK AFFILIATES.—In determining whether to grant approval of an application under subsection (c) with respect to a proposed branch by an insured State bank which, as of the date of the application, does not have a branch in the host State (of the proposed branch), the appropriate Federal banking agency shall take into account the most recent written evaluation under section 807 of the Community Reinvestment Act of 1977 of each bank affiliate of the bank which submits the application.

"(e) APPLICABILITY OF STATE AND FEDERAL LAW TO INTERSTATE BRANCHING OPERATIONS.—

"(1) STATE LAWS APPLICABLE TO BRANCHES OF OUT-OF-STATE BANKS.—

"(A) IN GENERAL.—Subject to subsection (d), any branch of an out-of-State insured State bank shall be subject to the laws of the host State as if such branch were a branch of a bank chartered by that State.

"(B) ACTIVITIES OF BRANCHES.—An insured State bank that establishes a branch in a host State may not conduct any activity at such branch that is not permissible for a bank chartered by the host State.

"(C) RESERVATION OF CERTAIN RIGHTS TO STATES.—No provision of this subsection or subsection (c) or (d) shall be construed as limiting in any way the right of a State to—

"(i) determine the authority of State banks chartered in that State to establish and maintain branches; or

"(ii) supervise, regulate, and examine State banks chartered by that State.

"(2) STATE TAXATION AUTHORITY NOT AFFECTED.—No provision of this subsection or subsection (c) or (d) shall be construed as affecting the authority of any State or political subdivision of any State to apply and administer any tax or method of taxation to any State bank, including any branch of a State bank, any bank holding company which controls any State bank, or any affiliate of any such bank or bank holding company to the extent such tax or tax method is otherwise permissible by or under the Constitution of the United States of America or other Federal law.

"(3) STATE-IMPOSED NOTICE REQUIREMENTS.—A host State may impose any notification or reporting requirement on a branch established or acquired under subsection (c) if the requirement—

"(A) does not discriminate against out-of-State banks or bank holding companies; and

"(B) is not preempted by any Federal law regarding the same subject.

"(4) APPLICABILITY OF DEPOSIT CAPS AND ANTITRUST LAWS.—No provision of this subsection or subsection (c) or (d) shall be construed as affecting—

"(A) the authority of any State to limit the percentage of the total amount of insured depository institution deposits in the State which may be held or controlled by any bank (including all insured depository institutions which are affiliates of the bank) to the extent the application of such limitation does not discriminate against out-of-State banks or bank holding companies; or

"(B) the applicability of the antitrust laws or any State law which is similar to the antitrust laws.

"(f) COORDINATION OF EXAMINATION AUTHORITY.—

"(1) IN GENERAL.—A host State bank supervisor may examine a branch operated in the host State by an out-of-State insured State bank to—

"(A) determine compliance with host State laws regarding banking, community reinvestment, fair lending, consumer protection, and permissible activities; and

"(B) ensure that the activities of the branch do not constitute a significant risk to the safe and sound operation of the branch.

"(2) ENFORCEMENT.—If the State bank supervisor of a host State described in paragraph (1) determines that there is a violation of host State law concerning the activities being conducted by a branch operated in such State by an out-of-State insured State bank or that the branch is being operated in an unsafe and unsound manner, such host State bank supervisor or, to the extent authorized by the law of the host State, a State law enforcement officer may undertake such enforcement actions or proceedings as would be permitted under host State law if the branch were a bank chartered by the host State.

"(3) COOPERATIVE AGREEMENT.—The State bank supervisors of 1 or more States may enter into cooperative agreements to facilitate State regulatory supervision of State banks and branches, including cooperative agreements relating to the coordination of examinations and joint participation in examinations.

"(4) FEDERAL REGULATORY AUTHORITY.—No provision of this section shall be construed as limiting the authority of any Federal banking agency to examine any bank or branch of a bank for which the agency is the appropriate Federal banking agency.

"(g) DEFINITIONS.—For purposes of this section, the following definitions shall apply:

"(1) ANTITRUST LAWS.—The term 'antitrust laws'—

"(A) has the same meaning as in subsection (a) of the 1st section of the Clayton Act; and

"(B) includes section 5 of the Federal Trade Commission Act to the extent such section 5 relates to unfair methods of competition.

"(2) DE NOVO BRANCH.—The term 'de novo branch' means a branch of a bank which—

"(A) is originally established by the bank as a branch; and

"(B) does not become a branch of such bank as a result of—

"(i) the acquisition by the bank of an insured depository institution or a branch of an insured depository institution; or

"(ii) the conversion, merger, or consolidation of any such institution or branch.

"(3) HOME STATE.—The term 'home State' means, with respect to a State bank, the State by whom the bank is chartered.

"(4) HOST STATE.—The term 'host State' means the State in which a bank establishes or maintains a branch other than the home State of the bank.

"(5) OUT-OF-STATE BANK.—The term 'out-of-State bank' means, with respect to any State, a bank whose home State is another State.

"(6) OUT-OF-STATE BANK HOLDING COMPANY.—The term 'out-of-State bank' means, with respect to any State, a bank holding company whose home State (as defined in section 3(d)(4)(D) of the Bank Holding Company Act of 1956) is another State.".

(b) TECHNICAL AND CONFORMING AMENDMENT.—Section 3(o) of the Federal Deposit Insurance Act (12 U.S.C. 1813(o)) is amended to read as follows:

"(o) DEFINITIONS RELATING TO DOMESTIC AND FOREIGN BRANCHES.—

"(1) BRANCH.—The term 'branch' means a domestic branch or a foreign branch, except when such term is used in connection with the term 'Federal branch' or 'insured branch'.

"(2) DOMESTIC BRANCH.—The term 'domestic branch' includes any branch bank, branch office, branch agency, additional office, or any branch located in any State at which deposits are received, checks are paid, or money is lent.

"(3) FOREIGN BRANCH.—The term 'foreign branch' means any office or place at which banking operations are conducted and which is not located in any State.".

SEC. 104. BRANCHING BY FOREIGN BANKS.

(a) IN GENERAL.—Section 5(a) of the International Banking Act of 1978 (12 U.S.C. 3103(a)) is amended to read as follows:

"(a) INTERSTATE BRANCHING AND AGENCY OPERATIONS.—

"(1) FEDERAL BRANCH OR AGENCY.—Subject to the provisions of this Act and with the prior written approval by the Board and the Comptroller of the Currency of an application, a foreign bank may establish and operate a Federal branch or agency in any State outside the home State of such foreign bank to the extent that the establishment and operation of such branch would be permitted under section 5155 of the Revised Statutes if the foreign bank were a national bank whose home State (as defined in subsection (e)(5) of such section) is the same State as the home State of the foreign bank.

"(2) STATE BRANCH OR AGENCY.—Subject to the provisions of this Act and with the prior written approval by the Board and the appropriate State bank supervisor of an application, a foreign bank may establish and operate a State branch or agency in any State outside the home State of such foreign bank to the extent that such establishment and operation would be permitted under section 44 of the Federal Deposit Insurance Act if the foreign bank were a State bank whose home State (as defined in subsection (g) of such section) is the same State as the home State of the foreign bank.

"(3) CRITERIA FOR DETERMINATION.—In approving an application under paragraph (1) or (2), the Board and (in the case of an application under paragraph (1)) the Comptroller of the Currency—

"(A) shall apply the standards applicable to the establishment of a foreign bank office in the United States under section 7(d); and

"(B) may not approve an application unless the Board and (in the case of an application under paragraph (1)) the Comptroller of the Currency—

"(i) determine that the foreign bank's financial resources, including the capital level of the bank, are equivalent to those required for a domestic bank to be approved for branching under section 5155 of the Revised Statutes and section 44 of the Federal Deposit Insurance Act; and

"(ii) consult with the Secretary of the Treasury regarding capital equivalency.

"(4) REQUIREMENT FOR A SEPARATE SUBSIDIARY.—If the Board or the Comptroller of the Currency, taking into account differing regulatory or accounting standards, finds that adherence by a foreign bank to capital requirements equivalent to those imposed under section 5155 of the Revised Statutes and section 44 of the Federal Deposit Insurance Act could be verified only if the banking activities of such bank in the United States are carried out in a domestic banking subsidiary within the United States, the Board and the Comptroller of the Currency may approve an application under paragraph (1) subject to a requirement that the foreign bank or company controlling the foreign bank establish a domestic banking subsidiary in the United States.

"(5) ADDITIONAL AUTHORITY FOR INTERSTATE BRANCHES AND AGENCIES OF FOREIGN BANKS.—Notwithstanding paragraphs (1) and (2), a foreign bank may, with the approval of the Comptroller of the Currency, establish and operate a Federal branch or Federal agency or, with the approval of the Board and the appropriate State bank supervisor, a State branch or State agency in any State outside the foreign bank's home State if—

"(A) the establishment and operation of a branch or agency is expressly permitted by the State in which the branch or agency is to be established; and

"(B) in the case of a Federal or State branch, the branch receives only such deposits as would be permissible for a corporation organized under section 25A of the Federal Reserve Act.".

(b) CONTINUED AUTHORITY FOR LIMITED BRANCHES, AGENCIES, OR COMMERCIAL LENDING COMPANIES.—Section 5(b) of the International Banking Act of 1978 (12 U.S.C. 3103(b)) is amended by adding at the end the following new sentence: "Notwithstanding subsection (a), a foreign bank may continue to operate, after the enactment of the Interstate Banking Efficiency Act of 1994, any Federal branch, State branch, Federal agency, State agency, or commercial lending company subsidiary which such bank was operating on the day before the date of the enactment of such Act to the extent the branch, agency, or subsidiary continues, after the enactment of such Act, to engage in operations which were lawful under the laws in effect on the day before such date.".

(c) CLARIFICATION OF BRANCHING RULES IN THE CASE OF A FOREIGN BANK WITH A DOMESTIC BANK SUBSIDIARY.—Section 5 of the International Banking Act of 1978 (12 U.S.C. 3103) is amended by adding at the end the following new subsection:

"(d) CLARIFICATION OF BRANCHING RULES IN THE CASE OF A FOREIGN BANK WITH A DOMESTIC BANK SUBSIDIARY.—In the case of a foreign bank that has a domestic bank subsidiary within the United States—

"(1) the fact that such bank controls a domestic bank shall not affect the authority of the foreign bank to establish Federal and State branches or agencies to the extent permitted under subsection (a); and

"(2) the fact that the domestic bank is controlled by a foreign bank which has Federal or State branches or agencies in States other than the home State of such domestic bank shall not affect the authority of the domestic bank to establish branches outside the home State of the domestic bank to the extent permitted under section 5155(d) of the Revised Statutes or section 44 of the Federal Deposit Insurance Act, as the case may be.".

(d) HOME STATE DETERMINATIONS.—Section 5(c) of the International Banking Act of 1978 (12 U.S.C. 3103(c)) is amended to read as follows:

"(c) DETERMINATION OF HOME STATE OF FOREIGN BANK.—For the purposes of this section—

"(1) in the case of a foreign bank that has any branch, agency, subsidiary commercial lending company, or subsidiary bank in more than 1 State, the home State of the foreign bank is the 1 State of such States which is selected by the foreign bank or, in default of any such selection, by the Board; and

"(2) in the case of a foreign bank that does not have a branch, agency, subsidiary commercial lending company, or subsidiary bank in more than 1 State, the home State of the foreign bank is the State in which the foreign bank has a branch, agency, subsidiary commercial lending company, or subsidiary bank.".

SEC. 105. INTERSTATE CONSOLIDATIONS.

Section 18(d) of the Federal Deposit Insurance Act (12 U.S.C. 1828(d)) is amended to read as follows:

"(d) INTERSTATE CONSOLIDATIONS.—

"(1) CONSOLIDATIONS AUTHORIZED.—

"(A) IN GENERAL.—Except as provided in section 3(d)(1)(B) of the Bank Holding Company Act of 1956 and notwithstanding any other provision of Federal law or any provision of State law (other than a law referred to in subparagraph (B)), a bank holding company which has bank subsidiaries in more than 1 State may, with the prior written approval by the responsible agency (as determined in accordance with section 18(c)(2) of the Federal Deposit Insurance Act) of an application and subject to the requirements of subsection (c), combine 2 or more of such banks into a single bank by means of merger, consolidation, or other similar transaction in accordance with such subsection after the end of the 18-month period beginning on the date of the enactment of the Interstate Banking Efficiency Act of 1994.

"(B) EXCEPTION FOR STATES WHICH PROHIBIT THE ACQUISITION OF A BRANCH BY ANY OUT-OF-STATE BANK.—No bank which is located in a State in which a law described in section 5155(d)(3)(A) of the Revised Statutes of the United States or section 44(c)(3)(A) is in effect may be a party to a merger, consolidation, or other similar transaction under subparagraph (A) with any other bank affiliate of such bank.

"(C) EXCEPTION FOR CERTAIN BANKS ACQUIRED DURING TRANSITION PERIOD.—No bank subsidiary of a bank holding company, or any branch of any such bank—

"(i) control of which was acquired, directly or indirectly, by such company after the end of the 18-month period beginning on the date of the enactment of the Interstate Banking Efficiency Act of 1994; and

"(ii) which is located in a State in which the company did not control any bank or branch as of the end of such 18-month period, may be a party to a merger, consolidation, or other similar transaction under subpara-

graph (A) with any other bank affiliate of such bank before the end of the 3-year period beginning on such date of enactment, unless the State in which the bank or branch is located is a State referred to in section 5155(d)(5) of the Revised Statutes of the United States or section 44(c)(5).

"(2) EFFECT OF STATE PROHIBITION ON BRANCHING.—If a branch which results from a transaction under paragraph (1) is located in a State in which a law—

"(A) takes effect after the consummation of the transaction;

"(B) is enacted during the period beginning on January 1, 1990, and ending 3 years after the date of the enactment of the Interstate Banking Efficiency Act of 1994;

"(C) expressly prohibits all out-of-State banks from acquiring a branch located in such State through the acquisition of an existing bank in the host State; and

"(D) applies equally to national and State banks,

the branch shall be promptly converted back into a bank as the bank existed before such transaction, in accordance with regulations of the Federal banking agency or State bank supervisor which had jurisdiction over the bank which was converted into a branch.

"(3) APPLICABILITY OF STATE AND FEDERAL LAW TO INTERSTATE BRANCHING OPERATIONS.—If a branch which results from a transaction under paragraph (1) is the branch of a national bank, section 5155(f) of the Revised Statutes of the United States shall apply with respect to such branch.

"(4) STATE TAXATION AUTHORITY NOT AFFECTED.—No provision of this subsection shall be construed as affecting the authority of any State or political subdivision of any State to apply and administer any tax or method of taxation to any bank subsidiary or additional branch resulting from a consolidation or other transaction under paragraph (1) or (2), any bank holding company which controls any bank or branch resulting from any such consolidation or other transaction, or any affiliate of any such bank or company to the extent such tax or tax method is otherwise permissible by or under the Constitution of the United States of America or other Federal law.

"(5) PLAN ON MEETING LOCAL CREDIT NEEDS.—The responsible agency (as determined under subsection (c)(2)) may not approve any application for any consolidation or other transaction under this subsection unless the responsible agency has considered a plan submitted by the applicant bank holding company for meeting local credit needs in the communities served by any bank subsidiary of the company which is involved in the proposed consolidation or transaction, including the extent to which the amount of the anticipated savings attributable to the proposed consolidation or other transaction will be available to meet such local credit needs.".

SEC. 106. BRANCH CLOSURES.

Section 42 of the Federal Deposit Insurance Act (12 U.S.C. 1831r-1) is amended by adding at the end the following new subsection:

"(d) BRANCH CLOSURES IN INTERSTATE BANKING OR BRANCHING OPERATIONS.—

"(1) NOTICE REQUIREMENTS.—In the case of an interstate bank which proposes to close any branch in a low- or moderate-income area, the notice required under subsection (b)(2) shall contain the mailing address of the appropriate Federal banking agency and a statement that comments on the proposed closing of such branch may be mailed to such agency.

"(2) ACTION REQUIRED BY APPROPRIATE FEDERAL BANKING AGENCY.—If, in the case of a branch referred to in paragraph (1)—

"(A) a person from the area in which such branch is located—

"(i) submits a written request relating to the closing of such branch to the appropriate Federal banking agency; and

"(ii) includes a statement of specific reasons for the request, including a discussion of the adverse effect of such closing on the availability of banking services in the area affected by the closing of the branch; and

"(B) the agency concludes that the request is not frivolous,

the agency shall consult with community leaders in the affected area and convene a meeting of representatives of the agency with community leaders in the affected area and such other individuals, organizations, and depository institutions (as defined in section 19(b)(1)(A) of the Federal Reserve Act) as the agency may determine to be appropriate, to explore the feasibility of obtaining adequate alternative facilities and services for the affected area, including the establishment of a new branch by another depository institution, the chartering of a new depository institution, or the establishment of a community development credit union, following the closing of the branch.

"(3) NO AFFECT ON CLOSING.—No action by the appropriate Federal banking agency under paragraph (2) shall affect the authority of an interstate bank to close a branch (including the timing of such closing) if the requirements of subsections (a) and (b) have been met by such bank with respect to the branch being closed.

"(4) DEFINITIONS.—For purposes of this subsection, the following definitions shall apply:

"(A) INTERSTATE BANK DEFINED.—The term 'interstate bank' means a bank which maintains branches in more than 1 State.

"(B) LOW- OR MODERATE-INCOME AREA.—The term 'low- or moderate-income area' means a census tract for which the median family income is—

"(i) less than 80 percent of the median family income for the metropolitan statistical area (as designated by the Director of the Office of Management and Budget) in which the census tract is located; or

"(ii) in the case of a census tract which is not located in a metropolitan statistical area, less than 80 percent of the median family income for the State in which the census tract is located, as determined without taking into account family income in metropolitan statistical areas in such State.".

SEC. 107. PROHIBITION AGAINST DEPOSIT PRODUCTION OFFICES.

(a) REGULATIONS.—Before the end of the 120-day period beginning on the date of the enactment of the Interstate Banking Efficiency Act of 1994, each appropriate Federal banking agency shall prescribe regulations which prohibit any person from using any authority to engage in interstate branching pursuant to this title, or any amendment made by this title to any other provision of law, primarily for the purpose of deposit production.

(b) GUIDELINES FOR MEETING CREDIT NEEDS.—Regulations issued under subsection (a) shall include guidelines to ensure that each interstate branch meets the credit needs of the community and market area in which the branch operates.

(c) LIMITATION ON OUT-OF-STATE LOANS.—

(1) LIMITATION.—Regulations issued under subsection (a) shall require that if the percentage of outstanding loans made by an interstate branch to borrowers located in the host State of, or market area served by, the branch is less than half the average of such percentage for all Federal depository institutions and State depository institutions having their principal place of operations in the host State or that market area—

(A) the appropriate Federal banking agency for the branch shall review the loan portfolio of the branch and determine whether the branch is reasonably meeting the credit needs of the community and market area in which the branch operates; and

(B) if the agency determines that the branch is not reasonably meeting those needs—

(i) the branch shall be closed, and

(ii) the person which established the branch may not open a new branch in that State unless the person provides reasonable assurances to the satisfaction of the appropriate Federal banking agency that the new branch will reasonably meet the credit needs of the community and market area in which the new branch will operate.

(2) CONSIDERATIONS.—In making a determination under paragraph (1)(A) regarding an interstate branch, the appropriate Federal banking agency shall consider—

(A) whether the branch was acquired as part of the purchase of a failed or failing depository institution;

(B) whether the branch has a higher concentration of commercial and credit card lending; and

(C) the ratings received by the branch in evaluations under the Community Reinvestment Act of 1977.

(d) APPLICATION.—This section shall not apply to any interstate branch acquired before January 1, 1992, as part of any consolidation or merger of depository institutions.

(e) DEFINITIONS.—For the purposes of this section, the following definitions shall apply:

(1) APPROPRIATE FEDERAL BANKING AGENCY.—The term "appropriate Federal banking agency" has the same meaning as in section 3 of the Federal Deposit Insurance Act.

(2) BRANCH.—The term "branch" means any office, agency, or other place of business located in any State at which deposits are received, checks paid, or money lent.

(3) FEDERAL DEPOSITORY INSTITUTION AND STATE DEPOSITORY INSTITUTION.—The terms "Federal depository institution" and "State depository institution" have the same meanings as in section 3 of the Federal Deposit Insurance Act.

(4) HOST STATE DEFINED.—The term "host State" means the State in which a bank establishes or maintains a branch, other than—

(A) in the case of a insured State bank, the State in which the bank is chartered;

(B) in the case of a national bank, the State in which the main office of the bank is located; and

(C) in the case of a bank holding company, the State in which the total deposits of all bank subsidiaries of such company is the greatest.

(5) INTERSTATE BRANCH.—The term "interstate branch" means a branch established pursuant to the authority referred to in subsection (a).

(6) PRINCIPAL PLACE OF OPERATIONS.—The term "principal place of operations" means the State in which the total deposits of all bank subsidiaries of a person are greatest.

(7) STATE DEFINED.—The term "State" has the same meaning as in section 3 of the Federal Deposit Insurance Act.

SEC. 108. FEDERAL RESERVE BOARD STUDY ON BANK FEES.

(a) IN GENERAL.—Section 1002 of the Financial Institutions Reform, Recovery, and En-

forcement Act of 1989 (12 U.S.C. 1811 note) is amended to read as follows:

"SEC. 1002. SURVEY OF BANK FEES AND SERVICES.

"(a) ANNUAL SURVEY REQUIRED.—The Board of Governors of the Federal Reserve System shall obtain a sample, which is representative by geographic location and size of the institution, of—

"(1) certain retail banking services provided by insured depository institutions; and

"(2) the fees, if any, which are imposed by such institutions for providing such service, including fees imposed for not sufficient funds, deposit items returned, and automated teller machines.

"(b) ANNUAL REPORT TO CONGRESS REQUIRED.—

"(1) PREPARATION.—The Board of Governors of the Federal Reserve System shall prepare a report of the results of each survey conducted pursuant to subsection (a).

"(2) CONTENTS OF THE REPORT.—Each report prepared pursuant to paragraph (1) shall include—

"(A) a description of any discernible trend, in the Nation as a whole and in each State, in the cost and availability of retail banking services which delineates differences on the basis of size of the institution and engagement in multistate activity; and

"(B) a description of the correlation, if any, among the following factors:

"(i) An increase or decrease in the amount of any deposit insurance premium assessed by the Federal Deposit Insurance Corporation against insured depository institutions.

"(ii) An increase or decrease in the amount of the fees imposed by such institutions for providing retail banking services.

"(iii) A decrease in the availability of such services.

"(3) SUBMISSION TO CONGRESS.—The Board of Governors of the Federal Reserve System shall submit each annual report to the Congress not later than June 1 of each calendar year.".

(b) SUNSET.—The requirements of subsection (a) shall not apply after the end of the 7-year period beginning on the date of enactment of this Act.

SEC. 109. RESTATEMENT OF EXISTING LAW.

No provision of this title and no amendment made by this title to any other provision of law shall be construed as affecting in any way the right of any State, or any political subdivision of any State, to impose or maintain a nondiscriminatory franchise tax or other nonproperty tax instead of a franchise tax in accordance with section 3124 of title 31, United States Code.

TITLE II—CRA EVALUATIONS

SEC. 201. STATE-BY-STATE CRA EVALUATIONS OF DEPOSITORY INSTITUTIONS WITH INTERSTATE BRANCHES.

Section 807 of the Community Reinvestment Act of 1977 (12 U.S.C. 2906) is amended by adding at the end the following new subsection:

"(d) INSTITUTIONS WITH INTERSTATE BRANCHES.—

"(1) STATE-BY-STATE EVALUATION.—In the case of a regulated financial institution which maintains 1 or more domestic branches located outside the State in which the institution's principal place of business is located (hereafter in this subsection referred to as the 'home State'), the appropriate Federal financial supervisory agency shall prepare—

"(A) a written evaluation of the entire institution's record of performance under this Act, as required by subsections (a), (b), and (c) of this section; and

"(B) for each State in which the institution maintains 1 or more domestic branches (including the institution's home State), a separate written evaluation of the institution's record of performance within such State under this Act, as required by subparagraphs (A) and (B) of subsection (b)(1) of this section.

"(2) CONTENT OF STATE LEVEL EVALUATION.—A written evaluation prepared pursuant to paragraph (1)(B) of this subsection shall report the information required by such paragraph separately for each metropolitan area (as defined by the appropriate Federal financial supervisory agency) in which the regulated financial institution maintains 1 or more domestic branch offices and separately for the nonmetropolitan portion of the State if the institution maintains 1 or more domestic branch offices in such nonmetropolitan area.".

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from North Carolina [Mr. NEAL] will be recognized for 20 minutes, and the gentlewoman from New Jersey [Mrs. ROUKEMA] will be recognized for 20 minutes.

PARLIAMENTARY INQUIRY

Mr. MFUME. Madam Speaker, I have a parliamentary inquiry.

The SPEAKER pro tempore. The gentleman will state it.

Mr. MFUME. Madam Speaker, I would inquire of the gentlewoman from New Jersey [Mrs. ROUKEMA] whether she is standing in opposition to the bill before the House.

Mrs. ROUKEMA. Madam Speaker, the minority is in agreement.

Mr. MFUME. Madam Speaker, I rise in opposition to the bill and would like to be recognized also.

The SPEAKER pro tempore. The gentleman from Maryland [Mr. MFUME] is entitled to control the time, and will be recognized for 20 minutes.

The Chair recognizes the gentleman from North Carolina [Mr. NEAL].

GENERAL LEAVE

Mr. NEAL of North Carolina. Madam Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks, and include therein extraneous material, on H.R. 3841, as amended.

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

There was no objection.

Mr. NEAL of North Carolina. Madam Speaker, I yield such time as he may consume to the gentleman from Texas [Mr. GONZALEZ], the very distinguished chairman of the Committee on Banking, Finance and Urban Affairs.

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

Madam Speaker, the gentleman from North Carolina, the chairman of the subcommittee, did a magnificent job steering and chairing this subcommittee and this very difficult legislation through successfully. I rise in support of the legislation.

Madam Speaker, the House Banking Committee has considered and passed interstate banking and branching legislation many times in the past only to meet obstacles down the road. Competition among financial service providers, a divided banking industry, and other unrelated issues have previously spelled doom for such legislation. This year, at long last, all obstacles have been surmounted. H.R. 3841 takes an important step toward modernizing banking laws, allowing institutions to better diversify risks and serve customers nationwide. The legislation also contains safety and soundness safeguards and customer protections. I urge the House to pass this valuable piece of legislation and commend Chairman STEVE NEAL for his diligence in moving this legislation forward.

Mr. NEAL of North Carolina. Madam Speaker, I yield myself such time as I may consume.

Madam Speaker, I rise in strong support of H.R. 3841, the Interstate Banking Efficiency Act of 1994.

There are many people to thank for their hard work in bringing this legislation to the House floor. I begin by commending Chairman GONZALEZ for scheduling an early Banking Committee markup of H.R. 3841, and seeking rapid floor action after the Banking Committee approved the bill by a 50 to 1 vote.

I also commend Mr. MCCOLLUM, the ranking Republican on the Financial Institutions Subcommittee, for all of his leadership on this issue.

I thank Mr. VENTO, whose hard work on this legislation in 1991 laid the foundation for interstate branching legislation this year.

Lastly, I thank all those on both sides of the aisle who have agreed to forego offering floor amendments to H.R. 3841. I am very sympathetic to many of the issues my colleagues have raised, but I am afraid the past history of interstate branching legislation proves this is an engine that can carry very little freight.

I do look forward to working with my colleagues, however, to address many of the issues they have raised that could not be addressed in this bill. As I have stated before, I am particularly interested in making sure that low- and moderate-income Americans have access to financial facilities and services.

Madam Speaker, the present Federal geographic constraints on banking were enacted in the 1930's and 1950's. The world has changed dramatically since then, and so has the way we do our banking in America. Americans are more mobile today than ever before. Technology now permits consumers to withdraw money from their accounts at ATM's across the country and around the world. Capital now flows from community to community and State to State irrespective of political boundaries.

The legislation before us today helps Federal laws keep pace with these

changes. Just as important, it fosters creation of a stronger banking system that is more responsive to the needs of American consumers and businesses alike.

Madam Speaker, 60 million Americans presently live in metropolitan areas that straddle State lines. Four million Americans commute to and from work every day across State lines. Americans take more than 440 million trips between different regions of the country every year.

This bill gives these millions of Americans the freedom to walk into any branch of their bank anywhere in the country and access their bank's complete line of products and services. That is exactly the type of convenience consumers have a right to expect as we move toward the 21st century—and exactly the type of convenience current interstate branching restrictions prevent.

Businesses will also be winners. As a result of this bill, many businesses will be able to reduce the fees and monitoring costs they incur operating their treasury management programs.

Taxpayers will be winners, because banks with branch networks are more resistant to failure than are their less geographically diverse counterparts. By branching, a bank can diversify both its sources of deposits and its assets, and better insulate itself from economic downturns beyond its control.

This bill will also help prevent and ameliorate credit crunches. Geographically diverse banks are better able to weather local and regional downturns without calling loans and turning down creditworthy borrowers.

Lastly, banks will benefit. No other American industry is forced to establish a separate subsidiary in each State in which it does business, and no other industry is restricted by law from expanding its core business across State lines. This bill gives banks the freedom to structure themselves, and to pursue business opportunities, according to business judgment rather than Government dictates.

Madam Speaker, I have looked forward to today for many years, because I believe we are handing the American people a victory by passing this bill. This bill will promote convenience for bank customers. It will enhance the safety and soundness of the banking system and heighten resistance to credit crunches. It will give banks greater operational and organizational flexibility.

I believe these benefits are long overdue. For that reason, I urge my colleagues to join with me in suspending the rules and passing H.R. 3841.

Madam Speaker, I reserve the balance of my time.

□ 1830

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

Mr. NEAL of North Carolina. I yield to the gentleman from Minnesota.

Mr. VENTO. Madam Speaker, I rise in support of this legislation on interstate banking and branching. I want to commend the subcommittee chairman. I think it is time we rationalize this. The issue is noncontroversial. It passed in the committee 50 to 1.

There are a lot of other issues that need to be addressed by the committee. I trust that the chairman will address those consumer issues. He has been very fair. We have a long list, and we hopefully can work out most of that in the near future and satisfy some of the concerns and objections that Members might have, not to the basic legislation, which they have actually voted for, but to the fact that we need to address other concerns.

I want to commend the chairmen, both the gentleman from Texas [Mr. GONZALEZ] and the gentleman from North Carolina [Mr. NEAL] and the ranking members that have worked on this.

It is a compromise that has been around for awhile that we have worked out. It is time to enact it and rationalize the system of interstate banking and branching.

Madam Speaker, I rise in strong support of H.R. 3841, the Interstate Banking Efficiency Act of 1994. This legislation is needed and worthy of our positive action. I would like to recognize the hard work of Chairmen NEAL and GONZALEZ, as well as Congressmen MCCOLLUM and LEACH in bringing this consensus bill to the full House.

Nationwide banking and branching is an issue whose time has come. There is a general consensus that interstate banking and branching translates into savings and efficiencies for the banks; increased competition and opportunities for consumers and increased diversification for insured financial institutions—a crucial safety and soundness factor.

The issue of interstate banking and branching is not new. This is a matter which has been fully debated and voted upon at the subcommittee and full committee levels and here on the floor of the House. In fact, in 1991, the full House of Representatives considered and approved an amendment very similar to the pending bill. That bipartisan compromise amendment, which I crafted with Congressmen BEREUTER, NEAL, WYLIE and GONZALEZ, was adopted by the full House by a vote of 366–4. Unfortunately, interstate banking and branching was not realized because the underlying bill was later defeated.

The bill now pending before us is a balanced approach, which reflects significant compromises and protections for consumers and local communities. The need and correctness of the decision is if any thing more apparent today with the State-by-State regional compacts, the regulatory decisions which extend branching and interstate banking to savings and loans and the creative First Fidelity decision of 30-mile radius.

An important feature of the bill is that it maintains a positive role for the States. Under this bill, States have 3 years to opt-out of the interstate branching network. As an additional protection for States' rights, the legislation specifically protects State deposit caps and applies State consumer protection, fair lending, intrastate branching and community reinvestment laws to branches of out-of-State banks.

Madam Speaker, many of our colleagues were rightly concerned that interstate banking and branching would be a conduit to draw funds out of a State. In this legislation, we are proactive in addressing such possible problems, by providing for State-by-State CRA evaluations and by prohibiting deposit production offices. In fact, the bill provides that if a branch does not provide loans above a certain threshold, the Federal regulator may close that branch and not permit the responsible bank to open a new branch in the State until there are adequate assurances that local credit needs will be met.

As Members, we must also be concerned about the safety and soundness of the Federal Deposit Bank Insurance Fund. Through regional diversification, banks should be stronger and better able to withstand local economic or natural disasters. In addition, H.R. 3841 includes a key safety factor by limiting interstate branching to adequately capitalized and well managed institutions.

I would urge my colleagues to support H.R. 3841. While some counsel delay, I do not believe that delay is warranted or prudent. Today, the profitability of banks and the marketplace are stable. Action on this legislation will send a message to reinforce and enhance the soundness, certainty, and predictability of our national financial institutions' policy path and law.

Madam Speaker, we need the banks to remain an integral part of our financial community. We need these financial institutions to make loans to small businesses, to provide a full range of financial services to our constituents, and to be a leading force in our community. We cannot expect banks to make those positive contributions if we tie their hands to an out-dated banking system. It is appropriate today and necessary to permit banks to effectively compete in our national financial marketplace. H.R. 3841 is an important step in achieving that goal. I urge its adoption.

Mr. NEAL of North Carolina. Madam Speaker, the gentleman has reminded me, I want to point out that this bill passed our subcommittee by a vote of 29 to 0. It passed the full Senate Committee on Banking, Housing and Urban Affairs by a vote of 19 to 0. It passed the full House Committee on Banking, Finance and Urban Affairs by a vote of 50 to 1.

There are extraneous issues, lots of them, that we could add to this bill. But we should not. We ought to deal with this bill as it is and then deal with other issues, which we can certainly do.

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

Mr. NEAL of North Carolina. I yield to the gentleman from New York.

Mr. LAFALCE. Madam Speaker, I rise in support of the legislation. I

commend the chairman of the subcommittee and the chairman of the full committee and the ranking minority members for the fine work they have done.

Madam Speaker, Congress has been dealing with the issue of interstate branching for the past decade. At long last, we finally have the chance to enact legislation on this issue. As Congress has been engaged in endless deliberations, the market has made enormous progress toward forming a nationwide interstate system. Congress now needs to recognize that new reality and pass this legislation.

This legislation is a balanced approach to interstate branching. It reflects the various concerns and perspectives of many of those who have in the past not supported interstate branching legislation. While the banking industry supports this legislation, it should be emphasized this bill would not allow the banking industry total freedom in its branching activities. This bill contains provisions that maintain substantial power with the States, as well as provisions that address the concerns of consumers.

The overwhelming benefits of this interstate branching legislation should be recognized by everyone concerned. First, it will provide a safer and sounder banking system through the benefits of geographic diversification. The benefits of diversification—both geographic and across product lines—have unfortunately not been fully appreciated by the Congress to date. Increased geographic diversification will reduce a bank's exposure to a single regional economy—a problem which has been the source of so many bank failures in recent years. Regional economic downturns need not result in bank failures, which only exacerbate the problems in a local economy.

Second, this interstate legislation will result in increased availability of credit to our communities. When banks are allowed to operate through a more efficient branching structure, they are relieved of the burden of expending valuable capital on establishing separate banks in individual States. The resources once wasted on duplicative corporate structures can now be used to make more loans.

With respect to some of the concerns often expressed by consumers, the bill is very strong. Concerns have often been expressed that States currently exercising authority over banks operating within their borders would lose that authority if these banks were converted into branches. This issue is addressed very specifically in the bill. Under the bill, interstate branches are subject to the laws of the host State with respect to intrastate branching, consumer protection, fair lending and community reinvestment as if the branch were a branch of a bank chartered by that State. States also retain their current taxing authority.

The bill also contains provisions to ensure that CRA evaluations done on large banking organizations with interstate branching networks provide sufficiently detailed information about the adequacy of lending done in specific States and regions within those States. The bill requires that in addition to a CRA evaluation of the entire institution's CRA performance, bank regulators would also be required to do evaluations of a bank's CRA performance in each State, each metropolitan area, and the nonmetropolitan portions of the State.

The bill also addresses another concern of many consumer groups—that interstate branching would enable large banking organizations to use their branching structure to siphon deposits out of local communities to be lent out elsewhere. The bill would severely restrict the ability of banks to engage in this type of activity.

I want to emphasize the larger issue of benefits to consumers. We are all consumers of financial services. A more efficient, more competitive banking system provides the best assurance of providing all consumers with a broad array of financial services at reasonable prices. We also need to realize that corporations and smaller firms are also consumers of financial services and that they would benefit from a more efficient financial system, resulting in higher levels of economic growth and more jobs.

As important as it is to eliminate interstate branching restrictions, we must recognize that doing so will not be sufficient to make our banking industry fully competitive—on either a national or an international level. In addition to the geographic diversification that this bill will allow, we also need diversification across product lines. This was the conclusion of my Task Force Report on the "International Competitiveness of U.S. Financial Institutions" completed in 1990. It remains valid today. Nevertheless, passage of interstate branching legislation is an essential first step.

Our banking industry is experiencing what has been referred to as a "secular decline." In addition to the role played by the inefficiencies of current interstate branching restrictions, this decline can be attributed to the fact that the banking franchise in the United States is too narrow. The banking charter is overly restrictive in comparison to both the array of financing options available in the market from nonbank financial institutions, and the changing shape of consumer needs. The result is that banking has become a much riskier business as banks have concentrated their portfolios in certain types of lending and in certain regions of the country.

Banks are prevented by law from offering the full array of financial products their customers demand. After losing many of their best corporate customers to the commercial paper market in the early 1980's because of these legal restrictions, too many banks were inclined to replace that business with what were often much riskier loans, leading eventually to large loan losses and bank failures.

The recent protracted credit crunch is simply one installment of the price we will pay if we allow the decline of our banking industry to continue. Unless the banking charter is expanded, credit availability problems will continue to plague us in the future.

In order to make credit available to a full range of customers including small businesses, our banks must be sufficiently diversified—geographically and across product lines—to be profitable and avoid losses.

During the 1980's, our banks were prevented by law from attaining such diversification, and the results were disastrous—both for the banks that failed as a result of overexposure to certain regions of the country and certain industries, and for the economies whose economic hardship was further exacerbated by lack of credit. If we fail to learn the lessons of our mistakes, we are bound to repeat them.

Finally, I want to emphasize the fundamental connection between the strength and competitiveness of our banking industry and the strength and competitiveness of our economy. Put very simply, the cost of maintaining restrictive legislation which prevents banks from operating most efficiently is slower economic growth and fewer jobs. While many large companies can access the capital markets to meet their financing needs, small businesses often rely exclusively on bank financing. Consequently, the major impact of our outdated banking laws falls on small firms—those very firms which provide the engine of growth for our economy.

This legislation is long overdue and I urge its passage. It is the first step in the reforms that are necessary if our banking system is to serve the interests of economic growth and job creation.

Mr. NEAL of North Carolina. Madam Speaker, I reserve the balance of my time.

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

I would just like to take a moment to say a couple of things that I think are very, very important.

First of all, I need to join with the gentleman from North Carolina [Mr. NEAL] in congratulating the gentlewoman from New Jersey [Mrs. ROUKEMA] for her work on this bill. Of course, the gentleman from North Carolina [Mr. NEAL] for his work and both the gentleman from Texas [Mr. GONZALEZ] and the ranking minority member, the gentleman from Iowa [Mr. LEACH], who have worked very, very hard on this and other issues that have come before our committee.

I do not say that lightly. Their work has been instructive for many of us and certainly beneficial for our entire Nation.

Interstate banking, for the record, is long overdue and much-needed legislation, because it essentially frees in many respects our Nation's financial institutions to be competitive and to have some sense of purpose. It gives banks the kind of organizational and operational flexibility that is so very, very desperately needed.

Madam Speaker, I voted for this bill in subcommittee. I voted for it in the full committee. I thought it was important that we have it here on the floor. And important also, quite frankly, that it passed.

As members of the Committee on Banking, Finance and Urban Affairs know, I offered during markup, in conjunction with the gentleman from Massachusetts [Mr. KENNEDY] and the gentleman from Maryland [Mr. WYNN], an amendment that would have substantially brought consumer rights into this legislation in a way that I think clearly would benefit those persons in our community who needs banks, who banks service and who have put their deposit there and their faith, quite

frankly, in banks, in whose communities banks sit and who have a right to believe that the consumer has some importance in this.

That particular amendment was voted down. The last time we visited this legislation beforehand, it passed. And so I guess, depending on what day it is and what the dynamic or dynamism is within the committee, it is pretty had to determine what will happen.

But what did happen was a commitment from me to bring this legislation or this amendment to the floor so that the full House might have an opportunity to be on the record with respect to this very important consumer issue.

Unfortunately, this bill is being brought up under Suspension of the Rules, which does not allow, then, for that amendment to be offered.

I regret that. I think in some respects, while we all want interstate banking and branching to pass, have done a disservice to the full membership of this body, many of whom want the right to be able to vote on such a consumer amendment, all of whom certainly ought to have the right to do that.

So we find ourselves, as we do in this kind of dichotomy, where we believe, as members of the Committee on Banking, Finance and Urban Affairs, in this legislation and the importance of it. And we have been prepared over and over again to stand up for it, while at the same time coming to grips with the very basic reality.

The reality is that we have not done all for consumers in this bill that we could do and that once we pass this particular bill, it is gone. There is no chance to come back and, in my opinion at least, and do what we have the opportunity to do now or certainly what we would have had the opportunity to do had this bill not been brought up under Suspension.

I regret that. Inasmuch as I want it to be enacted, I would not be able to sleep at night knowing that I had walked away from my commitment to consumers, to people all across this Nation who have every right to believe that their rights and their particular interests are reflected in this very important bill.

For that reason, I will oppose this legislation, not because I do not believe in it, but because I believe more in the need for us to reflect in the legislation that we pass at least some sense of the needs of consumers in this country who do not have a voice in this body and certainly, because we are voting tonight under Suspensions, will not have a voice in this process.

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

Mr. MFUME. I yield to the gentleman from Maryland.

Mr. HOYER. Madam Speaker, I thank the gentleman for yielding to me, and I appreciate his position.

I rise in very strong support of this legislation, congratulate the chairman and the ranking members for their work on this.

Madam Speaker, I rise in support of H.R. 3841, the Interstate Banking Efficiency Act. The bill before us today is the product of considerable work by the banking community and Congress.

For too many years the issue of interstate branching when unresolved as a number of smaller issues sidetracked it. However, today, under the suspension of the rules, we are able to vote on what has always been the central issue for interstate banking: whether interstate branching would be permitted. And whether, by extension, our country would move forward to reduce the often duplicative regulatory requirements placed on interstate banks.

If we pass this bill, we will permit interstate branching and allow some of our country's largest banks to consolidate their operations and improve their efficiency. Why is this important?

Every dollar the bank ties up in regulatory capital requirements, or pays in administrative costs, is a dollar that cannot be loaned to a small business which wants to expand its operations; or to a family which is paying for a child's college education. The interstate banking legislation will make interstate banks more competitive and will allow them to make more money available to communities and families.

I recognize the concerns which many smaller independent banks raised over this legislation. For that reason, I am also pleased the bill before us today includes important provisions allowing States to "opt out" of interstate banking and branching. The bill also restricts larger interstate banks to a percentage of the deposits they can control nationwide and within a particular State.

I urge my colleagues to support this legislation. Vote for H.R. 3841, and free banks to invest more of their money in the businesses and individuals who drive economic growth.

Mr. NEAL of North Carolina. Madam Speaker, I yield 2 minutes to the gentlewoman from New Jersey [Mrs. ROUKEMA], who has been a real leader on this issue.

Mrs. ROUKEMA. Madam Speaker, I rise in strong support of H.R. 3841, the Interstate Banking Efficiency Act of 1994.

As a long and energetic supporter of interstate banking and branching, I believe this legislation represents the best compromise on the important issues of interstate banking and branching that we have achieved in several years.

H.R. 3841 was adopted by the Banking Committee several weeks ago by an overwhelming vote of 50 to 1.

Under this legislation: Interstate banking can take place after 1 year; full nationwide branching will go into effect within 3 years, and States rights are protected by giving them an option to opt out if they do not support branching as well as clarifying State authority to tax bank affiliates.

This interstate banking and branching bill, more than any other provisions we have adopted over the past few years, will help enhance competitiveness among our banks.

Interstate banking and branching will help make banks safer through geographic diversification by allowing banks to diversify their loan portfolios and lessen their exposure to swings in regional economies.

Interstate branching will make banks more efficient through substantially reduced operating costs because it will be less costly to operate branches than to maintain separate banks.

This provision will also increase competition which will benefit consumers by providing more competitors in the marketplace and thereby making more bank products available and raising the probability that banking services will become less expensive.

During the full Banking Committee markup, a managers amendment was offered which addressed several concerns relating to CRA performance, State law-enforcement rights, and branch closing procedures.

Madam Speaker, my colleagues should realize that too much work went into this bill and too much is at stake with the future of the Nation's banking industry.

Interstate banking and branching is a must do and I urge passage of H.R. 3841.

□ 1840

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

Mr. NEAL of North Carolina. Madam Speaker, I yield 1 minute to the distinguished gentleman from Nebraska [Mr. HOAGLAND], who has always been a longtime worker in the vineyards.

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

Madam Speaker, I want to join with my thanks to the chairman of the full committee, the gentleman from Texas [Mr. GONZALEZ] and the chairman of the subcommittee, the gentleman from North Carolina [Mr. NEAL] and my colleagues on the Committee on Banking, Finance and Urban Affairs for finally having brought to rest this very difficult issue and controversy.

For decades now our banking system has been laboring under excessively restrictive banking and branching statutes. Through the years many thousands of individuals through the country have worked to reform these restrictions and rationalize our banking structure, but as has been said previously, this issue has often been caught up in extraneous issues that have prevented us from getting to the heart of the interstate branching and banking issue and bringing it to closure. We are able to do this this month and this session.

Often it is said that Congress largely ratifies the changes that have already

taken place, but that is only partially the case here. It is true that an awful lot of changes have taken place in the decade since these restrictions were first enacted, that have had the tendency to break down these restrictions, but also all sorts of new services and new activities will be allowed once this legislation passes.

Those new services and new activities are going to make the banking system we have in America more competitive, and ultimately affect our economy very much, to the benefit of all of us, and I am delighted we are finally getting this done this session. Once again, I would like to congratulate those responsible.

Mr. MFUME. Madam Speaker, I yield 4 minutes to the gentleman from Massachusetts [Mr. KENNEDY].

Mr. KENNEDY. Madam Speaker, I have always been a supporter of the interstate banking bill, and hope that we can find a way to make this bill work on behalf of all the consumers of our country.

This bill, I believe, however, contains a major weakness. There is nothing in it to ensure that the benefits of interstate banking are felt by all consumers, including those who live in our rural communities and our inner cities.

In the last several years, as banks have increasingly crossed State lines, we have witnessed a disturbing trend. Banks have gone into new communities, taken in hundreds of millions of dollars worth of deposits, but little, if anything, is then provided to the local community in the form of credit.

Madam Speaker, the fact is that if we are serious about providing credit to the American people, then I think we ought to commit ourselves to three basic, modest provisions that would allow this bill to be not only a good bill for those in wealthier communities, but a good bill for those in rural communities and in our inner cities.

Madam Speaker, I want to commend the chairman of our committee, the gentleman from Texas [Mr. GONZALEZ], who has always supported the concept of asking for some consumer protections when we are providing banks with new powers. I think it would be a sad day for the Congress to begin a process of allowing the banks to get new powers without having to provide some basic consumer protection.

Madam Speaker, I know the gentleman from North Carolina [Mr. NEAL] has always been a strong supporter, not only of new powers, but also of the notion of looking out for the American consumer. However, the provisions that the gentleman from Maryland [Mr. MFUME] and myself, and the other gentleman from Maryland [Mr. WYNN] and the gentlewoman from California [Ms. WATERS] supported in the committee were provisions that have passed the full Committee on Banking, Finance and Urban Affairs in the past. In the past, the bills that provided for interstate powers, the bills always contained the three provisions that were in this amendment.

That is, first and foremost, that lenders demonstrate how they will meet the credit needs of lower- and moderate-income consumers in the areas where they wish to open a branch; second, that lenders not be allowed to branch across State lines if they have a demonstrated pattern of closing branches in low- and moderate-income areas; and, third, that the biggest banks report information on loans to small businesses, including minority-owned businesses, so that those small businesses will not be discriminated against.

Madam Speaker, I ask the Congress to consider supporting these provisions in this legislation. The fact is that if we have a bill that provides these new powers, and we provide at the same time these consumer protections, I think we will have passed good, forward-looking legislation that will have the best interests of not just the wealthier communities, but the best interests of all the communities in our country in mind.

Madam Speaker, this is not, as I say, legislation that deals with just minority communities. This is legislation, as the gentleman from Nebraska [Mr. BEREUTER]. a member of our committee, indicated the other day, that is critically important to the rural communities of our country.

Madam Speaker, I would hope that we could ask Congress to consider including these three provisions as we look forward to supporting interstate banking. Again, Madam Speaker, I want to congratulate the gentleman from Texas [Mr. GONZALEZ] and the gentleman from North Carolina [Mr. NEAL] on a job well done, and I hope that we can find a way to look out after the interests of all the consumers in our country at the same time.

Mr. NEAL of North Carolina. Madam Speaker, would the gentleman from Maryland [Mr. MFUME] yield time to me to discuss some of these matters? I have a number of Members who want to speak, and if the gentleman has enough time, I would request that he yield me 4 minutes.

Mr. MFUME. Madam Speaker, I am happy to yield 4 minutes to the gentleman from North Carolina.

Mr. NEAL of North Carolina. Madam Speaker, I just want to point out that the bill, H.R. 3841, already contains many important consumer provisions.

It preserves State branching, consumer protection, fair lending, and community reinvestment laws as they apply to interstate branches.

In a February 22 letter to Senate Banking Committee Chairman DONALD RIEGLE, consumer groups praised H.R. 3841's applicable State law provision, noting that the "legislation in the House, now pending before the Banking Committee, contains the safeguards consumers need and have come to expect in the marketplace."

It requires a State-by-State application of the Community Reinvestment Act. H.R. 3841 would require that each State-by-State CRA evaluation of an interstate bank be further subdivided to report on the bank's CRA performance in each metropolitan area in which it maintains branches, and in the nonmetropolitan portions of a State if the bank maintains branches in nonmetropolitan areas.

The bill requires forward commitments for interstate consolidations which would recapture some of the banks' savings from consolidations for local communities. The bill requires a bank that plans to consolidate multistate groups of banks into a single network of branches to submit a plan to meet local credit needs.

The bill prohibits deposit production offices by taking steps to ensure that interstate branching will not lead to the siphoning of deposits out of communities.

The bill would ensure that State law enforcement officers as well as State banking supervisors may enforce applicable State laws on in-State branches of out-of-State State banks.

In addition, the Banking Committee adopted an amendment that requires Federal bank regulators, in acting on bank applications to branch interstate, to review the CRA performance of all bank affiliates of the applicant bank, and not just the CRA rating of the applicant bank.

Another amendment, authored by the gentlewoman from California [Ms. WATERS] and adopted by the Banking Committee, requires Federal regulators to convene meetings of community leaders, depository institutions, and other interested parties to explore ways of replacing a branch that is closing with adequate alternative facilities and services.

In sum, I would say to my friends, the bill already contains many worthwhile consumer provisions. I believe this is a fair and balanced bill.

□ 1850

That is not to say ever that we have done enough. My friends from Massachusetts and Maryland have been leaders in looking out for the interests of the consumers of this country, low- and moderate-income people. I hope to be able to continue to work with them. I have supported many of their ideas. I am happy to hold hearings when we can on ideas that will improve our system.

Mr. MFUME. Madam Speaker, will the gentleman yield on that point?

Mr. NEAL of North Carolina. I am happy to yield to the gentleman from Maryland.

Mr. MFUME. Madam Speaker, I appreciate the gentleman's sincerity.

There are, however, three issues that were never resolved by this bill and that have brought us to this point of opposition. The first was that lenders demonstrate how they will meet the credit needs of low-income and moderate consumers in rural areas as well as in inner-city areas. And I would like to get the gentleman to respond to that. I mean is the gentleman prepared to hold hearings in that regard for the purposes of passing legislation?

Mr. NEAL of North Carolina. Honestly, I will say to the gentleman, and maybe this will answer all of the questions, if there is any evidence that our banking system is flawed and not serving the American public the way it should, I want us to look into it. So I would love to look into this issue, and perhaps the gentleman will bring up some others.

Mr. MFUME. If I might just continue, the second issue was that lenders not be allowed to branch across State lines if they have a demonstrated pattern of closing branches in rural areas and in low- and moderate-income areas.

Mr. NEAL of North Carolina. That is an issue that goes to the bill. Personally, I do not think that it is fair to apply a consumer provision to one small group of banks. If something is a good idea in terms of consumer provisions, it ought to be applied to all banks.

Personally, I see this legislation as in the interest of consumers. This is a branch opening bill.

This will provide more services to the American people. So when we are talking about doing something that will limit interstate branching, I personally do not think that it is in the public interest.

Mr. MFUME. This is where the gentleman and I have a disagreement, because I think if something is bad, and if we agree that it is bad, and closing banks clearly is bad in rural communities and in low-income communities who do not have access, then I cannot bring myself to say OK, for the purposes of just moving forward with this legislation I am going to go ahead with it. It is still bad.

Mr. NEAL of North Carolina. I had forgotten about the Waters amendment. I mentioned it earlier, but let me mention again the Waters amendment which we adopted in the committee, which requires Federal regulators to convene meetings of community leaders, depository institutions and other interested parties to explore ways of replacing a branch that is closing with adequate facilities to replace it. I think that speaks somewhat to what the gentleman had in mind. I am not sure it answers everything.

Mr. MFUME. Would the gentleman be willing to revisit this whole matter after we have had an opportunity to see what has taken place over 6 months or 12 months, to ascertain whether or not in fact there is a pattern of closing branches in rural areas and in low-income areas?

Mr. NEAL of North Carolina. Yes; I would be happy to.

Mr. KENNEDY. Madam Speaker, will the gentleman yield on that point?

Mr. NEAL of North Carolina. I yield to the gentleman from Massachusetts.

Mr. KENNEDY. Madam Speaker, I would just like to make the point that we do note this is not an issue which needs further study. The fact is we can look at a HMDA here and an HMDA there, but all you have to do is drive to the rural areas of the country, or drive to any rural areas of America where they are particularly brown or black communities and determine that there have been an enormous amount of branch closings. And the fact is that the last thing it seems to me that is required is further study. There are provisions in the legislation that talk about regulators ought to consider these issues. Considering these issues by legislators gets us absolutely nothing. These are regulators that in the past telegraphed these studies and told the banks to prepare their PR machines in order to deal with the damaging reports that indicate that you are three times more likely to be turned down for a home mortgage loan because the color of your skin is black or brown versus if it is white, coming from the same neighborhoods with the same income levels.

So I do not think we ought to be talking about further studies on this issue. The fact is that for the first time we are going to be bestowing upon the banks new powers, and we are not going to be asking the banks to meet the credit needs of the local communities. And that is exactly what the trigger mechanism that is built into the Community Reinvestment Act calls for, that when banks seek new powers, they must in fact have demonstrated creditworthiness to all of the people that they serve in their community or they are denied those powers. And that is what we are talking about trying to include in this legislation. And I think it would be a real mistake to get into a posture where we talk about further study if in fact we are going to be bestowing these new powers.

Mr. MFUME. If the gentleman will yield further, I assume then the gentleman from Massachusetts is in opposition to the bill?

Mr. KENNEDY. The gentleman knows how I feel about that. I have struggled with this issue, and the more we talk the more I am going to vote against this bill.

But we will see how we do at the end of the discussion.

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

Mr. NEAL of North Carolina. Madam Speaker, I yield 2 minutes to the gentleman from Iowa [Mr. LEACH].

Mr. LEACH. Madam Speaker, first let me just congratulate particularly the chairman of the subcommittee of jurisdiction, the gentleman from North Carolina [Mr. NEAL]. This is a crowning achievement in his glorious career here. Also I want to congratulate my ranking member of the subcommittee, the gentleman from Florida [Mr. MCCOLLUM]. As people may not know, on the Committee on Banking, Finance and Urban Affairs, I am somewhat reluctant about this approach, but I am kind of a 19th century mentality when it comes to some aspects of banking, and this is a 21st century bill. In any case, there are a lot of changes that have occurred in the banking system both in terms of law as well as in picture, and it is probably about the appropriate time for Congress to recognize that these changes are taking place.

Let me just say from a consumer point of view, I am pleased that the leaders on this particular issue have included a provision that I have long been identified with, and that is a prohibition against what I call deposit production offices to ensure that larger interstate banks simply do not go into States and try to sweep deposits without a concomitant loan obligation in the areas in which those offices might be.

This section requires a branch, owned by an out-of-State bank, to make at least 50 percent of the loans that its in-State peers are making, in the host State. If the number of loans falls below this level, the branch has to be closed. In order to reopen the branch, or establish a new branch, the institution must give reasonable assurances that it will comply with the provision.

Despite this, I am troubled that the bill in its present form, without the inclusion of more prudential capital standards, will propel further consolidation of the banking industry without due regard to safety and soundness concerns and at the expense of competitive equity within the banking industry.

During full committee consideration, I unsuccessfully offered an amendment that would have statutorily required all banks to be well capitalized before engaging in interstate banking, branching, and consolidation.

The bill as reported by the committee only requires banks that engage in interstate branching to be adequately capitalized. With respect to full nationwide banking, and consolidation of existing interstate banks, the bill imposes no statutory capital requirements.

A number of recent Government reports and studies support the goal of my amendment. The GAO, in its November, 1993 report to the committee, suggested that "permitting interstate banking and branching for well-capitalized, well-managed banks could po-

tentially benefit regulation and the Bank Insurance Fund."

In addition, last year I asked the Federal Reserve Board to conduct a study of capital levels in State versus national banks. The report demonstrated that, on average, State banks with assets from $300 million to $10 billion have higher leverage ratios than national banks. The Board's report indicates that currently 4,663 State banks are now subject to higher capital standards than the Federal level. This represents approximately 60 percent of all State-chartered banks.

One of the extraordinary things happening in banking today is not only the consolidation of the industry, but the fact that this consolidation is occurring with banks with less capital taking over better capitalized banks, using techniques which reduce rather than increase the amount of capital in the system.

The amendment offered in committee would have required banks that wish to acquire banks across State lines to meet a well-capitalized standard, which today is modestly set at a 5-percent leverage ratio. Of the top 25 banks in the United States by asset size, at most only 2 of these banks would not meet this standard based on statistics from the third quarter of 1993.

The public has an interest in having a well-capitalized banking industry, both to ensure the safety and soundness of the financial system and the adequacy of resources to make entrepreneurial loans. Banks simply will not make entrepreneurial loans unless they have sufficient capital to take risks. The more the capital base of a financial institution is reduced, the less likely it is to support a growth-oriented economy.

In conclusion, the U.S. banking system is on the brink of becoming the strongest in the world, but the Congress should take care not to jeopardize the stability and strength of the financial system by refraining to adopt standards which would prevent capital flowing out of the system.

I think regulators have to be put on guard that they have a very large responsibility to make sure that this change neither jeopardizes the safety and soundness of the system nor leads to a circumstance where industrial and commercial lending is given a back seat. So let me congratulate the progressives and suggest with some reluctance I am being brought along.

Mr. MFUME. Madam Speaker, I yield myself such time as I might consume to just make a couple of other points. Again, I am going to go back to what was spoken last in the remarks of one who has spoken tonight. We all understand how important this legislation is. We all have worked very, very hard in the Committee on Banking, Finance and Urban Affairs to get it to this point. The work of Chairman NEAL, and the gentlewoman from New Jersey [Mrs. ROUKEMA], the gentleman from Iowa [Mr. LEACH], and the gentleman from Texas [Mr. GONZALEZ] has been reflected in my own remarks, and I think the appreciation is broad based.

□ 1900

I am here in opposition this evening because, on a matter of principle, I think it is important to speak for the consumer.

I recognize that the votes are not there to defeat the legislation, but I recognize also that if I did not stand in opposition, this argument would never be made. We would have gone beyond this and passed the bill on suspension, and while many of the Members who are cosigners and supporters of this amendment will probably also vote for it, and I understand that, it is important that these arguments be made, and in the absence of them being made, I again say that we do a disservice to consumers across this Nation.

There are a lot of good things in this bill. I have worked to put a lot of them in. Other Members have done that, and we have done it as a committee, in a bipartisan way, I might add, but the argument today about needing to do more is an argument that must be made, and that is why I am standing to make it.

Madam Speaker, I yield 1 minute to the gentleman from Florida (Mr. MCCOLLUM).

Mr. MCCOLLUM. Madam Speaker, I thank the gentleman for yielding me this time.

Madam Speaker, I appreciate his giving me the time simply to compliment everyone on this bill.

I have been the ranking member on this subcommittee and worked with the gentleman from North Carolina [Mr. NEAL] throughout the process. I got delayed from coming down here because of a Rules hearing a few minutes ago.

But I think that this is one of the most significant pieces of legislation this Congress will pass, and certainly it is one of the most significant pieces of legislation in the years that I have been here for Banking. We are now finally opening the door to interstate banking. We are going to give the opportunity for branching and for the combination of efficiency that is going to occur across State lines for banks that own branches in other States, and I think it is being done in a very orderly, methodical fashion.

We have not attached a lot of other things. It does not have products and services on it, and while I respect some of the debate here today of the concerns that several have over matters of community reinvestment and importance to the minority community, the key thing I wanted to talk about, and I appreciate the gentleman yielding to me to do, is simply to emphasize the overall importance of this bill to the economy of this country, to the banking community, to the citizenry of this country, and I think that it is a critical, critical bill that is being debated for a very short time.

I urge its passage.

Mr. NEAL of North Carolina. Madam Speaker, I yield 1 minute to the gentleman from Nebraska [Mr. BEREUTER] the senior member of the committee.

Mr. MFUME. Madam Speaker, I yield 1 minute to the gentleman from Nebraska [Mr. BEREUTER].

The SPEAKER pro tempore. The gentleman from Nebraska [Mr. BEREUTER] is recognized for 2 minutes.

Mr. BEREUTER. Madam Speaker, I thank the gentleman for yielding me this time.

Madam Speaker, I do rise in support of the legislation. I compliment the gentleman from North Carolina [Mr. NEAL] and the gentleman from Florida [Mr. MCCOLLUM] and the other members of the committee for their excellent work on this legislation.

I am particularly appreciative of the fact that they have picked up the opt-out provisions for interstate branching.

This is legislation that I proposed in the previous Congress. The gentleman from Minnesota [Mr. VENTO] joined me in that, and we had a particular provision subject to a vote on the House floor. It passed by a very large margin.

It makes it possible for many States to be supportive and legislators from those States to be supportive of this legislation. It gives those legislatures an opportunity to opt out, to take themselves out of this interstate branching arrangement if they choose to.

Now, I do not expect them to do that in large numbers, if any in fact do, but that option is maintained, and that is an important States rights issue.

I must express my concern yet that we may have an opportunity for too many decisions and too much of a community's resources to be drained from some rural areas and from some low-income urban areas.

There were some provisions added that were authorized by the gentlewoman from California [Mrs. WATERS], for example, that were accepted with the blessing of the chairman and the minority members. That is an important step in the right direction.

But it is time to modernize our banking legislation. We are in a disadvantageous position in this country with respect to banking in many other parts of the world. It is time to modernize. It is time to update.

I compliment the chairman and all Members who have participated in this arrangement.

Like the gentleman from Iowa [Mr. LEACH] I would have preferred higher capitalization levels. We fought the good fight, and we did not win on those issues. And this legislation, nevertheless, merits approval.

Mr. MFUME. Madam Speaker, I yield 1 minute to the gentleman from New York [Mr. SCHUMER].

Mr. SCHUMER. Madam Speaker, I thank the gentleman for yielding.

The gentleman from Maryland knows that while I am very sympathetic to where he is coming from, I am in support of the legislation.

Let me say two things, Madam Speaker, No. 1, it is about time we did this. It is just long overdue. If America is going to have a banking system that can compete internationally, we should have interstate banking now. We should have had it 10 years ago, and there is no economic argument to stand in the way. It is pro-consumer to have interstate banking, because you have more banks competing. It is pro-America to have interstate banking, because our banks will be stronger and compete internationally, and it will also bring about the kind of strengthening of the banking system, which I believe is rather weak, that we so desperately need.

I would say to my colleague, the gentleman from Maryland, and my colleague, the gentleman from Massachusetts, I appreciate the valiant fight they are making, and I am very sympathetic and have always supported the type of legislation they are offering.

But we have been through this time and time again. Every time we try to add one thing onto the bill, then other and other and other things happen, and nothing gets passed. We have to pass this bill plain.

I urge a "yes" vote.

Mr. NEAL of North Carolina. Madam Speaker, I yield 1 minute to the gentleman from Alabama [Mr. BACHUS].

Mr. BACHUS of Alabama. Madam Speaker, I rise in strong support of the Interstate Banking Efficiency Act.

Madam Speaker, I would like to commend the distinguished chairman of the subcommittee, Mr. NEAL, and the distinguished ranking member, Mr. MCCOLLUM, for all their hard work on this legislation. I am pleased to join my colleagues on the House Banking Committee in support of H.R. 3841, the Interstate Banking Efficiency Act.

This landmark legislation will lead to greater efficiency within the banking system while enabling customers to benefit from a wide variety of banking services at financial institutions across the country. When this legislation is fully enacted, residents of Alabama will be able to make a deposit at their bank in Florida or cash a check at their bank, hassle-free, in California.

In our mobile society with citizens routinely travelling across our Nation, this type of service has become a necessity.

As reported by the committee on March 9, H.R. 3841 will permit interstate banking after 1 year, consolidation of existing subsidiaries after 18 months, and full interstate branching by national and state-chartered institutions after 3 years.

Additionally, I am pleased my legislative language relating to accommodation services arrangements was incorporated in the bill. Under this arrangement, banks owned by the same holding company could act as agents for one another in offering banking services. This arrangement will provide holding companies such as SouthTrust Bank of Birmingham, AL, the alternative of retaining separately banks in each State or in each community within a State, with directors drawn from the local community, and yet still avail themselves of some of the advantages of interstate banking.

In particular, this provision would permit each local bank to have local directors, require that each local bank be subject to separate examination of safety and soundness, consumer compliance, and CRA compliance, and require that each local bank be subject to separate capitalization.

In my opinion, it makes good sense to permit these affiliated banks the alternative of maintaining a separate corporate existence and handling certain interstate transactions as agents for each other, such as receipt of deposits, renewal of time deposits, closing of loans, disbursement of loan proceeds, and receipt of loan and other payments.

I look forward to working with my colleagues in the Senate in sending an interstate banking bill to the President at the earliest opportunity.

Mr. MFUME. Madam Speaker, I yield 1 minute to the gentleman from Massachusetts [Mr. KENNEDY].

Mr. KENNEDY. Madam Speaker, in closing, I just have heard all the arguments. I understand all of the wonderful benefits that interstate banking is going to provide, and to those of you that say we ought to go ahead and do interstate because it is time for interstate to happen, I say yes, it is time for interstate to happen. But it is time for interstate to happen for all the people of this country.

What we will do today is set a precedent of providing banks with powers. We are not asking the consumers to be protected. The poor people of this country, people of color in America have not been well served by the banks of our Nation, and we ought to be providing those individuals that have been denied credit, been denied their access to the American dream simply because of the color of their skin, because they cannot walk into a bank in this country and get a home mortgage or get a small-business loan to say, "Enough is enough," and we expect banks that have acute records of disregard for people of color to not get new powers.

We expect credit to be provided in the communities that they are going to purchase new banks in, and we expect we can learn these statistics on race for the loans that they make to small businesses.

I urge a "no" vote on this bill.

Mr. MFUME. Madam Speaker, I yield myself the balance of my time.

Madam Speaker, let me just say a couple of things in closing. First of all, I think this debate was necessary and important, because it highlights for many of us the need to be able to speak out on behalf of the American consumer in such a way that we elevate in this debate those concerns.

Second, it is also important that we understand, I think, that being in opposition to the process is not necessarily being in opposition to the bill. We believe, and have worked on this bill, for a long time, but the process, we believe, is flawed.

We believe also that the consumer of this Nation has been left out of this debate, and so whether we are talking about inner-city America or rural America or small businesses or minority businesses, I have offered in committee and have made this debate today to try to drive home the point that as we do what we do, we must also be mindful in the process of the people who are affected most.

I appreciate the gentleman from North Carolina and his arguments and certainly those who have been supportive, but I appreciate more the benefit of making this argument so that the American people will have an opportunity to understand there is a desperate need to keep consumers in legislation.

□ 1910

Mr. NEAL of North Carolina. Madam Speaker, I would point out there are a number of important consumer protections for less-advantaged people in the bill. There is a number of consumer benefits for all Americans in the bill; there is a number of benefits for business in the bill. Taxpayers come out way ahead because it reduces the likelihood that banks will get in trouble. Credit crunches will not occur as often because geographically strong banks will not be dependent on one part of the country. Banks will benefit, everyone benefits from this legislation.

We have known it for about 10 years; this should have passed years ago. It has always failed because of someone's idea of just something else we could add to it, some little thing would make it different or make it better. This is the best we could do. I am happy to look at other issues at any time, but this is very much in the American interest, and I urge my colleagues to pass this very good bill.

The SPEAKER pro tempore (Ms. ESHOO). The time of the gentleman from North Carolina [Mr. NEAL] expired.

Mr. MFUME. Madam Speaker, I ask unanimous consent that the gentleman have an additional 30 seconds.

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

There was no objection.

Mr. NEAL of North Carolina. Madam Speaker, I yield to the gentleman from Maryland.

Mr. MFUME. Madam Speaker, do I still understand, as we close the date, the willingness of the gentleman to revisit in the form of hearings many of the concerns that I and Mr. WYNN and Mr. KENNEDY have tried to articulate in the amendments we offered previously?

Mr. NEAL of North Carolina. I said before, I do not want to say that I am going to go back and try to change the interstate banking legislation because that is not what we are about, but in terms of trying to improve the American banking system insomuch as I can help with that, I will try at any time. If that is not adequate, I can expand upon it. But I want the system to work for all Americans.

Mr. MFUME. We do too, and I thank the gentleman for his comments.

Mr. NEAL of North Carolina. We will try to help you.

Mr. FAZIO. Madam Speaker, I rise in strong support of H.R. 3841, the Interstate Banking Efficiency Act. This legislation is a critical component of our efforts to keep the national economic recovery moving forward.

Our Nation's bank regulatory system is riddled with cumbersome organizational requirements for interstate banking activities which add significant costs to banks that operate in more than one State. Today, 174 multistate bank holding companies are required to set up separate and distinct organizational structures for each State in which they operate. They must have their own executives and boards of directors, undergo separate examinations and audits, receive separate ratings and maintain separate capital reserves. These organizational arrangements are required even if the bank affiliates are operating essentially as branches. Clearly, these requirements are an administrative burden which carries a heavy price in overhead.

H.R. 3841 seeks to rationalize interstate banking and branching regulations to eliminate unnecessary administrative requirements without compromising the safety and soundness of our Nation's financial institutions. H.R. 3841 will streamline these regulatory burdens by enabling banks to own branches and provide banking services across State boundaries without having to establish separately capitalized and organized banks in each State as is required under current law.

The major benefit of this legislation is that it will free up approximately $1 billion annually in capital that the banking industry now spends on administrative overhead costs. This is $1 billion that can be used to make loans. Projections suggest that this new loan making capability could pump $10 billion into the economy on an annual basis in the form of loans to small businesses, real estate ventures, or capital improvements—all of which are key to keeping our economy moving forward.

Interstate banking and branching are long overdue. This bill is important to improving the efficiency and competitiveness of our financial institutions. Further, the bill will provide an economic stimulus to our country's capital markets. The time has come to make interstate banking and branching a reality. I encourage my colleagues to support H.R. 3841.

Mr. CASTLE. Madam Speaker, I rise in support of H.R. 3841. While I have reservations over considering legislation of this importance under suspension of the rules, I believe the time for interstate banking and branching has come and the House should act on the bill.

I am concerned that our States should have adequate time to decide if they want to participate in interstate branching. As Chairman NEAL knows, I believe that States should have a 3-year period before interstate branching through consolidation of subsidiaries is permitted. While the bill has a 3-year waiting period for regular branching, it would allow subsidiaries of bank holding companies to be converted into branches after 18 months. Congressman CRAIG THOMAS and I offered an amendment in committee to equalize the time period for branching and consolidation.

I would have liked to have the full House consider this issue, but to enable the interstate bill to move forward, I am not contesting the consideration of the bill under suspension of the rules. Chairman GONZALEZ and Mr. LEACH agree with my view of the consolidation issue and I hope Chairman NEAL will remain open to discussion on this issue when the bill goes to conference.

I want to thank Chairman GONZALEZ, Chairman NEAL of the subcommittee and Mr. LEACH and Mr. MCCOLLUM for working with me to clarify the bill's language relating to a State's tax authority. The bill and report protect a State's authority to tax the affiliates of banks and bank holding companies. I appreciate my colleagues' cooperation on this important issue. I support approval of H.R. 3841.

The SPEAKER pro tempore (Ms. ESHOO). The question is on the motion offered by the gentleman from North Carolina [Mr. NEAL] that the House suspend the rules and pass the bill, H.R. 3841, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

A motion to reconsider was laid on the table.

REPORT ON RESOLUTION PROVIDING FOR CONSIDERATION OF H.R. 4092, TO CONTROL AND PREVENT CRIME

Mr. MOAKLEY, from the Committee on Rules, submitted a privileged report (Rept. No. 103–449), on the resolution (H. Res. 395) providing for consideration of the bill (H.R. 4092) to control and prevent crime, which was referred to the House Calendar and ordered to be printed.

APPOINTMENT AS MEMBERS OF THE COMMISSION ON CHILD AND FAMILY WELFARE

The SPEAKER pro tempore (Ms. ESHOO). Without objection, pursuant to the provisions of section 5(B)(1) of Public Law 102–521, the Chair announces the Speaker's appointment of the following members on the part of the House to the Commission on Child and Family Welfare.

Mr. Donald R. Bardill of Tallahassee, FL;

Mr. George C. Cheek of Spokane, WA;

Mr. John Guidubaldi of Kent, OH; and

Mr. Bill Harrington of Tacoma, WA.

There was no objection.

EDUCATION BILL FUNDS SHOULD NOT GO TO PROMOTE HOMOSEXUAL LIFESTYLE

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

Mr. HANCOCK. Mr. Speaker, later today the House will consider my amendment to H.R. 6. To refresh the memory of my colleagues, my amendment provides that no school which receives funds under H.R. 6 be allowed to have a program or activity which promotes homosexuality as a positive alternative lifestyle.

Some opponents of this amendment have tried to exaggerate its effect, suggesting we would shut down AIDS education, sex education, and gag school counselors from providing factual information. All of these claims are false.

We are targeting the blatant advocacy of the homosexual lifestyle. Classes and counselors which give unbiased, factual information about AIDS and sex are unaffected by this amendment.

Let me give you one example of what we are talking about.

In New York City, under the auspices of an AIDS conference, students as young as 12 were given access to these graphic—perhaps even pornographic—brochures advocating "fisting," anal sex, and other homosexual acts as safe, healthy, and desirable.

I include for the RECORD these items and the newspaper article describing them, be printed following my remarks, and I encourage Members to see for themselves what it is we are trying to stop.

[From the Washington Times, Mar. 18, 1994]

N.Y. YOUTH AIDS FORUM LEAVES PARENTS HORRIFIED

(By Joyce Price)

A New York City youth AIDS conference that "impressed" AIDS czar Kristine Gebbie has outraged parents with its distribution of fliers on anal sex and other homosexual practices to children as young as 12.

The Feb. 12 conference at New York University Medical Center was sponsored by the New York Department of Education, featured Miss Gebbie as its "VIP" speaker and displayed pamphlets from the Gay Men's Health Crisis (GMHC).

"The material the Gay Men's Health Crisis gave out to children . . . depicted risky and dangerous activities," said parent Joanne Gough, a member of the AIDS Advisory

Council to the New York Board of Education. "The [city-wide school] board and the chancellor are definitely going to have to address this issue."

Mary Cummins, a local school board member, said she examined some material distributed at the conference and was "horrified."

"I'm a grandmother. . . . I thought I'd seen and heard everything," said Mrs. Cummins, who led the fight against the city's curriculum teaching acceptance of homosexuality. "When the homosexuals are hitting on kids like this, it becomes my business."

In a Feb. 28 letter to Ramon Cortines, chancellor of New York's public schools, Miss Gebbie lauded the conference, saying she "was most impressed by the . . . event and would like to be supportive of appropriate follow-up."

Miss Gebbie, national AIDS policy coordinator, was not aware of the sexually explicit material handed out during the conference, said her spokesman, John Gurrola.

But critics say she was told that the "Conference of Peer Educators: Youth Teaching Youth About HIV/AIDS" would include workshops on subjects such as "sex options," "eroticizing safer sex" and the "wonderful world of latex."

On Feb. 9, Richard W. Caunitz, a Rockland County, N.Y., lawmaker, faxed Miss Gebbie a letter noting many of the conference's scheduled events. Mr. Caunitz pointed out that "attendees as young as 12" would be exposed to those topics at the conference, which he said was being convened by GMHC.

He told Miss Gebbie he found it "extremely disturbing to learn you are being featured as the VIP speaker."

Miss Gebbie responded to Mr. Caunitz's letter on Feb. 28, saying the conference "was sponsored by the teens themselves through Gay Men's Health Crisis, who provided some funding."

GMHC has denied that it organized, sponsored or convened the event. The group says it was one of at least 19 organizations that contributed money to the event.

A program identifies the New York Department of Education's High School HIV/AIDS Resource Center as a conference sponsor and GMHC as a "patron." Other "patrons" included the AIDS and Adolescents Network and the Unitarian Church of All Souls AIDS Task Force.

"The Board of Education's fingerprints are all over it," said John D. Hartigan, a lawyer who monitors New York's education system. "There will be a lot of enraged people at the next public board meeting on March 23 demanding that it cut all ties with the Gay Men's Health Crisis."

New York school officials have distanced themselves from the graphic fliers handed out at the gathering, which the Village voice said was attended by more than "250 . . . predominantly black and Latino youth."

"The materials that created problems were not materials we prepared or authorized," schools spokesman Frank Sobrino said. "They were not Board of Education materials."

Details about the sexually explicit material were first reported by Ray Kerrison, a columnist for the New York Post, and syndicated columnist Mona Charen.

GMHC has rejected suggestions by Mr. Kerrison and Mrs. Charen that the purpose of the conference was to recruit children into the homosexual lifestyle.

"The purpose of the conference was AIDS prevention and education, something that is needed urgently by young people in New York," said Jeff Richardson, GMHC executive director.

Mr. Hartigan, who is representing some parents upset about the conference, said he obtained copies of some of the leaflets from a 14-year-old, whom conference opponents had sent in as a spy.

He said he was most concerned about some material put out by the GMHC and its Lesbian AIDS Project. The "Safer Sex Handbook for Lesbians" showed pictures of naked women whose nipples and navels were penetrated by brass rings. Another picture, he said, showed a naked woman with her legs spread apart as a clenched fist approached.

Another leaflet available was earmarked for black youths who "do men." Mr. Hartigan said the leaflet was "written in rap and very foul street language" and it advised young men that they can engage safely in anal or oral sex if they use condoms.

That's a "life-threatening medical lie . . .. It's suicidal," Mr. Hartigan said.

Mr. Hartigan said the youth was sent to the conference because an early registration form indicated that it was an event for people "between the ages of 12 and 24."

GMHC said it gave out explicit materials because participants were young people "conversant with difficult sexual information" who had voluntarily attended the conference. The group said it distributed the materials only to those who requested them.

"Out of 250 attendees, there were a total of two 12-year-olds and 10 young people 15 or under," the group said.

SPECIAL ORDERS

The SPEAKER pro tempore (Ms. ESHOO). Under the Speaker's announced policy of February 11, 1994, and under a previous order of the House, the following Members will be recognized for 5 minutes each.

TRIBUTE TO FORMER MEMBER, HON. JED JOHNSON

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Indiana [Mr. JACOBS] is recognized for 5 minutes.

Mr. JACOBS. Madam Speaker, America has lost one of its most distinguished, imaginative, and indomitable sons, our former colleague Jed Johnson, who has been taken from our midst by a devastating cerebral hemorrhage.

Madam Speaker, while it is true that fools rush in where angels dare to tread, it is also true that some angels have the courage to tread farther than others.

Jed Johnson is such an angel. He reminds one of the words of Franklin Delano Roosevelt in the early days of World War II when he said, "Let no one say it can't be done. It must be done, and we have undertaken to do it."

In the early 1970's I was a member of the Committee on the District of Columbia, and Jed approached me and said that if I would simply hold hearings on the tragedy, not well known, of Junior Village, where orphans in the District of Columbia were badly treated, that the orphanage would be closed down and replaced by group foster homes in the District of Columbia, a program which had been proven viable by the minister, Fred Taylor, at the Church of the Savior, where Jed Johnson and his wife Sydney and their daughters attended.

When I pointed out to Jed there was a minor problem with that, I chaired no committee or subcommittee at the District of Columbia, he said to me without hesitation, "Not to worry. Just pretend you did. Have an ad hoc hearing."

We did; it caused a sensation in Washington DC, at the time. Within 18 months, wind was blowing through the old facility out there and the group foster system—which has not been without its flaws—came to be in the District of Columbia and orphans served had something closer to real families with which to live.

Junior Village could best be compared with what happens at military bases; little children were marched from barrack-like quarters to mess halls and so forth. They had no parent figures.

Jed Johnson cared. I suppose anybody would care, but the difference was that he was, as I said, indomitable; nothing seemed impossible to him if good people put their minds and their efforts to it.

Jed took over the former Members' organization. Many of our current Members will know about that. He had another idea about having an exchange program between legislators in other nations and those of the United States.

"Couldn't be done, couldn't raise the money to finance it"? Well, he did not appreciate the impossibility of it, and therefore I need hardly tell you, not knowing it could not be done, he brought it about. It was done; it is part of that organization, and it will remain a part of that organization for a very long time.

□ 1920

Jed Johnson was a person of the House, and, when he left the House, he did not leave the House. He continued to support this institution, to speak well of this institution and to make contributions to make this institution always better. All of his former colleagues, and I am sure every Member of the House now, extends their heartfelt sympathies to his wife, Sydney, and his daughters, Alice Johnson, who is in the Chamber this evening, and Sydney Dunlap, his other daughter. Jed's wife, Sydney, is the daughter of another former colleague of ours, Syd Herlong of Florida, who served from 1948 through 1970, and Jed's father was yet another former Member of the House, Jed Johnson, Sr., who served from 1926 through 1946.

Madam Speaker, we have here one of America's most distinguished families,

and the tragedy happened far, far, far too soon and proves once again the adage that the good die young.

Madam Speaker, I yield to the gentleman from Nebraska [Mr. BEREUTER].

Mr. BEREUTER. Madam Speaker, I would like to associate myself with the remarks of the gentleman from Indiana [Mr. JACOBS]. I did not know Jed Johnson as a legislator. Few of us who are in the House now did because he served here sometime ago, but his contributions to the House, as the gentleman pointed out, continued far after he left, until his very last days.

Madam Speaker, I worked with him very closely during this last year as a chairman of the Congressional Study Group on Germany. He was the driving force in so many interparliamentary exchanges who benefited dramatically the understanding of those legislators with respect to our system and vice versa. His contributions because of his work with young people and legislators of all ages will go on for a long, long time. We are going to miss Jed Johnson. He was an extraordinarily fine human being.

Mr. JACOBS. Madam Speaker, I thank the gentleman from Nebraska [Mr. BEREUTER] for his contributions.

MY ADVICE TO THE PRIVILEGED ORDER

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Texas [Mr. GONZALEZ] is recognized for 5 minutes.

Mr. GONZALEZ. Madam Speaker, I must say that I am not happy with the path the Federal Reserve has chosen for the U.S. economy. The Federal Reserve's policy of raising interest rates to fight an inflation no one can see is, according to Fed statements, based on a number of factors other than recent past experience with inflation. The Fed even admits that the factors it looks at are faulty. In fact, a continuation of Fed doses of higher interest rates and warning about the coming inflation can cause a deflation in bond prices and then a rapid rise in interest rates. That translates into a rapid fall in equities prices and real trouble for the small investor who has entrusted savings to stock mutual funds. Many of these mutual fund investors are first-time investors who may not know the risk involved in an investment reliant on the stock market's health. Should this scenario occur, it will be too late for the Fed to reverse its policies and hypocritical for them to brag about how well they can handle a crash that they have precipitated.

In this week's edition of Barron's magazine, Edward Yardeni, chief economist and managing director at CJ Lawrence Deutsche Bank Securities, is especially critical of the Fed's recent pronouncements. He writes, "A month ago Fed Chairman Alan Greenspan seemed to say that all the recent good news about inflation should be ignored." He also quotes Federal Reserve Governor Lawrence Lindsey who said, "We (the Fed) look at a whole raft of variables—we ignore nothing and focus on nothing."

Thankfully, that kind of nonadvice is incorrect. For example, former Fed Governor Wayne Angell put great importance on the price of gold as an indicator of inflation and Chairman Greenspan has noted that it is a variable which helps guide the Fed in determining when the country should expect inflation.

I wish these gentlemen would familiarize themselves with the Federal Reserve's own research on this subject. In the March/April 1994 issue of Economic Perspectives, a Federal Reserve Bank of Chicago publication, Senior Economist Robert Laurent debunks the use of gold prices as an indicator of inflation. His research shows that "gold is not likely to serve as a useful early indicator of changes in inflation."

My colleagues, you do not have to be an expert to understand that the price of gold is not a good forecaster of inflation nor do you have to buy the Fed claim that it is raising interest rates because there are signs of inflation. It is just plain balderdash. I will submit for the record the price of a troy ounce of gold for the period 1974 to 1993 compared to the Consumer Price Index (CPI), an index used to measure inflation. The price of gold varies all over the graph while the CPI does not. The Fed might as well read tea leaves as a substitute for using the price of gold as an indicator to raise interest rates.

The Federal Reserve is clearly in need of a reality check. Don't they know that the average rate of inflation is the lowest since the 1960s? I will submit for the record a graph of the rate of change of the CPI from 1957 to the present which clearly shows the historical record of inflation. It is imperative that the Fed focus its efforts on keeping the present recovery going, rather than chasing inflation apparitions

As you, my colleagues, well know, the job market is still very bad. The unemployment rate did not even peak until 13 months after the end of the 1990–1991 recession, the longest lag in this half century, and most of the workers currently working find their wages to be declining. Weekly gross wages, adjusted for inflation, for 80 percent of the Nation's workers—workers who do not hold the highest paying jobs—have been falling. These people are already suffering and do not need any preemptive strikes from the Federal Reserve which have a negative impact on their standard of living.

The decision-makers at the Fed should pull back the curtains and take a long, hard look at the economic landscape. It is rocky out there. Rather than take its lead from Fed Governor Lindsey and the gold bugs, the Fed should focus instead on using measures that truly indicate the country's condition. It should not adopt policies which could possibly foster a stock market decline just because of a hubris that the Fed can step in at the last minute and shore up the market, just as it did in 1987. This is not the way to make policy for our nation's citizens.

I commend Federal Reserve Chairman Alan Greenspan and the other members of the Federal Open Market Committee (FOMC) for promptly announcing the Fed's decision today to raise interest rates. For months I have been calling for such prompt disclosure to prevent wild speculation and unnecessary leaks that arise out of unannounced FOMC policy changes.

Today all market participants received the information at the same time. All those who believe that financial markets work best with more information will agree that this is an appropriate way to change policy. Next, I want the FOMC to agree to a timely release of the complete minutes of each of its eight annual meetings so that the American public can have a full accounting of the decisions of the individuals who run this powerful decision-making committee and whose decisions impact inflation, employment, interest rates and the international value of our currency. This can best be accomplished by supporting my bill, H.R. 28, the "Federal Reserve System Accountability Act of 1993." H.R. 28 requires full accountability at the Fed, a requirement of all government bureaucracies operating in a democracy.

TEN THOUSAND WILL DIE

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Florida [Mr. GOSS] is recognized for 5 minutes.

Mr. GOSS. Madam Speaker, when a teenager from Florida—Kimberly Bergalis—died as a result of the AIDS virus she contracted during a routine visit at her dentist's office, the Nation responded with horror and calls for action. The incident—which sparked massive media interest, new legislative proposals, and full-blown congressional hearings—sounded a warning alarm in the hearts and minds of every parent. Could this happen to my child? Well, Madam Speaker, the parents and loved ones of more than 10,000 hemophiliacs doomed to the same fate have a tragic answer to that question—it can and did happen—and many say it could still happen again in spite of everything we now know about AIDS and its transmission through the Nation's blood supply. Ten thousand people, half of all hemophiliacs in America today, face almost certain death from AIDS they contracted during the 1980's, when HIV-tainted blood contaminated the blood clotting products hemophiliacs use to

protect themselves from uncontrollable bleeding. It is a tragic irony that the very product—known as "factor"—which the hemophilia community had viewed as a salvation, offering hope for healthy, active, and normal lives—ended up infecting them with a virus that eventually kills. Members of the hemophilia community describe themselves as the "canaries in the coal mine." They are, as they say, at the front end of the blood supply—and when something goes wrong with the blood supply, the first place you will see the results is within their community. In the early 1980's before proper screening for AIDS was available, 50 percent of hemophiliacs—some of whom can be exposed to blood products gleaned from as many as 100,000 donors of blood in a single year—were infected. In most cases, it was years before these victims discovered their plight, and as a result more than 10 percent of their wives and some yet-unborn babies were also unknowingly infected. Today, Americans are told that such a devastating lapse could not recur because technology and awareness has improved to the point that the blood supply is completely safe. Understandably, hemophiliac victims, their families, and those members of the community who have not been infected have a hard time trusting this fact. That is why I joined with Senators GRAHAM from Florida and KENNEDY from Massachusetts in requesting review by the Department of Health and Human Services—not only of what went wrong in the 1980's, but also of the effectiveness of safeguards now in place for protecting our blood supply. Secretary Shalala commissioned a study by the National Academy of Sciences, and we await its expert conclusions, expected within the next year and a half. But what do we do in the meantime? How can we help those 10,000 people and their families? How can we ease their pain and address the incredible sense of betrayal and resentment they feel? I would like to share with my colleagues excerpts from just a few of the hundreds of letters I have received from anguished people across the country.

I was the mother of a wonderful 15-year-old son, my only child, who was affected by HIV disease through contaminated blood products. If you could only realize and feel the pain for just 1 day of having a beautiful, loving, intelligent son taken away so needlessly only because of greed and lack of caring it would break your heart.

Another writes,

I am a 34-year-old hemophiliac who was married in 1986, never realizing the danger I was to put my wife through. My life since 1988 has been a living hell * * * I realize I am waiting to die and all I ask is that it is not in vain.

Another says

I have learned to accept my dealth and this manner of living, but it still hurts when I think that this could all have been avoided if proper controls had been in place 15 years ago.

While it's clear that our understanding of AIDS and the blood supply was still new and evolving during the early 1980's, victims of contaminated factor and their families believe that more could and should have been done with the information that was available to protect them. What people in charge knew, when they knew it and what they did with that information is the subject of an ongoing class action lawsuit. In the meantime, and as the N.A.S. proceeds, we must continue to look for ways to help these innocent victims and their families to cope with their cruel fate.

MAKE SAFE DRINKING WATER ACT MORE FLEXIBLE AND LESS COSTLY

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Nebraska [Mr. BEREUTER] is recognized for 5 minutes.

Mr. BEREUTER. Madam Speaker, this Member comes to the floor to speak about the urgent need to make the Safe Drinking Water Act's regulations more flexible and less costly.

Madam Speaker, there is general agreement that the current Federal safe drinking water law is badly broken and needs to be fixed. While the distinguished gentleman from Kansas [Mr. SLATTERY] and the distinguished gentleman from Virginia [Mr. BLILEY] have correctly diagnosed the current law's shortcomings and proposed a workable solution, H.R. 3392, there are others who have ignored the current law's detrimental effects on small cities and rural communities, and, in fact, they are attempting to make it even more unnecessarily stringent and costly. Why is this legislation not moving in committee?

It is troubling to hear people argue against the Slattery-Bliley bill by claiming it will weaken the current safety levels for drinking water. That is simply not true. This Member certainly would not support legislation which would place his constituents at risk. Neither would the other 140-plus cosponsors of H.R. 3392; nor would the National Governor's Association or the U.S. Conference of Mayors which both support H.R. 3392. In fact, numerous responsible groups and associations have endorsed the Slattery-Bliley bill because they understand that it would allow water systems to provide safe drinking water at a reasonable cost. This Member will enter into the RECORD an excellent statement on this issue written by Governor Bob Miller of Nevada and Governor Fife Symington of Arizona on behalf of the National Governor's Association. The letter appeared in the Washington Post on February 3, 1994.

Madam Speaker, as the letter indicates, H.R. 3392 helps correct some of the serious problems and reduces the substantial local costs created by the current law. Clearly, many of the current SDWA requirements result in prohibitive costs without any real health benefit or increase in water quality. This is an issue on which this Member has been speaking out and seeking corrective actions by the EPA for some time, but without results. However, in large part, it is Congress which is to blame for the statutory direction we have given to the EPA.

H.R. 3392 injects more reasonableness and common sense on this issue and allows states and communities to identify and focus on those contaminants which present an actual health risk in a particular area. Legislation enacted by Congress simply must take into account the economic and budgetary realities faced by States and communities. Blanket Federal legislation for this still very diverse nation is usually ineffective, overreaching, inflexible, and expensive for States and communities of all sizes. That surely is the case with various parts of the current Safe Drinking Water law.

As the recent defeat of the rule for consideration of the EPA Cabinet-level bill demonstrated, most Members and the informed American public now support an assessment of risks during the regulatory process. Clearly, some applications of environmental regulation how entered a phase of diminishing returns. Although great progress has been made in meeting threats to health and safety, a point has been reached where each new environmental regulation should undergo a cost/benefit estimate based on an analysis of risk.

Madam Speaker, it is indeed troubling to hear of the scare tactics used by the extremists on this issue. They seek to frighten the public into thinking that unless a massive, bureaucratic, inside-the-beltway approach is taken to regulate drinking water, no one will be safe. Amazingly, opponents of H.R. 3392 seek to deny State and local officials the ability to tailor a safe drinking water program based on sound science. However, no one has a more powerful incentive to provide safe drinking water than state and local officials, because they and their constituents will be drinking that water and they know full well where the buck stops. They certainly would not subject themselves and their family and friends to harmful water. Instead, they would focus their time and money on the problems unique to their community.

Madam Speaker, there is a growing financial crisis for small communities that becomes more evident each year as new testing and treatment deadlines are imposed. Many Federal officials are now recognizing the dangers of an inflexible Federal approach to this problem. In fact, during a speech at the annual conference for the National Asso-

ciation of Towns and Townships last September, EPA Administrator Carol Browner stated her support for more flexibility, more local and regional decisionmaking.

This Member's experience in visiting with local officials and listening to constituents at townhall meetings indicates that the regulations promulgated to enforce the Safe Drinking Water Act have become a major Federal irritant to local government officials and terribly expensive—for no additional benefits worth there costs. In fact, these regulations often result in diverting scarce local dollars to address problems or contaminants which do not exist. One of the most flagrant examples of a requirement which results in higher costs involves testing across the whole Nation for a pesticide used on Hawaiian pineapple fields even though it is currently banned in the continental United States.

It costs nearly as much for a very small community to go through the mandated testing procedures as it does for a large community. In most cases, therefore, residents in smaller communities will be forced to pay much more per person, since the costs cannot be spread out over a larger population. Without changes in the current law, though, communities of all sizes will be severely impacted.

This Member would like to cite several examples of the problems facing communities in Nebraska's First District.

Wahoo (population 3,681) recently instituted a 10 percent rate increase due to increased testing costs. The community is expecting an annual increase in excess of $20,000 to pay for water testing requirements.

Homer (population 553) estimates that monthly water rates may nearly triple over the next several years as a result of the testing requirements. Just recently, water rates for customers were about $9 per month. Within a few years, this may jump to $25 per month.

Unadilla (population 294) is projecting that, by 1997 each of its 120 households will have to pay an incredible $100 per year just for water testing costs.

Even a city the size of Lincoln (population 191,972) will face problems. The city is estimating that over the next six years, total costs for capital improvements and operation and maintenance due to proposed regulations for water quality may be as high as $185 million.

Communities throughout Nebraska and the United States are confronting similar predicaments. In addition to the costs of outrageously overreaching testing requirements, it is clear that the cost of water will skyrocket if truly unnecessary treatment is required. While the EPA sets its standards as close to zero risk as technologically possible, incredibly it takes costs into consideration only for water systems serving more than one million people. Again, in fact this required treatment will often result in no actual health benefit.

The Slattery-Bliley bill recognizes that, consistent with sound health considerations, required technology should be based on the size of the community. The legislation reforms the current standard setting procedures by requiring the Environmental Protection Agency EPA to establish "best available technology" for water systems based on their size.

Madam Speaker, the bill also removes many of the rigid and arbitrary requirements of the current safe drinking water law. For instance, it eliminates the notorious and ridiculous current statutory mandate that EPA identify 25 contaminants every 3 years for regulation and replaces it with a system based on contaminants that, first, represent a public health concern and, second, actually occur in drinking water. The legislation also allows States to tailor monitoring requirements to particular circumstances, with responsible flexibility and reasonable waivers made more easily available.

Madam Speaker, while everyone certainly recognizes the importance of providing safe drinking water for everyone, this Member believes it should be done in a realistic manner which does not inappropriately burden the communities affected. As stated previously, this Member does not support taking any action that will cause drinking water to become unsafe. For instance, where there is a problem with biological contamination, typically coliform, yes, treatment is obviously necessary. However, the Federal Government should provide more discretion to States so that they can use common sense and not be subject to arbitrary nationwide standards that have no relevance in a particular State. For instance, the nature of water testing in Nebraska should reflect the State's uniquely strong groundwater dependency. This Member has consistently conveyed these views to current and former EPA Administrations and will continue to support legislation, such as H.R. 3392, which would relieve the burdens on communities throughout Nebraska and the Nation. Sometimes, however, regardless of the administration or political party involved, one wonders if anyone in EPA really listens or cares what the impact of regulation really is on America's communities and their citizens.

Madam Speaker, in conclusion this Member urges his colleagues to support H.R. 3392, the responsible approach to providing safe drinking water in America. Cosponsor the legislation. It will protect the health of individuals as well as communities.

[From the Washington Post, Feb. 3, 1994]

DRINKING WATER SAFETY: LET'S BE SCIENTIFIC

The recent drinking water emergency in Washington illustrated the need to reform the federal program that governs drinking water safety. On that, Rep. Henry Waxman and the nation's governors agree ["The Next Water Crisis," op-ed, Jan 19]. But the governors believe drinking water standards should be based on sound science and implemented in a streamlined manner.

The emergency in Washington occurred at a water treatment plant operated by the U.S. Army Corps of Engineers, with oversight from the Environmental Protection Agency. The locally operated water systems in the area continued to meet federal standards under the same circumstances.

Both the Washington and Milwaukee water emergencies point to the fundamental problem in the regulatory system: Congress requires federal, state and local governments to spend billions to monitor specific contaminants that may not even occur in drinking water, rather than focusing on actual health risk and seeking the best regulatory "buy."

Amazingly, the Environmental Protection Agency is *not* required to regulate many contaminants that actually occur in our water and threaten our citizens; however, EPA *is* required to regulate 83 other specific chemical contaminants that Congress wrote into the law in 1986, which may or may not actually occur in our water. There is no federal standard for cryptosporidium, the disease organism that killed 40 people in Milwaukee and drove 1 million Washington area residents to drink only boiled or bottled water for four days.

Far too much of the public's time and money is wasted on activities with little or no value. For example, communities across this nation are required to continually test their water for substances that do not occur in it.

A bill introduced in the House by Rep. Jim Slattery (D.Kan.) and Tom Bliley (R-VA.) directs EPA to regulate substances that actually occur in our water and are of public health concern. It also allows states and local governments to focus on those same contaminants, and it authorizes the EPA administrator to consider the public health benefits of regulatory alternatives in setting drinking water standards.

Passage of this bill would enable EPA to weigh the health benefits of several alternatives and set a water standard at a level that represents the best "regulatory buy," provided that public health is protected. At present, EPA cannot choose between alternatives that provide comparable health benefits but differ significantly in cost. Such changes in the law would significantly strengthen the effectiveness of the Safe Drinking Water Act.

"The governors also support President Clinton's recommendation to authorize a low-interest loan program, financed in part by the federal government and administered by states, to help our communities build better and safer drinking water systems.

If Congress responds with business as usual, overwhelming state authority with an inflexible federal structure and limited local flexibility, we will simply continue to pour the public's money down the drain.

1965 VOTING RIGHTS ACT UNDER ATTACK

The SPEAKER pro tempore. Under the Speaker's announced policy of Feb-

ruary 11, 1994, the gentleman from Louisiana [Mr. FIELDS] is recognized for 60 minutes as the designee of the majority leader.

GENERAL LEAVE

Mr. FIELDS of Louisiana. Madam Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks and include therein extraneous material on the subject of this special order.

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

There was no objection.

Mr. FIELDS of Louisiana. Madam Speaker, I rise tonight to address an issue that is very important to the integrity of our institution of Government. The 1965 Voting Rights Act signaled the advent of change in our Nation, change that was to reform our representative bodies. But that reform is under a misguided attack today; an attack that threatens the progress made by the election of thousands of African Americans and Hispanics to office, from Congress to local school boards, in fulfillment of the Voting Rights Act. As a Congressman, I am vigilant about such threats; as an American, I desire respectability and equality in our Government; but as an African American, I am frightened that the important progress that we have made may be turned back.

In 1965, Congress passed the Voting Rights Act to provide minorities opportunities to fully participate in the political process; participation that had been denied for so long; 100 years after the Civil War, States across the country were still using poll taxes, literacy tests, and gerrymandering to undermine the political voice of black minority communities. In State legislatures, lines were drawn to split black communities among districts to prevent their political strength, and to prevent the election of candidates of their choice.

African Americans were subject to insulting and unconscionable mechanisms to disenfranchise and deny their voting rights. Questions were asked only to African Americans as a condition of voting, these trivial and irrelevant questions insulted blacks who desired only to vote—recite parts of the State constitution, and how many bubbles are in a bar of soap, for example. Because they could not tell the registrar of voters—educated African Americans—lawyers, Ph.D.'s, doctors, were prevented from voting. Most important thing about these incidents is that they are remembered by many people today; this is our very recent past, remembered and felt by many voters. The blatant racism incorporated in our political institutions was little more than one generation ago. Black voters in many Southern States were met by riots and lynchings only 30 years ago.

For context, let me point out that the youngest member of this 103d Congress was born several years before enactment of the revolutionary Voting Rights Act—me! We must always treat the issue of redistricting and voting rights in the context of our country's history.

There are many communities in my district such as Lake Providence and Monroe, where residents react with both joy and amazement to see a Member of Congress and to know that there are Members of Congress from their community.

A district created in compliance with the Voting Rights Act provides the opportunity for African Americans to get elected.

This is the goal that is so important. Access to political institutions brings communities representation that they have never before known.

The Voting Rights Act is the centerpiece of legislation that changed this Nation for the better, and which has begun to change Congress. Not only does it prohibit the traditional, subtle and invidious tactics of State legislatures to dilute the voting strength of black communities, but it requires the creation of districts in which a minority candidate has the opportunity to get elected. This mandate is crucial to fairness and equality in voting rights.

Many of those who argue against the voting rights districts simply dismiss the past as an unfortunate chapter in our history. But that chapter is still being written; we are not past it, and many of us, our constituents and friends, remember the insulting and demeaning ways disenfranchisement occurred. We cannot relegate the history and context of the issue to the past, but we must realize that the work of the Voting Rights Act is ongoing and must continue.

Slowly but steadily in the 1950's and 1960's our institutions were reformed and integrated. Schools, universities, transportation, the workplace, public facilities—all were the subject of direct efforts to integrate. These institutions have been changed for the better and are important to our Nation.

But our most important institutions—our representative bodies—have been last to integrate and reform. The strongest elements of the 1965 Voting Rights Act were not enforced for many years.

Though it was unenforced for 25 years, progress has been made recently. But today, however, we find that progress and the Voting Rights Act are under a strange attack. The same arguments that opposed the Voting Rights Act in 1965 today are used to attack districts created by it. The shape of the districts, the opponents argue, is more important than the civil rights principal of fair representation. It is an argument used to avoid the real issue of integrating our political institutions. That is the goal of the Voting Rights Act and integration—reform of the institution.

When schools are integrated, we override concerns about what neighborhoods the children come from to achieve the greater goal. The same values are expressed in insuring Voting Rights. Our concerns about the preferred shapes of districts must submit to the overriding national goal of an integrated Congress. This value judgment was expressed by Congress in the Voting Rights Act.

The role of Government in urging the reform of institutions is very important, but we must remain focused on the real goal. With the landmark integration of schools as an example, the Court in Brown versus Board of Education did not detail which neighborhoods children must come from; the Court demanded the integration of schools with all deliberate speed.

With Congress, the process should be similar: the details of the districts should not overwhelm the important goal of integrating the Congress. At the core, those opposing voting rights districts elevate the shape of a district over its function. Providing minorities political opportunities becomes, in their arguments, less important than traditional district shapes. But I know we all see through the argument: traditional districts yield a traditional and segregated Congress. Focusing on the shape of the districts, as opponents of voting rights district have done, is a red herring.

In East Carroll Parish of Louisiana, where unemployed outnumber those with jobs, I visit and my concerns about jobs in that rural area are the same as for unemployed families in downtown Baton Rouge.

To the people of these communities, the shape of the district is not nearly important as the fact that I am listening and working in Congress to create jobs; I am working with them to address the problems of their rural schools; I meet with them and they know I will work to confront the problems that they have been faced with for so long.

Of much greater concern than the unusual shape of a district is the character of Congress. Without voting right districts, Congress would continue as a largely segregated institution, which we can see from the 1980's, before voting rights districts were enforced. In 1982, North Carolina was 22 percent black, but all 11 Congressmen were white; South Carolina was 30 percent black, but all 6 Congressmen were white.

Now that is unconstitutional. This is the picture that should stir Americans to the defense of the Voting Rights Act.

Without voting rights districts, Congress would not be integrated; it would not even closely represent the commu-

nities of America. More examples from the 1980's include Florida, where all 19 Congressmen were white, but Florida's population was 14 percent black; all of Louisiana's 8 Representatives were white, but her population was 30 percent black; and, all 10 Virginia Congressmen were white, but Virginia's population was 19 percent black. This picture is from the 1980's without voting rights districts—not long ago—and it is what would happen if opponents of the Voting Rights Act succeed.

It is certain that people react instinctively to the unusual shape of voting rights districts; but the reaction to an all-white congressional delegation is much more fierce and righteous.

Without the creation of voting rights districts, States will continue to deprive minorities of political strength. And the code of the arguments against voting rights districts is transparent: traditional districts means a traditional Congress, as segregated Congress.

It is also very important to remember that Congress is but the tip of the iceberg; representative bodies from the State legislative to the local school board are integrated by the creation of voting rights districts. Thousands of black candidates have been elected, integrating and improving what have long been segregated institutions. Without voting rights districts, the tremendous gains at these levels will be lost.

Congress needs voting rights districts; the institution is improved by them. In 1965 Congress and the Nation saw the need for strong, affirmative civil rights laws.

The Voting Rights Act has been fully enforced for only a few years and its remedial work is far from over.

The distorted attack on voting rights threatens the terrific gains minorities have made in the political process. Gains that are reflected in and important to this Congress and the Nation.

A final, but critical element to this battle is the role of President Clinton and his Justice Department. The President has made clear and reiterated his support of the Voting Rights Act and the creation of Voting Rights districts; but his words have rung clear to those of us in the battles. I for example, am in the position of relying upon the State of Louisiana to defend the Voting Rights Act. This ironic position is the result of the Justice Department's failure to intervene in the legal battle. Acts of Congress should be defended vigorously by the Justice Department, but in this battle they have retreated.

And, the Justice Department, who urges States to create such voting rights districts, is abandoning its authority by failing to defend its own actions. Without their intervention, the most important civil rights battle of many years, perhaps a generation, is passing them by. This injustice at the Justice Department is regrettable.

I urge my colleagues to support the principles of the Voting Rights Act; to speak out strongly against the move to backtrack on voting rights progress; And to strongly affirm the majority-minority districts called for as a remedy in the 1965 Voting Rights Act.

Madam Speaker, I yield 5 minutes to the gentleman from South Carolina [Mr. CLYBURN].

Mr. CLYBURN. Madam Speaker, I thank the gentleman for yielding.

There are several lessons we must continue to teach ourselves whenever the questions of reapportionment arises, questions that are fundamental to the democratic form of Government.

First of all, we must remember that nothing granted under the democratic form is ever really permanent; it can be taken away. A hundred years ago, the halls of this Congress were well-populated by black Congressmen from Southern States, including one of my ancestors, and there was the sense that America had become more truly representative in the Congress than ever before.

A few years later, all that had changed, and we had entered a period of profound racial segregation and discrimination. I say that to remind you that nothing is guaranteed, and that we must measure every action in terms of its long-term political implications. Losing seats occupied by African-Americans to the reapportionment process in the name of whatever legal theory may sound reasonable and harmless just may be the first step in a trend with far more drastic and denigrating implications.

Second, I would suggest to you that gerrymandering is a term which did not come into use with the advent of black Congresspeople. The use of unusually shaped congressional districts is a time-honored political activity which goes back as far as this Nation itself.

And, I would suggest, it has had racial implications at least since 1865, in many, many instances. Creating racial majorities through the drawing of district lines is a very fundamental part of the entire elective process. It's the means by which fair and equitable balance is being created in all legislative bodies in this Nation, and it is one which should be defended and utilized in the interest of a truly representative Congress.

Third, let me suggest to you that the geographic shape of a congressional district does little to define its actual nature and content.

A legislative district, at whatever level of government, is not a territorial boundary.

It is a district created for the purpose of defining a group of people who will participate in an election. As such, it should have a cohesion and a sense of values which may have nothing to do with its geometric shape, or size I would suggest, Madam Speaker, that congressional districts should have some commonality of purpose, whether they are in the urban center of big cities or in the farmlands of the agricultural states.

Districts may be bound together by common economic interests, common educational purposes, traditional social, and political interests, a sense of shared purpose and values which can be transmitted through the voice and the votes of an individual Congressperson. There is too much isolation in our elective process today, too much special interest as expressed through the single office of a single Congressperson.

We should all be generalists, representing the interests of minorities within our districts as well as being sensitive to the will of the majority. That has been done in many instances by non-black Congresspeople representing black minority districts, and I consider it insulting for anyone to imply that the same cannot be done by nonwhite Congresspeople representing white minority districts.

To redraw lines in the interest of some perceived over-representation of a minority racial group or issue is superficial and unreasonable.

It negates the very real fact that much of what we do has little to do with race, and very much to do with the competence of the individuals in office and the best interests of the entire Nation.

Eliminating seats now occupied by African-American Congresspeople would be a step back in history, and a very dangerous step, at that. This Nation has some very noble ideals which it has expressed in its very remarkable Constitution. It is our job to work in every way possible to achieve those ideals, and the diversity of this Congress is very much a bright and shining example of the U.S. Constitution at its best.

We are often imperfect in the way we achieve our purposes in this Nation. A congressional district may not have a size or shape to delight the aesthetic interests of its observers. But congressional districts are not created for artistic value; they are created for a political purpose in a democratic society to serve the purposes of a Constitution which represents and protects all people.

If we are about achieving the greater goal of advancing human values, then perhaps we should not be so distressed about the geometric correctness or abstract artistic value of a congressional district but instead glory in our ability to fashion peaceful and tolerable remedies to one of our long standing social ills.

Mr. FIELDS of Louisiana. Madam Speaker, I thank the gentleman from South Carolina. At this time I yield to the gentleman from Mississippi [Mr. THOMPSON].

Mr. THOMPSON of Mississippi. Madam Speaker, I join by colleagues tonight in identifying and highlighting the redistricting struggle.

In 1969, I was elected as alderman in my home town of Bolton, MS. Notwithstanding that election, there was a challenge that ensued. That challenge went to court and one of the profound statements that the judge made at the initial hearing, when we moved the trial to Federal court, the judge said, "Well, they have taken it out of my hands."

Well, clearly, this struggle for redistricting is one where unless we have constitutional guarantees, the Voting Rights Act and a number of other things, minorities and women and others will not have the protection necessary.

Mississippi has the largest number of black elected officials than any State. This was simply because of the Voting Rights Act and the many countless lawsuits that have ensued in protecting those elections. Every time we appear to be turning the corner with voting rights, we shoot ourselves in the foot.

As a famous orator once said, Every time we learn the game, they change the rules.

Well, the rules are being changed now in redistricting suits, because now African-Americans who had fought hard to get elected now find their districts under siege.

In the spirit of Fannie Lou Hamer, Medgar Evers who gave their lives so many of us could serve, I join my colleagues in issuing this call to alarm on the injustices being reaped upon the newly created minority districts and pray that justice will prevail.

Mr. FIELDS of Louisiana. Madam Speaker, I yield to the gentleman from Georgia [Mr. BISHOP].

Mr. BISHOP. Madam Speaker, I thank the gentleman for yielding.

I rise tonight to speak on the principles of democracy, of representative government, of justice, and of fairness.

In 1894, the question before the Nation was whether freed slaves, 30 years after emancipation and the 15th amendment, could retain their newfound political power in State legislation, city halls, and the Halls of Congress, whether reconstruction would strip them of all their gains.

□ 1950

The answer is clear and unequivocal. In 1994 the question before this Nation is whether the grandsons and granddaughters of freed slaves, 30 years after the civil rights movement and the Voting Rights Act, will be able to retain their newfound political power in State legislatures, in city halls, and in the Halls of Congress. The answer is not yet clear, but if those traitors of democracy, conspirators against representative government, assassins of justice, and murderers of fairness have their way, the answer will be yes, and once again, 100 years later.

Shaw versus Reno is reconstruction revisited. It has taken 100 years to get to this point, only to be told that we have come far enough, or really, that we have come too far. Let there be no mistake about it, Frederick Douglass said it so eloquently, "Power concedes nothing. It never has and it never will"

In my State of Georgia, African-Americans are 27 percent of our population. Due to the insistence of U.S. Justice Department interpreting the Voting Rights Act and the persistence of thousands upon thousands of African-Americans, we now have 27 percent of our 11-Member congressional delegation. Where for years the 27 percent were neglected in matters of government, in not receiving our fair share of the political power, the people of Georgia now have democracy, now have representative government, justice, and fairness. Wrongs of 100 years are almost made right. Crooked politics of 100 years have almost been made straight.

Yet, today, we stand here, the demagogues of our time, the assassins of true democracy, through Shaw versus Reno and its progeny, would turn back the hands of time. I implore you, in the name of Crispus Atticus, of Nat Turner, Frederick Douglass, Sojourner Truth, of Cheney, of Schwerner, of Goodman, of Medgar Evers, of Fannie Lou Hamer, of Malcolm X, of Charles Hamilton and Thurgood Marshall and John Lewis and Andrew Young and Jesse Jackson, and thousands of others, we must continue the fight.

Men may not get all they pay for in life, and God knows we have paid the price, but we must certainly pay for all that we get. Let us not let them kill justice. Let us not let them destroy democracy. Let us not let them turn back the clock.

Mr. FIELDS of Louisiana. Madam Speaker, I yield 5 minutes to the gentleman from Georgia [Mr. LEWIS].

Mr. LEWIS of Georgia. Madam Speaker, I want to thank my friend and colleague, the gentleman from Louisiana [Mr. FIELDS] for holding this special order. Tonight, Madam Speaker, I stand with my colleagues in the Congressional Black Caucus to speak for fairness and justice. For more than 35 years I have opposed efforts that would deny African-Americans full participation in the political process. These efforts have included recent challenges to congressional districts in the South.

I feel strongly that the challenged districts were drawn to meet the test of the 1965 Voting Rights Act. They were properly drawn, and they were fairly drawn.

People should not forget that there is some history here: Before the Voting Rights Act 1965, there was a State-sanctioned conspiracy to keep blacks from participating in the political process. Twenty-nine years ago, this month, people marched, people were beaten, bullwhipped and tear gassed. Some people were shot and even killed for the right to participate in the political process.

Some of our citizens paid the supreme price with their own lives for the right to vote. In 1964, three young men gave their lives while working to register people to vote near Philadelphia, Mississippi.

Not too long ago, people had to pay a poll tax or own property to vote, or pass a so-called literacy test.

During the 1960's, there were certain political subdivisions in the South where 50 to 80 percent of the population was black, but there was not a single black registered voter. The tactics used by whites to keep blacks out of the political process ranged from economic retaliation to outright murder. In many instances, brutal acts of violence were directed against those who tried to register to vote. Black people were literally shot down on the Courthouse steps for attempting to register. Those few who were allowed to register were harassed, intimidated and even beaten when they tried to exercise the right to vote.

On Sunday, March 7, 1965, in an effort to dramatize the need for voting rights legislation, about 600 people attempted to march 50 miles from Selma to Montgomery. When we reached the apex of the Edmund Pettus Bridge in Selma, we were attacked by State troopers. Scenes from what became known as "Bloody Sunday" sent shock waves around the Nation and the world. There was a sense of righteous indignation.

Two days later, on March 9, 1965, the marchers gathered in Selma again. But we had to turn back to avoid a second bloody encounter.

President Lyndon B. Johnson went before a joint session of Congress on March 15, 1965 to urge Congress to pass a voting rights law. He said, "I speak tonight for the dignity of man and the destiny of democracy * * * At times history and fate meet at a single time in a single place to shape a turning point in man's unending search for freedom. So it was at Lexington and Concord. So it was a century ago at Appomattox. So it was last week in Selma, Alabama."

Finally, under the protection of the U.S. military, we were able to complete our journey from Brown Church in Selma to the State Capitol in Montgomery. As a direct result of this effort, the Voting Rights Act was passed by the Congress and signed into law on August 6, 1965.

The Voting Rights Act eliminated discrimination in voting and paved the way for a nonviolent revolution across the South. In 1965 there were only about 50 black elected officials in the 11 Southern States. Today, there are over 6,000.

The South is a different and better place as a result of the Voting Rights Act. Our Nation is a different and better place.

I stand with my colleagues today as we seek to turn back the challenges to the full participation of African-Americans in the political process. We are prepared to do what is necessary and morally right to preserve the fruits of the voting Rights Act of 1965.

I want to thank my colleague, the gentleman from Louisiana [Mr. FIELDS] again for holding this special order.

Mr. FIELDS of Louisiana. The gentleman mentioned the number of African Americans that are elected to office today across the southern part of our country. Is the gentleman familiar with how many African-American Members are in the U.S. Senate today?

□ 2000

Mr. LEWIS of Georgia. Today in the U.S. Senate there is one African American.

Mr. FIELDS of Louisiana. How many Americans are in the U.S. Senate, total?

Mr. LEWIS of Georgia. In the Senate we have 100 Members.

Mr. FIELDS of Louisiana. So there is one African-American Member of a body of 100, is that correct?

Mr. LEWIS of Georgia. The gentleman is correct. There is only one African-American member in a body of 100.

Mr. FIELDS of Louisiana. So before the election of this one African-American, who I assume is CAROL MOSELEY-BRAUN whom the gentleman was referring to, prior to her election were there any African Americans since Reconstruction in the U.S. Senate?

Mr. LEWIS of Georgia. There was one during a brief period of time in the Senate, shortly after Reconstruction, who served from Massachusetts, Senator Edward Brooke.

Mr. FIELDS of Louisiana. Since Reconstruction we have had two Members, Ed Brooke and Senator CAROL MOSELEY-BRAUN?

Mr. LEWIS of Georgia. The gentleman is correct.

Mr. FIELDS of Louisiana. Let me ask one other question. How many Members are there in the U.S. Congress? What is the total membership of the U.S. Congress?

Mr. LEWIS of Georgia. In the House of Representatives, there are 435 Members.

Mr. FIELDS of Louisiana. Of the 435, how many of those Members are African Americans?

Mr. LEWIS of Georgia. We have today 39 African-American Members of the House of Representatives.

Mr. FIELDS of Louisiana. So, of the 535 Members of the U.S. Congress, which would include the House and the Senate, is the gentleman telling me there are only 40 African-American Members in the entire U.S. Congress today?

Mr. LEWIS of Georgia. I am saying to my colleague, the gentleman from the State of Louisiana, today in the Congress the total membership of African Americans is only 40, 39 in the House and one in the Senate.

Mr. FIELDS of Louisiana. I thank the gentleman.

Madam Speaker, I yield 5 minutes to the distinguished gentleman from Massachusetts [Mr. FRANK].

Mr. FRANK of Massachusetts. Madam Speaker, I appreciate the gentleman yielding to me and his leadership and that of his colleagues in putting this together. I think it is a shameful thing that one of the best things we have been able to do as a government in dealing with the single greatest problem in this country is now under assault, and clearly the gravest problem that America has faced from its beginning has been the systematic mistreatment at the outset of African Americans, and the lingering heritage of that mistreatment.

This is a nation that began with slavery as part of its institution, unfortunately recognized in the Constitution. The Constitution is a great document in many ways, but as Thurgood Marshall pointed out, it was flawed in some respects, and its embrace of slavery is one of those.

We struggled throughout our history to try to overcome that. We have made progress, but clearly we have a long way to go. No single act did more to empower people to fight against the terrible effects of racism than the Voting Rights Act, because no single act did more to give people the ability to defend themselves.

The Voting Rights Act was an extraordinarily important turning point in our democracy. At first people were skeptical about it, but it has gained in strength.

The tragedy, Madam Speaker, is that today as we are just beginning to see the full effects of the Voting Rights Act, opponents of true democracy are trying to cut it off, and that must not be allowed.

One argument we get is that some of the congressional districts represented by our African American colleagues are shaped oddly, as was pointed out by previous speakers. Political manipulation of district lines for various purposes has not only been part of our history forever, it is inherent in the process. My own district, Madam Speaker, is very oddly shaped. No logic, no geometry would have produced it. It clearly shows various political factors. In my case it was a desire to help one Member, a desire to hurt another Member. All of the districts of Massachusetts are rather oddly shaped. But because there was no explicit racial motive, that is to be OK.

In other words, trying to draw districts so that the most under-represented group in America historically, and the most abused group, African-Americans, trying to draw districts so that we can undo the under-representation, that is now to be treated as illegitimate. But manipulating districts, wiggling the lines, playing politics with the numbers, as long as that is not being done to overcome racial injustice, that is OK.

We stand justice and democracy absolutely on its head by that doctrine. We have a Supreme Court majority, a narrow one in many ways, which says that political manipulation in the drawing of districts is OK for just about any purpose except overcoming this Nation's legacy of racism, that the Voting Rights Act, because it has been working as intended, therefore we have to interfere with it.

And let us not ignore the hypocrisy of some, and they were largely on the Republican side, who saw in the Voting Rights Act a chance to undercut Democratic majorities, and they felt that they could draw these lines in a way that might enhance African-American membership by cutting back on other Democratic membership. Only after that did not work out as planned did they then turn around and remove their support. We have the spectacle of people who in some cases, for instance in the State of North Carolina where the Justice Department insisted that the State of North Carolina draw a second district to represent African-Americans, and they were right to do that, but when it did not turn out politically the way they expected, the same political forces that pushed for it are now trying to undercut it.

There is nothing undemocratic, nothing unconstitutional, nothing illogical about saying that we ought to draw district lines to reduce the under-representation of African-Americans in this country. And as the colloquy between my friends from Louisiana and Georgia just pointed out, even today there is less than the numerical representation that we would get simply by doing things randomly.

Let me add that I feel almost as threatened as my colleagues by this. Obviously they, as African-Americans and representatives of African-American districts in many cases, are most directly threatened.

But I, as someone who wants to see my country reach the goals of racial justice, reach the goal of true democracy, deal with this terrible historical unfairness that has been so much a part of our problem, I also feel threatened by it. I have seen this institution over 14 years enriched by the newer Members who have come in. I have seen this institution enhanced by the fact we now more nearly adequately represent America in all of its diversity. I do not want to see it go back.

I think we benefit from the fact that America now is more nearly rep-

resented in the best sense of the word in this chamber. I do not want to go back to a period when there was an artificial, almost unanimity in this place.

The Voting Rights Act is working as it ought to work, and attacks on it would seek to throw back some of the greatest progress America has made in dealing with our greatest problem, our insidious attacks on democracy, and must be resisted.

I am very pleased that the gentleman from Louisiana has given those of us who have lived through this the chance to see it. I happened to have been in Mississippi in the summer of 1964 when democracy was a sham for a very substantial percentage of the people. And I have seen America evolve in a better direction. I have been heartened by that progress. I feel threatened by this attack on it, and I promise to work side by side with my colleagues in preserving and protecting the gains that we have made.

I thank the gentleman for yielding.

Mr. FIELDS of Louisiana. Madam Speaker, I thank the gentleman from Massachusetts, and I really appreciate his comments.

Madam Speaker, I yield 5 minutes to my very able colleague, the gentlewoman from Florida [Mrs. MEEK].

Mrs. MEEK of Florida. Madam Speaker, the founders of this Nation in the Constitution provided that the Districts composing the House of Representatives shall be redrawn at least after every decennial census.

This provision was based upon their observation of the British system at the time. The British system provided for no systematic redrawing of parliamentary districts. Thus districts were controlled by the nobility. The urban areas were effectively disenfranchised. The term "rotten borough" is of British derivation. This was a parliamentary district of few people controlled by the local lord.

The founders rejected the British system, but provided for Congress to pass laws governing the process subject to the dictates of the Constitution. When the States, over time, reverted to the British practice of vastly unequal population, the Supreme Court properly stepped in with the decision of Baker versus Carr and subsequent elaborations. This was appropriate and consistent.

The practice of drawing Districts for the House of Representatives by the States has been left with great discretion within limited parameters.

The Voting Rights Act of 1965 was enacted to correct years of abuses through the disenfranchisement of classes of citizens of the United States. It and its subsequent amendments sought to rectify decades of active efforts to disenfranchise minority groups within the United States, primarily African-Americans, but also those others who have suffered disenfranchisement in the political process. I remember poll taxes, literacy tests, colored drinking water. I remember Booker T., W.E.B. Dubois, I remember Fannie Lou Hamer, Martin Luther King, and Mary McCloud Bethune.

One fact seems to be overlooked in this debate. The latest Voting Rights Act amendments were passed by a bipartisan majority of the Congress after extensive factfinding. It was accomplished with the full scrutiny of the American people. It sought the empowerment of those left out of the political process. Those who challenge the Voting Rights Act, do they want to still our voices in the fight for equal rights for all, native American women, homeless, gay rights, blacks, Hispanics?

The underlying theory of the amendments was rooted in the Constitution. Let all parts of America be represented in one body, the House of Representatives, the people's House. The result of that legislation is a House of Representatives that looks more like America than any of its 102 predecessors. This is what the writers of the Constitution intended.

Now we have the truly bizarre decision by the Supreme Court in the North Carolina case which stands contrary to history and the Constitution. The Voting Rights Act is under siege by those who want to turn back the clock—to the days when African-Americans were not allowed to vote. We say: Never again shall we return to those days. Many decades ago Irish-Americans fought for the design of districts they could dominate and the Supreme Court was silent. Italian-Americans fought for districts they could dominate, and the Supreme Court was silent. Many of the lines drawn to accomplish this purpose were somewhat unusual. Rural interests even after Baker versus Carr successfully sought districts they could dominate. There are suburban districts, conservative districts, liberal districts, Polish districts, Appalachian districts, German districts, Italian districts, Irish districts, military base districts, university districts, urban districts, sugar districts, fishing districts, tobacco districts, wheat districts, logging districts, rich districts, poor districts and too many others to name here. In many of these cases the purpose was to empower a distinct group by a State legislature.

The Congress found, and the President agreed, that there were distinct groups within the United States who were not being empowered by state legislatures. So under the Constitution is sought to empower these groups after extensive fact-finding. This is what Congress is supposed to do.

After the 1990 redistricting and the 1992 election, the results are in. The House of Representatives looks more like America than at any previous time in its history.

Today this success is threatened by a truly bizarre decision by the Supreme Court. It thinks congressional district shapes should conform to some unstated standard of beauty. Its standard of beauty for congressional districts is not definitive.

My standard of beauty is the results as defined by the membership of the House of Representatives. The House of Representatives reflects the diversity of America more today than at any time previously in its history.

A decade ago Congress sought to correct 200 years of discrimination and fulfill the intent of the writers of the Constitution. They succeeded.

All Americans must persuade the Supreme Court of their folly.

Let the people's House look like the people.

□ 2010

Mr. FIELDS of Louisiana. Madam Speaker, I yield to the gentleman from Alabama [Mr. HILLIARD], my very able colleague.

Mr. HILLIARD. Madam Speaker, in the days of legalized Jim Crow laws when segregation reigned supreme, as hope within the African-American community was dim, the only government institution which stood up for the rights of our people was the Supreme Court.

Today it is unfortunate for the sake of democracy that our High Court is straying from our Nation's democratic principles, the principles of fair play and equal representation which are embodied in our Constitution. Madam Speaker, it seems to be lacking in the Shaw versus Reno opinion.

Our Court must realize that democracy must be inclusive and not exclusive in terms of the doctrines of fairness which should be employed. The majority opinion in Shaw versus Reno is clearly wrong.

I do not understand nor appreciate Justice Clarence Thomas' vote and Justice O'Connor's vote in that decision.

It is ridiculous, but Justice O'Connor wrote, "Our political system today is a system in which race no longer matters." She is wrong. Racial problems still confront many of us.

One only needs to pick up the newspapers or turn on the TV to realize this sad fact. Those of us who are attorneys need to remind the High Court that the 1965 Voting Rights Act is still on the books, and it is this Supreme Court's duty to affirmatively support it, preserve it, and enhance it.

The 1965 Voting Rights Act was established because President Lyndon Johnson realized that those who held the power of politics in the South did not and would not share this power with blacks. Their ploy was to dilute the black vote with at-large, rather

than district, elections. The same is true today.

Justice Blackmun stated the case best. He wrote,

> The conscious use of race in redistricting does not violate the equal protection clause unless the plan overtly denies a particular group equal access to the political process.

All blacks were disenfranchised in the South before the Voting Rights Act was passed. We must stop this one-up brinkmanship judicial philosophy in which the right-wing element of this Court is attempting to undo all the great democratic judicial strides we have made since the 1954 Brown versus Board of Education decision.

There are those who in 1994 would reaffirm Plessey versus Ferguson decision of 1896 which legalized segregation. Those like Sandra O'Connor and those like Clarence Thomas are looking at America in the year 3001 which will be the melted pot America and not the year of 1994 which is the melting-pot America, and there is a difference. Those who deny that there is a difference, those who deny that there is a racial problem are not fit to judicially preside and deal with the discrimination in this land at this time.

Madam Speaker, if we are to have a democracy which is true, it must be culturally diverse and must be inclusive. We have had representation without districts during the period of slavery and during the period of segregation, and it remained that way because those who represent all discriminated; those who represented blacks and whites in majority districts that were white voted the voice of the majority constituency. They voted the discriminatory views of their majority constituents.

Shaw versus Reno must go. Districts must be enforced and must be had if we are to preserve democracy.

Mr. FIELDS of Louisiana. Madam Speaker, I thank the gentleman from Alabama.

Madam Speaker, I yield to the gentleman from Maryland [Mr. MFUME], the chairman of the Congressional Black Caucus, my good friend.

□ 2020

Mr. MFUME. I thank the gentleman very much for yielding to me. My thanks to the gentleman from Louisiana [Mr. FIELDS], and other members of the Caucus and, quite frankly, other Members of this body who have, on this occasion and on previous occasions taken to this floor and raised a higher question to our Nation and to our Nation's people about the inequalities that have existed in the past but, more importantly, the hypocrisies that too often are with us in the present.

Clearly, one of the greatest hypocrisies is the notion that we can somehow have equal voting rights and equal protection under the law as it pertains to the right to vote while at the same time denying in every legal way we can the right of people to duly elect Representatives in districts that are drawn to reflect the demographics of the State in such a way that we maximize participation.

Madam Speaker, the struggle for African-American voting rights has been a dynamic one, ranging from periods of complete disenfranchisement and obstruction to varying degrees of participation in the political process.

The vote and its correlated benefit—inclusion in the political process—has come to symbolize the principal resource needed to improve the social status of the African-American community.

Noted political scientist William R. Keech stated that "the right to vote warrants extensive attention from observers of the American political process because one, it is perhaps the most widely distributed political resource in the country; two, it is the determining factor in a Democratic form of government, for in the end, most decisions rate on votes; and three, it is conduit through which popular sentiments are translated into governmental decision."

African-American access to the right to vote—and therefore, the political process—has been acquired and protected through the passage of constitutional amendments such as the 15th amendment in 1870, Federal legislation, such as the Voting Rights Act of 1965 and numerous judicial interpretations spanning the 19th and 20th centuries.

Now, comes the Supreme Court decision in Shaw v. Reno which states, among other things, that the shape of a district is more important than the people represented. Furthermore, the Supreme Court espoused districting principles that are not required by the Constitution, such as compactness, and contiguity.

These principles are important now because at issue is African-American participation in the political process. Therefore, I must ask the question posed by the dissenting opinion of Justice Blackmun: why is an otherwise permissible redistricting to benefit an underrepresented minority group impermissible when the minority group is defined by its race. If it is permissible to draw boundaries to provide adequate representation for others as we have done throughout our history, it necessarily follows that it is permissible to do the same thing for members of the very minority group whose history in the United States gave birth to the equal protection clause.

Thus the Congressional Black Caucus rises today to raise this issue before all who would listen, to argue that the court has been misguided in its interpretation and threatens to set back this Nation in a very negative manner, in the matter of equal representation and voting rights.

We rise today to begin this debate in hopes that it will begin over and over again throughout this country, every city, every State, the Nation, every hamlet where people believe as we all do that in order for America to be the Nation we should be, we must be consistent in our principles, profound with our respect for the law, and unceasingly committed in our desire to make sure that all people have equal representation.

I believe also, as many others have stated, that as people become familiar with this issue and begin to look at it, they see something that the Supreme Court could not see, they see the beauty of the American dream and how that beauty can be reflected if we really move to protect the rights, the voting rights of all people.

So we have gathered here in this evening under the leadership of the gentleman from Louisiana [Mr. FIELDS] to say, as we would say at every opportunity we will get, that we need in this battle all Americans of good will who believe that this issue, as it must be, is a priority before our Government.

We call upon the administration and all of the related agencies, we call indeed on the court who have put us in this position, and we call on Members of the House and the Senate to join us in this struggle, recognizing that we must be able to create a just society, a just society where justice is supreme ruler and law becomes but its instrument, where freedom is the dominant creed and order by its practice and equity is the common practice that we offer one another in fraternity, common brotherhood and sisterhood that binds us.

This issue goes to the heart of our Nation being fair in its treatment to the voting rights that are guaranteed under the Constitution to all its citizens.

We ask and we plead to those of good will to join us in this struggle, to recognize, if they will, as we do the simple lessons of history and what happened in the late 1860's; the fact that minority groups have been historically underrepresented in this body and sometimes historically excluded; to remember the words of the late Representative, Mr. White, the last African-American to serve in this country at the end of the last century, who addressed this body in 1901 on his way out, into retirement, leaving behind a House of Representatives that was without Hispanic, without black representation; that we too would rise like phoenixes again, and bring before this Nation a very basic challenge, the challenge to define itself by its commitment to be just and equal.

Yet, 28 or 29 years passed before there was another minority to serve in this body. We have been blessed over the years through the good will of African-Americans, white Americans, and oth-

ers who have recognized that representation ought not be colored. We have been blessed to see our numbers grow.

Those numbers threaten to be severely diminished if we do not turn back this dastardly decision handed down by the courts.

So, again, my thanks to the gentleman from Louisiana [Mr. FIELDS] and others for engaging in this debate tonight. We encourage Members of this House to join us again and again as we continue to press this issue, and we urge that the leadership of the House, as well, understand the way we are committed to this and the passion that we bring to it, because this is really about leadership and really about the direction of our Nation.

Madam Speaker, I yield back the time to the gentleman from Louisiana, who has been very gracious in yielding.

□ 2030

Mr. FIELDS of Louisiana. Madam Speaker, I thank the gentleman from Maryland [Mr. MFUME].

Madam Speaker, at this time I yield to the gentleman from Virginia [Mr. SCOTT].

Mr. SCOTT. Madam Speaker, I rise today to discuss a matter of great importance in this House. In recent months a series of challenges have been launched against some of my colleagues and the shape of their congressional districts. These districts, designed to right historical wrongs and to usher in an era of political inclusion have come under attack.

It is often said that history repeats itself. With regard to the current debate on reapportionment and challenge to majority minority districts, we are beginning to see a repeat of American history's more sour moments.

For more than 100 years, African-American voters in this country could not vote, let alone have representation in local, State, or national government. Following the war to unite this country, action was taken to right some of the past wrongs and inequities suffered by the minority population of this country. However, while these efforts were made with great promise and with good intention, they ultimately failed under a series of repeated attacks by those conservative forces who did not have the dream of inclusion. Things like jim crow, poll tax, literacy test, and other repressive mechanisms were used to kill any hope of equal representation.

Madam Speaker, until the Shaw versus Reno decision the Supreme Court had never recognized any Federal right to challenge a district solely on the grounds of its unusual shape. Until this particular case the courts had accepted oddly shaped or drawn districts for partisan reasons, to protect incumbents, to favor one jurisdiction over another or even to discriminate against minorities. Why then apply a stricter standard at this time to districts with African-American and Hispanic majorities that have been drawn to overcome the past practices of exclusion and racism?

Madam Speaker, throwing out districts based on this unprecedented standard would only reinforce a tyranny that the Voting Rights Act has overcome, and we must resist the efforts to turn the clock back.

Madam Speaker, I thank the gentleman from Louisiana [Mr. FIELDS] for his hard work in this effort.

Mr. FIELDS of Louisiana. Madam Speaker, I thank the gentleman from Virginia [Mr. SCOTT] and at this time I yield to the distinguished gentlewoman from the great State of North Carolina [Mrs. CLAYTON].

Mrs. CLAYTON. Madam Speaker, I am glad to join with my colleagues to address the important issue of redistricting. Let me first thank the cochairs of the Congressional Black Caucus redistricting task force, the gentlemen from Louisiana [Mr. FIELDS and Mr. JEFFERSON] for their leadership on this important issue.

It is necessary that we all understand that redrawing district lines for representation is not new. District lines are drawn for the purpose of making sure representation is fair and afforded to all citizens. This has always been the intent of district lines. In and of itself district lines are race neutral. Congressional district lines which now are the center of court hearings in 4 Southern States are being woefully described in terms other than for what they truly represent.

We have seen over the past several years increased diversity of the city councils, boards of county commissioners, State legislatures, judicial appointments and the Congress as a direct result of district representation. This increased representation by blacks and other ethnic minorities has strengthened the true meaning of representative government. Because of this, we have witnessed an active increase in government at all levels. People are viewing government as not an abstract unrelated entity but as an institution that is responsive and sensitive to the needs of the people. There is an increased desire to want to serve and be a part of the democratic process. All of this is happening because of the renewed hope in government caused by a more representative government of the people.

Any time the freedom and right of representation is challenged, there is the potential for unrest and political disempowerment. The court suit that challenges the district lines in each of the States is a severe threat to the many political gains that this Nation has experienced since Reconstruction. We have to be more vigilant and watchful to make sure that the hands of political disempowerment are returned to the dark history of America's past. A history that is contradictory to the rights of all people to participate in the representation process should be supportive of the basic fundamental elements of democracy. The kind of democracy which guarantees fairness for all segments of the community to be actively included in the governance process.

The results of these court hearings could be devastating to all that has been accomplished. It would even suggest that the Voting Rights Act is no longer valid in its intent to ensure balance in the electoral process. History bares the record clearly for us all. In my State of North Carolina a black had not been elected to Congress in over 90 years. District lines were quite often drawn to minimize the strength of minority voting.

It is ironic that the argument seems to suggest that these districts are racially gerrymandered or the voting influences of whites in majority minority districts are now diminished. Most astonishing is the notion that the interest of whites cannot be represented by representatives of majority minority districts. This is absurd and utterly racist. It is shamefully disgraceful to even suggest that good representation is based upon one's skin color. We cannot let the naysayers who have no interest in having representative democracy be successful in reversing progressive electoral gains since Reconstruction.

We cannot let history repeat itself with any retrenchment that might wipe out the advancement which is good for all of America. The argument that any citizen is injured because of majority minority districting just will not hold up in any form or fashion.

It is time for all Americans to register their concerns that the progress we have made as a Nation stands at risk by a few who have no interest or concern for a representative democracy.

Mr. FIELDS of Louisiana. Madam Speaker, I thank the gentlewoman from North Carolina [Mrs. CLAYTON].

Madam Speaker, I yield to the gentleman from New York [Mr. OWENS].

Mr. OWENS. Madam Speaker, I thank the gentleman from Louisiana [Mr. FIELDS]. I would like to just underline a few of the statements that have been made by my colleagues.

First, Madam Speaker, it is very important to understand that the drawing of strange-shaped district lines, odd-shaped districts, whether we are talking about congressional districts, or State senatorial districts, assembly districts, city council districts; the drawing of odd-shaped districts has gone on for as long as there has been a Republic, and right now there are very strangely shaped districts and odd-shaped districts all across America that have nothing to do with voting rights. They were no part of the voting

rights process. So why do we suddenly have a ruling from the Supreme Court which allows court suits to be brought on the basis of the shape of the district?

Never before in the history of the country have we had this kind of ruling, Madam Speaker. In fact, the Supreme Court has always affirmed the right of State legislatures to draw districts as long as they are compact and contiguous, and the definition of that will certainly stretch to the very limits, as one can see if we would take some of the very odd-shaped districts across the Nation that have nothing to do with voting rights.

Madam Speaker, the Voting Rights Act was an attempt to make an adjustment. It was an attempt to do the least that could be done for 200 years of slavery, 200 years of free labor, 200 years of degradation and another 100 years of second-class citizenship. We have not repaid the debt owed to the enslaved masses of African-Americans. We have not begun to repay that debt. We have made a few adjustments.

Madam Speaker, this Voting Rights Act was one of those adjustments to allow us to participate in the political process. Now we want to take that away, and we argue that we want some kind of pure democracy with pure-shaped districts. Those who believe in pure democracy should go back and examine the Constitution and the process which established our Constitution.

One of the most undemocratic bodies in the world is the U.S. Senate because the U.S. Senate is based on a compromise, an adjustment, that was made. Every State, regardless of the size of the State physically, regardless of the population of the State, every State in the U.S. Senate has two votes. Is that one man, one vote representation?

And in the U.S. Senate they have filibuster rules where they can have 40 people, the representatives of 20 States, that can stop any process from going forward with a filibuster. Is that democracy?

As my colleagues know, we have made adjustments. It is a compromise that nobody seeks to unravel. Compromises and adjustments are necessary to build just societies. The Voting Rights Act is a compromise which is the least that can be done to correct a gross injustice to people of African descent brought here as slaves.

Madam Speaker, I thank the gentleman from Louisiana [Mr. FIELDS] for having yielded to me.

Mr. FIELDS of Louisiana. Madam Speaker, I thank the gentleman from New York [Mr. OWENS] for his eloquent speech about the Voting Rights Act, and at this time, Madam Speaker, I yield the balance of the time to the great and distinguished gentleman from the great State of North Carolina [Mr. WATT].

The SPEAKER pro tempore (Ms. ESHOO). The gentleman from North Carolina [Mr. WATT] is recognized for 30 seconds.

Mr. WATT. I will be powerful in my 30 seconds.

Madam Speaker, I thank the gentleman from Louisiana [Mr. FIELDS] for having yielded the balance of the time to me.

□ 2040

Mr. DORNAN. Madam Speaker, if the gentleman would yield for a happy suggestion, my special order starts next. If the gentleman would like to pace his remarks to take 2 or 3 minutes from the beginning of mine, so he can give it some full thought, I will be glad to yield to him at the beginning of my special order.

Mr. WATT. I thank the gentleman so much for his courtesy, because I did want to take a little bit more than 30 seconds to address this issue.

I wanted to first thank all of my colleagues who have been here this evening to express their position on this important matter. I suppose I have a special mission here, because it is North Carolina and my congressional district which is the subject of Shaw versus Reno.

I stand here as one of two African-American Members of Congress from the State of North Carolina, the first African-American Members of Congress elected from the State of North Carolina in this century.

Mr. CLAY. Madam Speaker, I am always amazed and puzzled by those Americans who argue persuasively and passionately on behalf of equal treatment for blacks while simultaneously supporting measures to deny the same people the opportunity for achieving equality. The issue at hand, namely, the drawing of race-based congressional districts, is a perfect example.

In a 5 to 4 decision, the Supreme Court ruled that drawing congressional districts for the purpose of giving blacks an opportunity to be elected, dilutes the votes of white citizens. In the case of Shaw versus Reno, the high court discounted the fact that until the drawing of two congressional districts with a majority of black voters, North Carolina had not elected a black Member to Congress since 1901. The high court ignored the fact that for over 90 years a State with 35 percent black population had deliberately created white race-based districts which diluted the voting strength of black citizens.

Madam Speaker, this is the hypocrisy of which I speak when describing those Americans who creatively and passionately argue on behalf of equal treatment while simultaneously denying blacks the vehicle for equal opportunity.

The alternative to drawing race-based congressional districts thus making it possible for blacks to be elected, is to draw race-based districts that make it impossible for blacks to be elected.

North Carolina is not an isolated case where black people have been denied the right of legitimate representation. Until recently, every State in the union drew legislative districts at the local, State and congressional levels that were purposely designed to deny blacks fair representation. New York, Chicago, and Cleveland were no different from Atlanta, Birmingham, and Memphis. From one end of this country to the other, North, South, East, and West wherever large numbers of blacks resided, districts were drawn in these cities to dilute the black vote.

From the turn of this century until the election of Oscar Depriest to Congress in 1928, being black in America meant suffering "taxation without representation." This condition existed until just a few years ago.

Black representation, at all levels of government, was sparse indeed.

The self-described liberal State of New York did not elect its first black to the State assembly until 1916, 53 years after the emancipation proclamation. California did not elect its first black to the State assembly until 1918 and Missouri followed suit in 1920. Thirty-six years later in 1956, the great State of Illinois, the land of Abraham Lincoln, elected its first black to the State legislature.

At the time of Depriest's election, major industrial cities with large concentrations of black residents like Memphis, Atlanta, New York, Pittsburgh, Baltimore, Little Rock, Charleston, Charlotte, Richmond, New Orleans, Cleveland, Cincinnati, Louisville, Philadelphia, Boston, Buffalo, Savannah, Birmingham, and Detroit had no elected black officials.

The cities of New York and St. Louis did not elect their first blacks to their city councils until 1914 and 1943 respectively. Los Angeles did not elect its first black city councilman until 1963. It would be 17 years after Depriest's election before another black was elected to the U.S. House of Representatives, and not until 1966 before the first black in the 20th century was elected to the U.S. Senate.

Three events occurred that now make it possible for 39 blacks to sit in this House of Representatives and one in the United States Senate. First, the passage of the 1965 Voting Rights Act by Congress enabled blacks to register and vote in large numbers throughout the Southern States. Prior to this time, chicanery, trickery, fraud, intimidation, gerrymandering, and the purging of registration rolls were common techniques capriciously employed to deny black people the opportunity to vote and to serve in elective office. For over 100 years, poll taxes, literacy tests, all white primaries, threats of bodily harm and murder kept 95 percent of the black populace from registering and voting.

Second, the 1964 Supreme Court "one man, one vote" ruling required the redrawing of legislative districts at all levels of elective government, ensuring equal weight to each individual vote cast. Some States had congressional districts as large as 900,000 and others had districts as small as 180,000. This ratio meant that one vote in one district was equal to five in the other. This inequitable arrangement was used extensively to keep blacks from having too much voting power in a particular district.

Third, the Federal court decision that rendered as unconstitutional the gerrymandering of districts to diminish the importance of mi-

nority voters, played an important role in the dramatic increase in black elected officials in every sector of the country.

Prior to these legislative and judicial decisions, most State laws failed to give adequate protection to the rights of black voters. State officials either overtly sanctioned this injustice or gave tacit approval to those who flagrantly disregarded the rights of their minority citizens. Scandalously, these political entities were permitted by the Federal Government to operate with impunity.

Madam Speaker, beginning in 1876, black voters were systematically reduced to noncitizens by the denial of their right to fully and freely participate in the political process. They were almost totally purged from voter lists in the 11 Southern States: Alabama, Arkansas, Florida, Kentucky, Louisiana, Mississippi, North Carolina, South Carolina, Tennessee, Texas, and Virginia.

This diminution of black political power eventually resulted in the virtual disfranchisement of 90 percent of the black populace. Within 20 years after 1876, eight States enacted devastating literacy tests as a requirement for blacks to register and vote. By requiring black folk to read, understand and interpret any section of the State constitution, Mississippi was able to reduce the number of qualified black voters from over 235,000 to 5,300. The situation was identical in Alabama where the number of black voters was reduced from 187,000 to 3,000.

In some communities prominent black educators and other professionals never passed the tests. Blacks with Ph.D.'s were denied the right to register because they were unable to give a satisfactory response to such obtuse and irrelevant questions as "how many bubbles are in a bar of soap?"

Now enters the Supreme Court, a majority of whom were appointed by ultra conservative ideologues Presidents Reagan and Bush, issuing an opinion implying that blacks who constitute 10 percent of the Nation's population and less than 2 percent of the total elected officials in the country have made too much progress. Shamefully, Clarence Thomas, the Negro representative on the Supreme Court, voted in Shaw versus Reno, with the majority in this asinine 5 to 4 decision. His vote has seriously jeopardized the future of a viable, black presence among elected officials.

Of course, his action was consistent with his prior positions involving the rights of black citizens when he was Chairman of the Equal Employment Opportunity Commission. Additionally, in his very first case as a Supreme Court Justice, Thomas displayed his contempt for the Voting Rights Act. In a critical decision interpreting the act, the court adopted a restrictive view of the law and rejected arguments presented by the Justice Department on behalf of black elected officials in two Alabama counties. The two, after being elected, were stripped of the budgetary authority traditionally and customarily accompanying the positions by the all white county board. Judge Thomas voted with the 6-to-3 majority in sanctioning the right of districts under the Voting Rights Act to change laws, rules and regulations without prior approval of the Department of Justice.

Madam Speaker, if blacks are to unshackle the chains of bondage that bind us to a status of economic deprivation, decent people must counter the warped mentalities of those misfits in society whose penchants for racial fairness is flawed beyond redemption. The arrogance or the ignorance of the Clarence Thomases and the Sandra Day O'Connors must not go unchallenged. This body should make it clear to Justice O'Connor who wrote the majority opinion that black people have a basic right not only to participate in the affairs of government but also to govern. Justice O'Connor attacked the concept of districts being drawn on the basis of race, saying "racial classifications of any sort pose the risk of lasting harm to our society. They reinforce the belief, held by too many for too much of our history, that individuals should be judged by the color of their skin." Where has she been all these years?

Madam Speaker, Justice O'Connor makes my case when I state that I am amazed and puzzled by some Americans who argue persuasively and passionately on behalf of equal treatment for blacks while simultaneously supporting measures to deny us the opportunity to compete.

Miss COLLINS of Michigan. Madam Speaker, it is with grave concern that I address the House today and it is with deep disappointment that I have to. I join my colleagues in alarm at the June 1993 U.S. Supreme Court decision which challenged the constitutionality of congressional districts drawn after the 1990 census to encourage the election of minorities to the U.S. House of Representatives.

We can never be reminded too often that the 15th amendment to the Constitution guaranteed all citizens the right to vote, regardless of race, color or "previous condition of servitude." We can also never be reminded too often that many States and localities across this country imposed obstacles to registration and voting that diluted the impact of minorities' votes or even prevented some people from voting at all. We cannot forget those egregious examples like the poll tax or tests as prerequisites to voting. We cannot forget the machines that ran the system from the back rooms and board rooms.

Our courts have long recognized that this Nation's long and deplorable history of racial and other discrimination justify remedial actions. While I will not try to debate the legal issues at stake, I do want to note that the Voting Rights Act of 1965 was a landmark law, and still today it provides minorities the legal tools to challenge discriminatory practices. It is a precious law that has brought profound results.

The numbers speak for themselves. Before the Voting Rights Act was enacted in 1965, there were four African Americans in the House of Representatives. After the 1970 redistricting, the number tripled to 13. Following the 1980 redistricting, the number of African Americans grew to 19. In the last Congress, the 102d, there were 27 African Americans. With the 1990 redistricting, there are 39, the highest number in this body's history. I must note, however, that at 39, African Americans, who constitute almost 15 percent of the Nation's population, are only 9 percent of total representatives.

I should note also that we have welcomed to this House 19 Latino Representatives and 7 Asian, the highest number ever.

The goal of the civil rights movement, and indeed of our Constitution, is to have a truly color-blind, interracial democracy. The problem with the Supreme Court decision is that it does not recognize that we are not there yet. Looking at the composition of the House and its power structure, it does not take long to see that remedial steps are still warranted. Our laws must continue to recognize the long history of systemic discrimination against minorities in order to open doors to their full participation in government.

It is a history that many would like to forget, but it is a history that we cannot forget.

Ms. EDDIE BERNICE JOHNSON of Texas. Madam Speaker, I come before you on this day with an issue of profound importance. It is an issue which threatens the most basic principle of democracy, and democratic freedom—the principle of one man, one vote.

The historic struggle of black Americans to gain the right to vote spanned two centuries, and culminated with the passage of the 1965 Voting Rights Act.

Consequently, the number of black elected officials has increased exponentially. And while black electoral representation is extraordinary when compared to any time before the 1970's, our numbers still represent less than 2 percent of all elected officials nationwide.

Since the mid-1960's, black Americans have constituted a significant portion of the democratic constituency now representing between 20 to 25 percent of the entire democratic base. Our current administration received more than 87 percent of the black vote.

Retaining the voting rights act has often been threatened or impeded by so-called American tradition, law, or by such extralegal practices as fraud, intimidation, and violence by members of the community at large.

Madam Speaker, a number of forces have combined to once again challenge not only the letter, but the spirit of one of the most significant pieces of legislation in the history of this great body, the Voting Rights Act of 1965.

Last night the very powerful movie, "Schindler's List," won most every Academy Award for which it was nominated, including best picture for 1993. This incredible movie highlights one of the many stories of heroism surrounding the Jewish Holocaust under Nazi Germany.

The message surrounding the making of this movie, and others like it, is "never again." "Never again will this kind of atrocity be tolerated." Madam Speaker, it is the overwhelming declaration of black Americans throughout this Nation, both Democrat and Republican, from Texas to New York to North Carolina, that never again will any law, tradition, or other impediment, be allowed to interfere with, dilute, or otherwise undermine the full and complete enfranchisement of black Americans.

Never again will black Americans sit by while their communities are carved up by highways and reservoirs in order to dilute their voting strength, or electoral potential.

There are some who ask, why is it essential that there be blacks in Congress? To that, I would like to respond with this simple illustration:

Imagine a university classroom, where the day's discussion turns to race relations. Imagine if in that classroom, there are no blacks,

no Jews, no Hispanics; imagine even that there are no women, only males.

Imagine a Congress where only one point of view is represented. Mr. Chairman, that is precisely the kind of presence which threatens to replace this great body today.

I urge your support, and that of all my colleagues, both Democrat and Republican, in defending the voting rights of black Americans, from Texas to Louisiana to California.

Finally, for those Members, and those groups who believe this is only a black problem, I would remind you of the words of the great Christian scholar, Martin Neimoller:

When they came for the Jews, I didn't raise my hands, because I wasn't a Jew; when they came for the trade unionists, I didn't raise my hands, because I wasn't one of them; and then they came for me—but there was no one left.

The SPEAKER pro tempore. The gentleman's time has expired.

MORE ON THE CLINTON YEARS

The SPEAKER pro tempore. Under the Speaker's announced policy of February 11, 1994, the gentleman from California [Mr. DORNAN] is recognized for 60 minutes.

1965 VOTING RIGHTS ACT UNDER ATTACK

Mr. DORNAN. Madam Speaker, I would be glad to yield to the distinguished gentleman from North Carolina, if I can get in a commercial first.

I heard one of the others say they had been in Mississippi registering people to vote at some risk of life and limb in the summer of 1964. I was also there then, having marched with the Rev. Martin Luther King, Sr. I think all of your remarks are very important tonight.

The commercial part is the following. While I was down there registering people, I admit, honestly, that I was telling all the good people of Alabama and Mississippi when they asked what party do you think I should register in, I said it is up to you, but Lincoln was the gentleman who freed the American slaves, and he is a Republican. And I think I registered a few Republicans. I do not know if it stuck. But I will tell you one way to solve this reapportionment problem, and I mean this from the bottom of my heart.

I think that the African-American families across this country will not have the full impact they deserve until they are involved in both parties in big numbers. You should encourage those in your community who are more inclined to be of a conservative bend in life to become Republicans.

Of the 39 African-Americans in this Congress, I wish we had not just one on my side of the aisle, but instead 38 or 40 or 50, to match the same number on your side of the aisle.

Please, take more than the 2 or 3 minutes.

Mr. WATT. Madam Speaker, I thank the gentleman for yielding part of his time to me and acknowledge his commercial, and remind him that Lincoln was of the party of the people at that time, at the risk of having him reclaim his time. I will not get into a debate about that.

Madam Speaker, I would say that I stand here tonight in the shadow of a lot of history, part of which I have already alluded to, as only one of two black Representatives from North Carolina in this century.

Recalling the shadow cast by George H. White, the last African-American Representative from North Carolina, in his farewell speech of January 29, 1901, which still casts a shadow, even today, George H. White rose on the floor of the House on that occasion to speak on an agriculture bill. Unrestricted by the rules by which are governed today, he spent approximately 2 hours talking about the fact that black people had been disenfranchised and about his exit from the Congress. He was speaking in the context of an agricultural bill, but talking about things that were heavy on his heart and mind.

I stand in the historical backdrop of a pattern of racially polarized voting in North Carolina which has made it impossible for African-Americans to be elected to Congress for over 90 years, despite the fact that a number of African-Americans of quality have offered themselves for office: Howard Lee, former mayor of Chapel Hill, Kenneth Spalding, a Durham attorney and former State legislator, H. Mickey Michaux, a State House member and former U.S. attorney, and my current colleague, EVA CLAYTON, who ran for Congress approximately 10 years ago, among others who were discouraged by the racial policies of polarized voting and discouraged from offering themselves for political office.

The case of Shaw versus Reno and the opinion which we have addressed this evening really makes little sense. It talks about a congressional district constituting racial apartheid. It suggests that a congressional district which is 53 percent black, as my congressional district is, and 47 percent white, is racial apartheid; while a congressional district which is 80 percent white and 20 percent black is somehow an integrated congressional district.

That, my friends, is sounded in racism. It talks about black people not being able to represent the interest of white constituents, while assuming that white Representatives can adequately represent the interests of black people. That, my friends, strikes of racism.

I would, at the risk of not taking too much of the gentleman's time who has so graciously yielded, simply conclude by asking one simple question for Americans to ponder: There is a historic event taking place or about to take place in April in the country of South Africa. I would simply ask, would the United States of America stand still for South Africa to put into place a system of representation which said we will not guarantee whites, the white minority in South Africa, the right to have representation in that government?

And yet at the same time that we would stand as a country and say to South Africa, that will not be acceptable, our Supreme Court in this land is saying to us, we will not guarantee you representation. We will allow a racially polarized pattern of voting, which has been documented time after time after time in the State of North Carolina, in every State in the South, to disenfranchise black voters.

I would say we cannot ask for equity and democracy and demand it in South Africa, while at the same time denying it right here in our own country.

□ 2050

THE CLINTON YEARS: PART 3

Mr. DORNAN. Madam Speaker, I was glad to yield to the gentleman. Anything for a North Carolinian. North Carolina, "First in Flight." I am even wearing my Wright Brothers tie tonight.

There is nothing more frustrating here than having to interrupt your thoughts as the clock is chasing you.

Madam Speaker, I want to continue what I have just loosely called "the Clinton years, part 3," and begin tonight with something from yesterday's Wall Street Journal that I found very disturbing. It is a description of the fine State of Arkansas that matches something I tried to describe in this well in September and in October of the election year, 1992.

There is a newsletter that has just come into my possession by Kevin Phillips, published by the American Political Research Corporation. It is called the "American Political Report."

The headline is, "Whitewater, The Politics of a Second Watergate."

When you say this to anyone in the dominant media culture who is a gentleman and admits they are liberal, a lady of the same honor, and they are rare, most of them claim that they are perched on some Olympian peak of moderate perfection. When you mention in the same breath Whitewater or Watergate or refer to Whitewater as White Watergate, as does the great columnist for the New York Times, Bill Safire, they go ballistic on you.

Here are some of the subtitles in Kevin Phillips' American Political Report:

"Clinton, Whitewater and the Polls," and the polls are moving severely against Mr. Clinton. "The Clinton Scandals, a 20th Century Political Perspective." I will come back to that. "The Hillary Rodham Factor, the Clinton Scandals in the Midterm Elec-

tions." That is a fascinating part 4. "June Congressional Hearings on Whitewater." It may be a lot sooner than June, after what happened in this House today. By a vote of 408 to 15, the House of Representatives, the people's great Chamber, has joined that 98 to 0 vote in the U.S. Senate to start hearings as soon as possible.

"Six Clinton Legal Vulnerabilities," this is a nightmare for the White House, "Obstruction of Justice, Shredding of Evidence, Intimidating or Offering Payment to Witnesses or Offering Promotions, Jobs to Arkansas Troopers," which was not mentioned in there. This is under that heading number 6 of "Legal Vulnerabilities."

"Whitewater Illegal Financial Dealings, Troopergate." There it is. Good, Kevin. "Sexual Harassment, Wrongful Death Conspiracy."

Then category 7, "A Clinton Vulnerability Scenario." That is truly a nightmare.

Number 8, "Impeachment Possibilities," the big "I" word finally in print, albeit in a newsletter.

Number 9, "The Clinton Scandals and the Impact on '96." And then under the headline of "The National Politics," it says, "Clinton Job Approval." It gives Time, Yankelovich, NBC, Gallup, USA Today, Singlinger. These are all about a week to 2 weeks old. They are all dropping.

Let us just take a look at the headlines in the news magazines. I misplaced U.S. News & World Report, but Mort Zuckerman's publication is just as tough as this newsletter. Here is Time Magazine: "It is a jungle out there. The administration is in retreat, embarrassed by new disclosures, unable to head off congressional probes." Remember, this went to bed 4 days ago.

Here is the Newsweek headline, "Clinton's Bleak House. Bill Clinton Looking to Combat His Whitewater Blues." The President made a flurry of spirited public appearances last week, including pounding on a podium in the immature, stridently saying, "No" nine times. More about that in a second.

"Hillary Rodham Clinton, the First Lady Found Her Own Medicine in a Trip to Denver To Sell the White House Health Care Plan." Still stalling, or as one columnist observed, a modified hangout, Watergate term.

"Stunned by More Bad News, the President Tries to Change the Subject."

Tonight on all three networks, particularly on CBS, they devoted about 10 minutes on the CBS show to all of the various Whitewater stories breaking today. On ABC, they described the vote of this House today to hold hearings as the Democrats conceded to, and then the reporter took a deliberate, dramatic pause and said, "To do the best we could, because we do not have specific dates yet or anything really substantial on when we are going to have the hearings."

The Los Angeles Times, which, remember, has 4 of the Arkansas 10 troopers that were talking, 4 on tape recording, here is the L.A. Times of yesterday, a story correctly predicting what would happen today in Little Rock. "Ex-municipal judge accused of fraud tries to implicate Clinton. David Hale's trial begins next week in a case related to Whitewater."

Of course, he plea bargained today. Interesting that the U.S. attorney down there in Little Rock, Paula Casey, could have had him plea bargain months ago. This all would be much further advanced. Maybe some of it is resolved to the Clintons' satisfaction, if she had not stonewalled former Judge David Hale's offer to plea bargain and tell all and then, after she had stopped him and demanded that he go to trial, then she recused herself as having a biased background on the whole Whitewater mess.

Here is today's L.A. Times, "Clinton Treasury Aide Given Early Briefing on Failed Arkansas Thrift. Political appointee Roger Altman was told that the Madison Guaranty S&L Case would go to the Justice Department. He is also a regulator, raising a possible conflict."

Beneath that another story, "Republicans had planned to raise the Whitewater issue at hearings on Thursday." Chairman GONZALEZ, who has called for the impeachment of a sitting President 3 times in the 12 Reagan and Bush years, my friend HENRY GONZALEZ, instead calls for a select panel to probe the controversial matter.

We do not know if that 408 to 15 vote today is going to grow into a select panel, but if it does, it will be more of a jungle out there for the White House. As a matter of fact, when I pick up the papers these days, an old Beatles tune always rings in my head: "I Saw The News Today, Oh Boy."

Now, here is the Wall Street Journal, yesterday, "Rose Law Firm Will File Ethics Complaint in Arkansas About Hubbell's Expenses." That is Webster Hubbell, best golf buddy of Bill Clinton.

The Rose law firm has decided to file a complaint with the Arkansas ethics authorities about undocumented expenses incurred by former Associate Attorney General Webster Hubbell. How can they blame that on the Republicans?

Of course, they cannot. It is impossible. As I said in my special orders last week, walk out the hall here a few steps to the Statutory Hall, which was the House Chamber for 50 years from 1807 to 1857, and statue number 7 around to your left, in between Jefferson Davis, the Senator from Mississippi who became the President of the 10 breakaway Confederate States, and on the other side is Robert Fulton of steamboat invention fame, and there is one of the two statues from Arkansas that every State is allowed to put in this incredible building, the world's greatest governmental building ever. There is the distinguished face and form of Uriah Rose, the founder of the Rose law firm, an appointee to the Geneva Convention at the turn of the century, around 1908. By 1908, President Teddy Roosevelt, was the first President of the American Bar Association.

And that Rose firm, was the first firm west of the Mississippi, when Arkansas was just a frontier State. It is really tragic what has happened to the 60 partners down there, now that they are going to find themselves possibly, as some columnists suggest, in a state of bankruptcy within months.

□ 2100

What a tragedy, that the four partners coming to Washington, what is now being called the gang of four: Hillary Rodham, Webster Hubble, Vince Foster, dead since July 20, and now William Kennedy, William Kennedy III, no relation to the Massachusetts Kennedy family. Here is the Wall Street Journal article from today.

"Kennedy, Clinton's ethics gatekeeper, hasn't paid taxes on nanny's wages."

Before White House Associate Counsel William Kennedy III, became a Clinton gatekeeper on ethical issues, he worked for Nussbaum, who has resigned under a cloud, who had on his desk a parody of James Carville, Clinton's campaign manager's theme sign about staying on message, "It is the economy, stupid," and Nussbaum had on his desk, "It is the ethics, stupid." That sign must have fallen on its face when they were all conducting these midnight raids into Vince Foster's office.

It says, "Kennedy became a Clinton gatekeeper on ethics, yet he had a hidden problem of his own, unpaid taxes owed on a nanny's wages, but he disclosed it to only one person in the Clinton camp," surprise, surprise, "Vincent Foster, the Deputy White House Counsel who died July 20th."

Notice, very few of the papers say "committed suicide." They say "alleged suicide," or "who died." I may be naive, but I am still clinging to the theory of suicide, because anything else is so Shakespearian. I will be on this floor if there is ever a murder or even an indication of the body being moved. I will be on this floor calling for the resignation, merciful resignation, of the Clinton team from the White House, that is for sure.

Here is the headline of the distinguished Washington Times: "Gonzalez Gives In, Calls For Hearings. Hale Might Hold Pieces To The Whitewater Puzzle. Grand Jury Likely To Hear of Clinton's Deals."

It is interesting that Hale might be the John Dean of this breaking scan-

dal, the first one who comes forward and tells all to save himself. Dean went to jail. It looks like Hale if going to jail for 10 years, maybe with good behavior he will get 5, but this thing grows exponentially.

Here is a column I meant to put in the RECORD from last week when I spoke on St. Patrick's Day and the following day, "In Defense Of Arkansas." It says,

It is time to come to the defense of Arkansas, recently maligned with an image of a close-knit political circle of mutual back scratching. In this department, Little Rock has nothing on Washington, DC. With Webb Hubble leaving the Justice Department, Jamie Gorelick is about to arrive. Ms. Gorelick's nomination, which went before the Senate last week, was fascinating because of all the people she has defended: Clark Clifford and Robert Altman,

not Roger, no relation, I believe; I had better check that out,

on the First American Bank, where they worked when it was secretly owned by the Bank of Credit and Commerce International, or BCCI, one of the largest banking scandals in this country.

Guess what? I found out who writes these fascinating articles in the Wall Street Journal. It is Robert Bartley. He was unflappable on Meet the Press Sunday, before the guns of David Broder and company.

He has said to folks that since Michael Kingsley and others accused him on Nightline, excuse me, on Crossfire, and in print in the New Republic, that he was one of the proximate causes of a suicide, namely, Vince Foster, that he said, "What do these people expect me to do, dry up and blow away, or to defend my honor?"

Here is an article that I think is going to be probably the most quoted over the next months, from what I have always, goodnaturedly, called a schizophrenic magazine, because most of the reporters are liberal, like Michael Kingsley, and yet Fred Barnes is one of its senior editors, and that is the New Republic.

Wait until I read what the New Republic says about the scandals interlocking in Arkansas, by L.J. Davis.

Here, it is so powerful. It is quoted in a long editorial, the longest I have seen yet in any paper in the Wall Street Journal, obviously written by Robert Bartley. and I will cut to the chase here and read the part that fascinated me, because I had said the same thing on the House floor over 1 year and 7 months ago.

"Arkansas," Mr. Davis, L.J. Davis, writes in the New Republic, a liberal, moderate magazine, "there is a close resemblance to a Third World country, with a ruling oligarchy, a small and relatively powerless middle class, a disenfranchised, leaderless populace."

The Wall Street Journal says, "This kind of civic culture we see in many actual Third World countries." I have witnessed it all through the torments of Central and South America, over many trips down there, when I was on the Committee on Foreign Affairs a decade ago.

"We see this kind as likely to produce a spoils-to-the-victor, above-the-law approach to government; that is to say, the kind of careless arrogance we have seen in the handling of Whitewater, in the White House passes, in Webb Hubble's law firm billings, in Travelgate, in intervention into an ongoing corruption trial, in the handling of Vince Foster's death, and in the handling of various individuals, including Zoe Baird, Kimba Wood, Lannie Gunier, and Chris Emory, a White House usher, dismissed over phone conversations with Barbara Bush over how to set up her computer," home laptop computer, with no warning, and less than a week's notice; Chris Emory, long-time White House usher, turned into the street.

"Whitewater is not merely about a land deal," the Wall Street Journal continues, "it is about all of these things, and about the place they are bidding," The Clintons, "to assume in Washington," which God knows, is guilty of enough sins of its own, "and above all, it is about hypocrisy."

"Say that one after another the explanations are innocent. Hilary was lucky in commodities and unlucky in land speculation," wishing they had lost money. "Jim Blair and Patsy Thomason are just friends." She was on the Hill today. More about that later.

"James and Susan MacDougal and David Hale and Dan Lassiter are just former friends. Lay aside all suspicions and accept every cover story. We are now supposed to believe that Bill Clinton was elected President to reform the sins of the high-flying 1980's? Yes, the key word there is "hypocrisy."

Madam Speaker, here is something that my friend, Senator DON NICKLES, sent over. He is chairman of the Senate Republican Policy Committee, as I have been chairman for 2 years over here a few years ago of the Republican Study Committee. He sent over documentation that I would like to include in the RECORD at this point, about all of the 25 separate allegations of ethical or legal wrongdoing that were turned into hearings and/or investigations during the Reagan and Bush administration.

"Despite the presence of at least five separate instances or allegations of wrong during the Clinton administration," and Senator NICKLES lists them, "Congress has yet to conduct a single hearing or the slightest investigation. On three occasions during the Reagan administration congressional committees conducted investigations or hearings concurrent with investigations by an independent counsel. Four of 19 congressional hearings or investigations conducted during the Reagan administration were led by the then-Republican controlled committees of the United States Senate," which was from 1981 through 1986 under Republican control.

"A recent opinion poll revealed that 60 percent of those surveyed believe Whitewater requires a full-scale Federal investigation. Here are the areas where Republicans in the Senate feel there should be or should have been investigations:

"Scandal one, Travelgate."

I have here an article, a good column by Mark R. Levin that says, "Whatever happened to Travelgate? Why did that disappear?" This is last week. He opens up with a memorandum from William J. Clinton to "All the Heads of Departments and Agencies," just a few months ago, October 4, 1993: "The Freedom of Information Act has been one of the primary means by which members of the public inform themselves about their government. Federal departments and agencies should handle requests for information in a customer-friendly manner. The use of the act by ordinary citizens is not complicated, nor should it be. The existence of unnecessary bureaucratic hurdles has no place in its implementation."

□ 2110

I call upon all Federal departments and agencies to renew their commitment to the Freedom of Information Act, to the underlying principles of government openness and to its sound administration.

Again, rhetoric, and in fact the truth is exactly the opposite. At that very moment the White House was stiffing The Wall Street Journal on the autopsy reports that are still locked up and could technically be locked up for 2 more years, right through this election coming up in November. They are still stiffing The Wall Street Journal, which has to sue Dow-Jones, the owners of the The Wall Street Journal in a case called Dow-Jones versus The Department of Justice, still suing for the police investigative reports on Vince Foster's death which has caused a fascinating duel between two big papers in New York, both with about a million circulation, the Daily News versus the New York Post.

I received today, at my request from one crusading young reporter, Chris Ruddy, all of his stories, 12 of them over the last month that had been in the New York Post, countering him with a selectively leaked criminal investigation by the U.S. Park Police, whom I have defended twice on this House floor lately, a little bit in the blind, but they are the Nation's oldest uniformed police force founded in 1797, George Washington's third year, George Washington, the father of all character issues.

The reporter that wrote the counter story to Chris Ruddy's fascinating se-

ries tin his counterpiece that said, "Vince Foster," front-page story, "case closed," said that the investigating officer said people should have been arrested, including the recently resigned Bernard Nussbaum for obstruction of justice. And in his story, the Daily News story, one of the investigators, a senior officer or a captain, I believe, of the Park Police, when asked by Nussbaum, "Can't you run just a normal investigation here," said, the captain of the police said, "Normal investigation? Is if this were a normal investigation, all of Mr. Vince Foster's files would be in the back seat of my car on the way to the police station."

I watched Crossfire tonight and I saw my colleagues on the Republican side from the Banking Committee, TOBY ROTH, use a line that I think he would admit I mentioned to him earlier tonight. TOBY had just witnessed these two tapes playing on a VCR here in the Capitol. And I said, "Toby, this Whitewater is soaking, migrating like water into the popular culture. These two tapes contain the opening of Saturday Night Live two nights ago last Saturday and nine nights ago when Nancy Kerrigan was the host, drawing an audience of millions. The night Nancy was the host they opened up with a mock press conference where Bill Clinton says that his wife had been arrested on the grounds she was the sole person guilty of everything, charged there with a number of heinous crimes up to and including—you just have to see the show to believe the list of crimes. Very little was left out. And two Democrats came into our cloakroom to see that, Chairman GEORGE MILLER, head of the Democratic Policy Committee, and their caucus or conference chairman, STENY HOYER of Maryland, and they were trying to laugh. But I could see the pain in their face, and I recognize that pain. It was the pain in my own face when Richard Nixon was going down in flames in Watergate.

The opening of Saturday Night Live two nights ago was something that must have taken that young cast of players an entire week to rehearse, and the makeup must have taken them all day long Saturday. They made themselves up as about 20 of the current rock stars from Cher to KD Lang to you name it, Elton John, and all of them were singing the story of Whitewater. And it was amazing because some of the rock stars are unintelligible to the generational era say of anybody over 30, maybe over 25, and they had a crawl at the bottom of the TV screen, a videograph giving you all the lyrics. And the lyrics tracked the entire Whitewater story going back several years, and except for some gaps, all of the facts were accurate.

Madam Speaker, this is soaking into the popular culture.

Here is an editorial from today's Washington Times. It is entitled roughly, "Hillary Rodham Boesky," Boesky the great speculator from Wall Street that brought such great disgrace temporarily upon our financial institutions up on the island of my birth in Manhattan where down at the tip there in Wall Street.

Here is Hillary Rodham Clinton, May 1, 1993, barely their third month into office or just into the fourth month. She indicates at the University of Michigan graduation ceremonies the following: "Throughout the 1980's we heard too much individual gain, about the ethos of selfishness and greed. We did not hear enough about what it meant to be a member of a community, to define the common good, to repair the social contract." That is when she was having a lot of meetings with this fellow from Tecun, the radical Marxist, leftist intellectual magazine, and she was working out with this gentleman, I think his name is Levin, the politics of meaning. Actually, it was a very spooky period.

Here is the opening and closing paragraph of this editorial: "It's not every day that a rookie investor makes a quick $100,000 trading in the volatile commodities markets. Indeed, an estimated 75 percent of commodities traders, experienced and inexperienced alike, lose money on such deals." So you can imagine how interesting it was to learn from the New York Times last week that before the decade of greed was even a blip on somebody's word processor, Mrs. Clinton had already cleaned up and gone home.

Actually in those days she did not even take her husband's name, although they were married. She was Ms. Rodham.

By the way, if you want a picture of Ms. Rodham in those days, and you have seen it many times, look at the pictures of his swearing in as Governor in 1978 and you see a Ms. Rodham looking for all the world like a young hippie college girl, looking much younger than her years, huge glasses, none of the chic clothing that we see now. This is the young person, that picture of Hillary Rodham who did not take her husband's name until after he had served 2 years, and he was defeated in Reagan's glory year, 1980, and they were in the process of making a comeback, and that is when she did become Mrs. Clinton. Picture that young collegiate looking young woman making $100,000 in the violatile commodities market.

It says, "According to the Times, back in 1978 Mrs. Clinton invested"—surprise. She won't say how much—"in so-called cattle futures, with which a buyer agrees to purchase so much of a commodity at such-and-such a price in the future. The idea is not necessarily to own the commodity but to sell those futures if its market price goes up and make a profit."

Mrs. Clinton was, in short, a speculator or a quick buck artist, as the media would come to refer to such traders during the 1980's.

To cut to the chase, "To justify it all by saying that, well, Arkansas's ethical standards can't be expected to satisfy those of Washington—home of assorted House post office, bank and other scandals—only suggests how desperate the situation must really be there. Nor can the whole thing be dismissed as friends helping friends. Try substituting, say, Nancy Reagan for Hillary Rodham Clinton and imagine the reception such explanations would get in Congress and the media. That's the standard the Clintons must meet too."

Now in this article, and please do not write to me, write to your local Congressman, or get a subscription to the New Republic, this article by L.J. Davis that was quoted in yesterday's Wall Street Journal is entitled, "The Name of Rose," and the subtitle is, "An Arkansas Thriller." There is mentioned in this story something that my wife, Sally, has been on my case for about 3 months on. As I said last week, I have a tendency to underline in red. It comes from my Loyola University in Los Angeles where I was taught that underlining slows you down, makes you observe something. However, if an article is really powerful I end up redlining everything. So I am going through this story early on Whitewater about 3 months ago, and I underlined a significant line, and it struck me, but it did not sink in the way it did when my wife read it. She stopped me as I was reading and said, "Why do you underline this line and not tell me about it?" And the line said that Dan Lassiter, and that was one of my key candidates to play John Dean in this unfolding schedule to tell all, she said, "Why do you read to me Dan Lassiter paid off Roger Clinton's drug debts?" I said, "What do you mean?" And she said, "Well, whom do you pay off drug debts to? Was this a court case, was this an FBI case?" And I said, no. You have to pay drug debts to mobsters, to thugs.

We all hope that the Costra Nostra from Sicily, where they are murdering Catholic priests this week, does not have its tentacles in Little Rock.

□ 2120

But certainly all drug-running is organized in this country. There is an airport I am trying to find out about on the western border of Arkansas called Mena, which was infamous for gun-running and drug-running all during the last two decades, but here in Davis' article called "The Name of Rose" in the April 4 issue of the New Republic it finally says it more succinctly, "Dan Lassiter was not the largest cocaine user in the State of Arkansas." This is another personal friend of the Clintons who got at the racetrack a box for the late Virginia

Kelley, the mother of Bill Clinton. That is how Clinton got to meet Dan Lassiter was through Virginia Kelley. They became friends at the racetrack. He raised racehorses in Florida.

Roger Clinton went on to work for him. Lassiter was not the largest cocaine user in the State of Arkansas, but he was certainly the most conspicuous one. A prosperous Little Rock bond dealer, he was an acquaintance of the Clinton family, he was a contributor, a big one, as a matter of fact, to the Governor's political fortunes.

Lassiter distinguished himself in other ways also. He served ashtrays full of cocaine at parties in his Arkansas mansion, stocked cocaine on his corporate jet, a plane used by the Clintons on more than one occasion. You have got to assume that the ashtrays of cocaine were gone, of course, because you have to give them some benefits of the doubt here.

Later he told the FBI that he distributed cocaine on more than, not 50 occasions, not 100, not 150, but 180 occasions. "I shared my success in that manner," he explained.

He was also a patron, and I bet I read this in one of the Nation's great papers in my county of Orange, the second or third alternately with San Diego, largest county in California, the paper that dominates my area the Pulitzer Prize-winning Orange County Register; I expect to see this in that paper. He, Lassiter, was also a patron of Governor Clinton's cocaine-using half-brother Roger. The other half-brother out in California has yet to make it to the White House, folks, by the way. He is not considered the right social class for the Clintons.

But the half-brother Roger, was employed at his thoroughbred racing stables in Florida and he claims he gave Roger Clinton $8,000 to pay off Roger's debts to drug suppliers. Finally, there it is in print. So you do not have to assume that it went to court costs.

By 1985, it was also known that Lassiter was the subject of a police investigation that even the most uneducated guess would suggest could end in only one year, but that year Governor Clinton deemed Lassiter worthy of handling a $30.2 million bond issue, and that is what we spent on that cockamamie October Surprise investigation, $30 million, to modernize the State police radio system. They must have the greatest police radios. This is a State with only four Congressmen, folks, and in California we have 52. Thirty million for radios for the police.

Despite the fact that the expenditure would normally be made by an appropriation from the treasury, it went through Lassiter with a huge fee. Lassiter was also about to be busted. Nonetheless, Clinton vigorously lobbied the legislature.

He used to do that sitting with a desk and a chair right outside the door. He used to come on the floor, and the legislators there passed a law banning their own Governor. This is a 12-year Governor over a 14-year span, and he would sit outside the door and grab these guys and then he would hold the door open and watch them through a crack in the door as they would vote. It is all on film. Look at these documentaries that James Carville put together. He thought it was a compliment.

Clinton vigorously lobbied the legislature, ignored the wishes of the Stevens family, and won the day giving Lassiter and company a handsome, brace yourself, folks, $750,000 underwriting fee for those police radios, and all of this is according to the Los Angeles Times.

You see, all of these great outlets, TV, the Times, the Post, New York Times, Wall Street Journal, they are all feeding one another now.

In 1986, Lassiter was sentenced to 2½ years in prison, with Roger Clinton testifying against him at the Lassiter trial, and that is why Roger, although he had already been to jail for cocaine, was named an unindicted coconspirator. There is a little Watergate expression for you.

In 1986, I told you, he goes to prison for 2½ years. In 1990, he received a State pardon from Governor Clinton. The arithmetic there does not work out to him spending 4 years in jail, because there was an appeal period. I think I read, yes, I just read it, 2½ years in prison, so after the appeal he goes into prison sometime in early 1987, and Clinton pardons him after 2½ years in 1990 when Clinton was running for Governor promising to serve out all 4 years and swearing he will not run for President.

Now, listen to this next paragraph, because it is going to mention Patsy Thomason, one of those who stripped Vince Foster's office, who was in the building today downstairs in one of the Appropriations rooms saying she just wished so badly that she could comment on what took place in Vince Foster's office, but she will have to accede to the wishes of the special counsel, Bob Fiske, which could take 2 years before it reaches the public.

For whatever it is worth, one of the few people to have access to the office of Vince Foster during the 3 days it was unsealed following his suicide was White House official Patsy Thomason, who managed Dan Lassiter's business affairs while he spent that 2½ years in jail.

But in the Clinton system, perfected in Little Rock and now being practiced in Washington, none of these things should be considered a mistake or an aberration.

Folks, when Clinton banged on the podium and said, "no" nine times, I thought to myself, "Why did we say no to him, and what were some of the things we said no to?" Several popped in to my mind right away. I called my staff and said, "Let us come up with nine." Everybody had a different list of nine.

I just picked out my favorites to match his "no" to the ninth power. Here is why we said "no" to the ninth power, and I have got a list of about 30.

One. The Clinton $19 billion stimulus plan that was just more phony spending around here and would have been another kick in the face to that slow recovery out of the recession that really started in March of 1991 when Bush was sending Marines into the hills of the Kurdish country in north Iraq and his ratings were going through 70 percent, that is when we were officially out of the recession, but you would never have known that to watch the three networks and CNN; hence, President Bush was fired.

The Clinton $17 billion stimulus plan, no, Mr. Clinton.

The Btu tax, no, Mr. Clinton.

Putting U.S. Troops under United Nations command, and that is worth about nine noes in a row right there.

No pay raise for military servicemen and women. It was my bill that was turned into law to respond with part of restoring that pay raise, 2.1 percent, pretty humble, and it still keeps the military behind their job equivalency in the civilian sector. No to you stopping that pay raise. We also won that one.

Obviously, thinking about the military, homosexuals in the military comes right to mind. If you were going to force homosexuals into the military, and we had hearings both here and in the Senate and said it was a morale buster, then that was a no to you that was supported overwhelmingly by the mothers and fathers across this country, overwhelmingly by the enlisted men, even by a slight percentage more so by the NCO's, and equally with the officer corps across this country in all services, universal, No to the 100th power.

No. 6. Federally funded abortion: a big surprise on this House floor, retaining the Hyde amendment for Health and Human Services. Everybody thought it was a given, given the Year of the Woman and so many women coming to this House with abortion as the No. 1, 2, and 3 items on their agenda. No to you trying to dump the Hyde amendment, Mr. Clinton.

No. 7. No to Mort Halperin, but you brought him back and put him into the National Security Council against the will of the U.S. Senate.

No to Lani Guinier, although my heart goes out to her. This is a hell of a way, a heck of a way, to treat a friend.

8. Allowing Janet Reno to investigate Whitewater. No; no; no, Mr. President.

And ninth, but last, and certainly most important to this series of 9

yesses to why we said no, and it is most important to the entrepreneurial class in this country that creates jobs: No to your largest tax increase ever which did not pass the Senate until President of the Senate, Vice President AL GORE, came in and broke a 50-50 tie, and in this House a lot of news organizations said it was a 2-point margin here. No, it was not.

□ 2130

It was 216 to 214, I believe. Just 1 vote from the other side of the aisle—the lady from Pennsylvania—who the President has been trying to raise funds for to make it up to her, would have made the difference. If she loses, I am sure she will end up an ambassador. She will easily qualify. She is a nice lady. She definitely wanted to vote against this largest tax increase in history. She was really hammered. She came in late from dinner through the doors, they were holding that late vote up in May, people were returning from dinners. This Pennsylvania congresswoman got hammered, and she was brought in to change her vote. If she had not, it would have been 215-215, a tie. It would have been a tie, and the tie fails. So it was 1 vote from Pennsylvania and 1 vote in the Senate; you cannot get any tighter than that. I have never seen it in the 17 years I have been around here. I tried to get the Library of Congress to research it. They said, "Congressman, we will have to go back before the Civil War to see if there was ever a vote so close it was broken by a tie in each house." So that is why out there working the stumps, Mr. Clinton has run into a lot of trouble banging on the lectern, yelling "no."

Now what I would like to do because there is no way I can read the whole Rose affair—the name of the Rose article from the New Republic—I would like to start in what time I have left and read as much as I can of this phenomenal Robert Bartley article. If he did not write it, he is the supervisor of the editorial page. But I think he wrote this personally, as he has done most of them. It is titled "O Tempora. O Mores." Wouldn't the Jesuits be proud of me after 4 years of high school Latin that I figured this out, "Oh, the times, the mores."

Now here is Bill Clinton in his acceptance speech at the Democratic National Convention quoting only one person, Carol Quigley, the guru from Georgetown University, in his speech, stealing words out of the mouth of Jesus Christ at Holy Thursday's last supper when he said, "I want a new covenant with the American people." Whoa, did that offend this former altar boy.

Clinton says, "I was raised to believe the American dream was built on rewarding hard work, but we have seen the folks in Washington turn the American ethic on its head. For too long those who play by the rules and keep the faith have gotten the shaft and those who cut corners and cut deals have been rewarded." I have got to repeat that last line, "Those who cut corners, cut deals, have been rewarded." It sounds like Ms. Hillary on May 1 at a college graduation.

Then the Wall Street Journal quotes Cicero, and it says, "The latest round of Whitewater news reports shows two things that anyone trying to comprehend this story has to understand. First, it wasn't only Whitewater. The Clintons were involved in at least one other fast-buck deal with other corporate interests heavily dependent upon regulation. Secondly, it wasn't only Arkansas; the confusing long-ago arcana from Arkansas's political backwaters are relevant because there are now signs that the same practices, the same interests, the same mores are spreading throughout the Washington bureaucracy."

One point here, going back to my special orders of September: I took the time to do what nobody in the whole Bush campaign did, and that is to study what happened in Arkansas. I know Arkansas is a good state. I have gone through there in Air Force aircraft across counties, I have driven through the State on highway 40 and talked to the people and dined in many of their restaurants that are no different than any other part of the country. It has its beautiful parts up in the northwest; it has its rough places with all the beat-up cars strewn around. But Arkansas people are hard-working, good people. It is a good State.

I cringed a little bit when Saturday Night Live was having fun with it, "Look out, Mississippi, here we come." That was the same Phil Hartman who is just devastatingly funny on this whole Whitewater thing.

I tried to figure out what Clinton's experience was with the opposition party. So I asked, "What was the highwater mark of the Republicans in the Senate of the State of Arkansas and the House of Representatives there?" I was shocked with what I found.

By the way, right now, 1994, it is a highwater mark; four congressmen come to this Chamber from Arkansas, and for the first time, we have an even split, two excellent congressmen on that side and two excellent congressmen on this side. One of them on that side, RAY THORNTON, was a former president of one of the great universities down there after he was a classmate of mine in '76, the class of '76; GORE, Quayle, WALKER, GEPHARDT, DORNAN and THORNTON. That is one of the two Democrats.

On this side, two dynamic freshmen, JAY DICKEY and TIM HUTCHINSON. TIM's brother is head of the Republican Party in Arkansas.

So we have two for two. That has never happened since the Civil War. I mean two—yes, two by two out of four. Now, keep in mind that California has 80 assemblymen and 40 senators. So I called down there to the Republican Clerk of the house and said, "How many State senators do you have in Arkansas?" 35. Four congressmen to our 52, but just 5 shy of 40 senators. I said how many are Republicans?" I think she said three or four. Three was the highest that Clinton ever had down there. Now there are five. That is a historical record since the Civil War.

I said, "How many in you other house, the House of Representatives down there?" She said, "We have 100." That is 20 more than California.

How many of the 100 are Republicans? Seven, 7 Republicans out of 100, and 3 out of a senate of 35. That is all Bill, Governor Clinton, had to deal with in Arkansas. Hence my term in those special orders that he had a toy that he played with. It was an oligarchy down there.

By the way, the House of Representatives down there now has 10 Republicans. I said five in the senate. So those 15 out of 135 is an all-time high since the Civil War.

Now listen to this: 1, 2, 3, 4, 5, items, and then the deadly quote I have already read. Hillary Clinton, it turns out, pocketed $100,000 playing commodity futures between October 1978 and October 1979. That second year, Bill Clinton was the attorney general in the State of Arkansas. Now, let us see: Born in '46, '56, '76, so he is not in his early 30's and he is attorney general—excuse me, he is already the Governor. He got elected in '78 and lost in '80. He was attorney general in '76, when he was only 30 years old. So he is a 32-year-old Governor, youngest in the country, and his young wife, Ms. Rodham, not Mrs. Clinton, knocks off a cool $100,000 playing the commodity futures with James B. Blair, the powerhouse attorney for the food giant Tyson's Foods, Inc., looking over her shoulder, guiding her. In the New York Times team report written by Jeff Gerth, Mr. Blair says Mrs. Clinton decided the size of the trade, and then "we at Tyson's discussed whether she ought to be long or short." Mrs. Clinton's attorney said it was her own money at risk. And some of her Administration defenders—she would be 31 year old—said that in playing commodities she studied up on financial data—she is smart—including reading the Wall Street Journal. Thanks for the endorsement, the Journal says, but "we wouldn't advise it to other commodities amateurs." Financial cynics would like to know more about the trades and the market prices at the time, more about the accounts in 1978 and '79, both hers and Mr. Blair's of Tyson's. Their principal broker went bankrupt. But that bankrupt broker

says Mr. Blair left happy. And I guess so did Hillary Clinton.

By the way, when Bill Clinton was asked about this this week, by Knight-Ridder reporters in the White House a few days ago, do you know what he did? He turned red in the face, volcanically red—that is all right, he has a fair skin complexion, as I do, easy to turn red—but then he got up, walked past his guests in the Oval Office, the Knight-Ridder group of reporters, and stood behind the desk, the presidential desk, with his back turned to them until they were escorted from the room because they dared to ask him to release his 1040 IRS forms for '78 and '79.

□ 2140

Those are blank years. The Clintons have never released them. That is how sensitive he is.

By the way, before he passed them and refused to shake hands it is said he railed to the press again. This is becoming quite common for him to talk about the left-leaning press that has done nothing for him. Wow. Except elect him President, at least partially.

The years for which the Clinton tax returns have never been released—here is the whole story.

Correspondents from Knight-Ridder newspapers asked the President about this in his March 12 interview 10 days ago, provoking a tirade against the press. Mr. Clinton's face reddened in anger, and then he abruptly ended the interview, strode past his visitors without shaking hands, and stood behind his Oval Office desk until they were escorted out. I guess we can expect to see that on Saturday Night Live next Saturday unless they are in reruns.

Item No. 2:

Tyson also figures in a new SEC investigation, reported Friday by the Journal's Bruce Ingersoll and Michael K. Frisby. The agency is looking into suspicious 1992 trading in the stock of Arctic Alaska Fisheries Corp. Just before the announcement that it was being acquired by Tyson. Several Arkansas investors are under study, including Phoenix Group Inc.; the president of Phoenix was Patsy Thomasson,

right here in this capital today, "now director of the White House Office of Administration, former associate of drug convict Dan Lasater," and remember she took care of all of his books for 2½ years.

More tomorrow night.

[From the Wall Street Journal, Jan. 26, 1992]

REVIEW & OUTLOOK—OH THE TIMES! OH THE MORES! O TEMPORA! O MORES!

I was raised to believe the American dream was built on rewarding hard work. But we have seen the folks in Washington turn the American ethic on its head. For too long, those who play by the rules and keep the faith have gotten the shaft. And those who cut corners and cut deals have been rewarded.—Bill Clinton, in his acceptance speech at the Democratic National Convention, August 16, 1992.

Oh the times! The mores!—Cicero, First Century B.C.

The latest round of Whitewater news reports shows two things that anyone trying to comprehend this story has to understand. First, it wasn't only Whitewater; the Clintons were involved in at least one other fast-buck deal with other corporate interests heavily dependent on regulation. Second, it wasn't only Arkansas. The confusing, long-ago arcana from Arkansas's political backwaters are relevant because there are now signs that the same practices and same interests—the same mores—are spreading through the Washington bureaucracy.

Hillary Clinton, it turns out, pocketed $100,000 playing commodity futures between October 1978 and October 1979, with James B. Blair, the powerhouse attorney for food giant Tyson Foods Inc., looking over her shoulder. In a New York Times team report written by Jeff Gerth, Mr. Blair said Mrs. Clinton decided the size of the trade and "We discussed whether she ought to be long or short."

Mrs. Clinton's attorney says it was her own money at risk, and some of her administration defenders said that in playing commodities she studied up on financial data, including reading The Wall Street Journal. Thanks for the endorsement, but we wouldn't advise it to other commodities amateurs. Financial cynics would like to know more about the trades, and the market prices at the time, and about the accounts, both hers and Mr. Blair's. Their principal broker went bankrupt, but says that Mr. Blair "left happy."

Mrs. Clinton's commodity streak started just before Bill Clinton's election as Governor of Arkansas, and just as he completed his term as attorney general. The N.Y. Times story recounts a series of regulatory decisions that favored the Tyson operations, as well as the appointment of Tyson executives to state posts, plus some allegations of Tyson benefits under the Clinton Presidency. A Tyson spokesman says it only took advantage of normal state industrial development programs, and "There is absolutely no evidence that the Jim Blair's relationship with Bill or Hillary Clinton had any impact on our treatment."

Mr. Blair and his wife, our Mr. Ingersoll reported last week, slept at the White House the night of the Clinton inaugural. He also reported on a controversy about sanitary requirements. The Department of Agriculture has imposed on meatpackers a "zero total."

We would also be curious about whatever other money Mrs. Clinton made in 1978 and 1979, years for which the Clinton tax returns have never been released. Correspondents for the Knight-Ridder newspapers asked the president about this in a March 12 interview, and provoked a tirade against the press. "Mr. Clinton's face reddened in anger," they reported, and he "abruptly ended the interview, strode past his visitors without shaking hands and stood behind his Oval Office desk until they were escorted out."

Tyson also figures in a new SEC investigation, reported Friday by the Journal's Bruce Ingersoll and Michael K. Frisby. The agency is looking into suspicious 1992 trading in the stock of Arctic Alaska Fisheries Corp. just before the announcement that it was being acquired by Tyson. Several Arkansas investors are under study, including Phoenix Group Inc.; the president of Phoenix was Patsy Thomasson, new director of the White House Office of Administration, former associate of drug convict Dan Laster in a company that preceded Phoenix, visitor to Vincent Foster's office the night of his death and point-person in the controversy over White House passes and security clearances. She issued a statement saying she had nothing to do with trades in Arctic. A similar denial was issued by Associate White House Counsel William Kennedy III, who has a relative under investigation in the Arctic deal.

Since we've been known to express doubts on the merits of environmental and sanitary regulations, let us detail another matter only briefly touched on in N.Y. Times stories. The Pacific Fishery Management Council, a federal commission, issued an order last spring divvying up the $100-million-a-year whiting catch off Oregon, Washington and California. The big argument is always over how much can be taken by large factory-trawler operations and how much by mom-and-pop shore-based fishermen.

The spring ruling gave 63% of the catch to the on-shore operations. The council's decisions must be ratified by the Commerce Department but normally that's just a formality. On those rare occasions when Commerce has disagreed with a local decision, it has sent the issue back for reconsideration by the fishing council. Not this time. When the Federal Register appeared on April 15, 1993, fishermen were shocked to discover that factory trawlers had been allocated 70% of the whiting catch.

The largest operator of factory trawlers is Arctic Alaska Fisheries Corp., owned by Tyson (see above).

There have been the usual denials. Douglas Hall, head of the National Marine Fisheries Service, says the trawler take was in line with historical norms, and says that the decision was made in his office, not by Commerce Secretary Ron Brown. Rep. Elizabeth Furse, an Oregon Democrat, called for hearings on the issue, but was rebuffed by the Congressional leadership. * * *

Tyson's legal work has long been handled, predictably, by the Rose Law Firm, which brings us to the final citation in the new crop, the current New Republic cover, "The Poisoned Rose." L.J. Davis's superlative account is must reading, above all for those who are confused by all the excitement about a two-bit land deal in the Ozarks. What Mr. Davis understands is that the Rose Law Firm, for all of its color, is fundamentally an appendage of the Stephens interests, which use Arkansas as home base for a world-spanning financial empire. It financed Tyson and other successful Arkansas businesses, in addition to handing "the brokerage" when front men for BCCI bought into First American Bank and installed Clark Clifford to run it.

Arkansas, Mr. Davis writes, "bears a close resemblance to a Third World country, with a ruling oligarchy, a small and relatively powerless middle class and a disfranchised, leaderless populace." This kind of civic culture, we see in many actual Third World countries, is likely to produce a spoils-to-the-victor, above-the-law approach to government. That is to say, the kind of careless arrogance we have seen in the handling of Whitewater, in the White House passes, in Webb Hubbell's law firm billings, in travelgate, in intervention into an ongoing corruption trial, in the handling of Mr. Foster's death and in the handling of various individuals including Zoe Baird, Kimba Wood, Lani Guinier, Bobby Inman and Chris Emery, a White House usher dismissed over phone conversations with Barbara Bush with no warning and less than a week's notice.

Whitewater is not merely about a land deal, it is about all of these things, and about the place they are bidding to assume in Washington, which God knows is guilty of

enough sins of its own. Above all it is about hypocrisy. Say that one after another the explanations are innocent. Hillary was lucky in commodities and unlucky in land speculation. Jim Blair and Patsy Thomasson are just friends; James and Susan McDougal and David Hale and Dan Lasater are just former friends. Lay aside all suspicions and accept every cover story. We are now supposed to believe Bill Clinton was elected president to reform the sins of the high-flying 1980s?

Steve Kroft, host:

Are you prepared tonight to say that you've never had an extramarital affair?

Governor Bill Clinton: I'm not prepared tonight to say that any married couple should ever discuss that with anyone but themselves and lawyers like us during divorce court battles.

Kroft: I'm Steve Kroft, and this is a special abbreviated edition of 60 Minutes. Tonight Democratic presidential hopeful Governor Bill Clinton and his wife Hillary talk about their life, their marriage and the allegations that have all but stalled his presidential campaign.

Steve Kroft, host:

It's been quite a week for Arkansas Governor Bill Clinton. On Monday his picture was on the cover of Time magazine, anointed by the press as the front-runner for the Democratic presidential nomination. Six days later, he's trying to salvage his campaign. His problem: Long rumored allegations of marital infidelity finally surfaced in a supermarket tabloid. And last week they were picked up and reprinted, unsubstantiated, by the mainstream press. Since then, for better or for worse, Governor Clinton's private life has become the overriding issue in the Democratic presidential campaign. Earlier today, Governor Clinton and his wife, Hillary, sat down with me to try to put the issue to rest. Keep in mind, as we said earlier, all of the allegations are unsubstantiated, all have been denied by everyone involved, except for the case of Jennifer Flowers. A former television reporter and cabaret singer, Jennifer Flowers, in a tabloid interview for which she was paid, says she carried on a long-term affair with Governor Clinton from the late 1970s to the end of 1989.

Who is Jennifer Flowers? You know her.

Governor Bill Clinton: Oh, yes.

Kroft: How do you know her? How would you describe your relationship?

B. Clinton: Very limited, but until this, you know, friendly, but limited. I have—I met her in the late '70s when I was attorney general. She was one of a number of young people who were working for the television stations around Little Rock. And people in politics and the people in the media knew each other then, just as they do now. She left our state, and for years I didn't really hear from her or know what she was doing. Then she came back—I don't know—some time a few years ago and went to work again in the state. So that's how—that's who she is.

Kroft: Was she a friend, an acquaintance? Did your wife know her?

B. Clinton: Yes.

Hillary Clinton: Oh, sure.

B. Clinton: She was an acquaintance. I would say "a friendly acquaintance."

H. Clinton: "Mm-hmm."

B. Clinton: When this story—this rumor story got started in the middle of 1980 and she was contacted and told about it, she was so upset, and she called back, she said, 'How could I be listed on this. I haven't seen you for more than 10 minutes in 10 years.' She would call from time to time when she was upset or thought she was really in—being hurt by the rumors. And I would call her back—either she would call the office or I would call her back there at the office or I would call her back at the house, and Hillary knew when I was calling her back. I think once I called her when we were together. And so there's nothing out of the ordinary there.

Kroft: She's alleging and has described in some detail in the supermarket tabloid what she calls a 12-year affair with you.

B. Clinton: It—that allegation is false.

H. Clinton: When this woman first got caught up in these charges, I felt as I felt about all of these women, that, you know, they've just been minding their own business, and they got hit by a meteor. I mean, it was no fault of their own. We reached out to them. I met with two of them to reassure them. They were friends of ours. I felt terrible about what was happening to them. You know, Bill talked to this woman every time she called distraught, saying her life was going to be ruined. And, you know, he'd get off the phone and tell me that she said sort of whacky things which we thought were attributable to the fact that she was terrified.

B. Clinton: It was only when money came out, wh—when the tabloid went down there offering people money to say that they had been involved with me that she changed her story. There is a recession on. Times are tough, and—and I think you can expect more and more of these stories as long as they're down there handing out money.

Kroft: I'm assuming from your answer that you're categorically denying that you ever had an affair with Jennifer Flowers.

B. Clinton: I've said that before and so has she.

Kroft: You've said that your marriage has had problems, that you've had difficulties. What do you mean by that? What does that mean? Is that some kind of—help us break the code. I mean, does that mean . . .

B. Clinton: I don't me . . .

Kroft: . . . you were separated? Does that mean that you had communication problems? Does that mean you contemplated divorce? Does it mean adultery?

B. Clinton: I think the American people, at least people that have been married for a long time, know what it means and know the whole range of things that it can mean.

Kroft: You've been saying all week that you've got to put this issue behind you. Are you prepared tonight to say that you've never had an extramarital affair?

B. Clinton: I'm not prepared tonight to say that any married couple should ever discuss that with anyone but themselves. I'm not prepared to say that about anybody. I think that the issue . . .

Kroft: Governor, that's what—excuse me. That's what you've been saying, essentially, for the last . . .

B. Clinton: But that's what I believe.

Kroft: . . .couple of months.

B. Clinton: Look Steve, you go back and listen to what I've said. You know, I have acknowledged wrongdoing, I have acknowledged causing pain in my marriage. I have said things to you tonight and to the American people from the beginning that no American politician ever has. I think most Americans who are watching this tonight, they'll know what we're saying, they'll get it, and they'll feel that we have been more candid. And I think what the press has to decide is: Are we going to engage in a game of gotcha? You know, I can remember a time—and it was sad—when a divorced person couldn't run for president. And that time, thank goodness, has passed. Nobody's prejudiced against anybody because they're divorced. Are we going to take the reverse position now—that if people have problems in their marriage or things in their past which they don't want to discuss, which are painful to them, that they can't run?

Kroft: You're trying to put this issue behind you. And the problem with the answer is it's not a denial. And people are sitting out there—voters—and they're saying, "Look, it's really pretty simple. If he has never had an extramarital affair, why doesn't he say so?"

B. Clinton: That may be what they're saying. Your know what I think they're saying? I think they're saying, "Here's a guy who's leveling with us." You—you may think that—that we should say more, and you can keep asking the questions. but I'm telling you I think that we've to—I'll come back to what I said. I have told the American people more than any other candidate for president. The re—the result of that has been everybody going to my state and spending more time trying to play gotcha.

H. Clinton: There isn't a person watching this who would feel comfortable sitting on this couch detailing everything that ever went on in their life or their marriage. And I think it's real dangerous in this country if we don't have some zone of privacy for everybody. I mean, I think that is absolutely critical.

Kroft: I—I—I couldn't agree with you more, and I think—and I agree with you that everyone wants to put this behind you. And the reason it hasn't gone away is that your answer is not a denial, is it?

B. Clinton: But interesting—let's assume. . .

Kroft: It's not a denial.

B. Clinton: Of course, it's not. And let's take it from your point of view. If—that won't make it go away. You know, you can cut this round or cut this flat. I mean, if you deny, then you have a whole other hoard of people going down there offering more money trying to prove that you lied. And if you say yes, you have just what I've already said by being open and telling you that we've had problems. You have, oh, good, now we can play gotcha and find out who it is. Now no matter what I say to pretend that the press will then let this die, we're kidding ourselves. I mean, you know, this has become a virtual cottage industry. The only way to put it behind us, I think, is for all of us to agree that this guy has told us about all we need to know. Anybody who's listening gets the drift of it. And let's go on and get back to the real problems of this country. "The problems are about what's going to happen to families in New Hampshire and the rest of this country in the future, not what happened to mine in the past."

Kroft: I don't like some of these questions any better than you do, but the question of marital infidelity is an issue with a sizable portion of the electorate. According to the latest CBS News poll, which was just taken over the weekend, 14 percent of the registered voters in America say they wouldn't vote for a candidate who's had an affair.

B. Clinton: I know it's an issue. And—and—but what does that mean? That means 86% percent of the American people either don't think it's relevant to presidential performance or look at whether a person looking at all the facts is the best person to serve.

H. Clinton: We've gone further than anybody we know of, and that's all we're going to say. And people can ask us 100 different ways in—from 100 different directions, and

we're just going to leave the ultimate decision up to the American people.

Kroft: I think most Americans would agree that it's admirable that you had—have stayed together, that you've worked your problems out, that you seem to have reached some sort of an understanding and an arrangement.

B. Clinton: Wait a minute, wait a minute.

Kroft: But . . .

B. Clinton: Wait a minute. You're looking at two people who love each other. This is not an arrangement or an understanding. This is a marriage. That's a very different thing.

H. Clinton: You know I'm not sitting here some little woman standing by my man like Tammy Wynette. I'm sitting here because I love him and I respect him and I honor what he's been through and what we've been through together. And, you know, if that's not enough for people, then, heck, don't vote for him.

Kroft: A good friend of yours, one of your campaign advisers, told us the other day, "Bill Clinton has got to level with the American people tonight, otherwise, his candidacy is dead." You feel like you've leveled with the American people?

B. Clinton: I have absolutely leveled with the American people.

H. Clinton: We are going to do the best we can to level with people and then we're going to let them make up their minds, because I think if the American people get a chance and if they're trusted to exercise their vote right because people talk to them about real issues, this country will be OK. That's what we're betting on, and we're just going to roll the dice and see what happens.

Kroft: Your called it a gamble. You came here tonight to try and put it behind you. You're going to get on the plane when you walk out of this room and go back to New Hampshire. Do you think you've succeeded?

B. Clinton: That's up to the American people and, to some extent, up to the press. This will test the character of the press. It is not only my character that has been tested.

Kroft: I'm Steve Kroft. We'll be back next Sunday at our regular time with a complete edition of "60 Minutes", including Ed Bradley with Anita Hill, her first interview since the Clarence Thomas hearings. Now "48 Hours."

THE CONGRESSIONAL ACCOUNTABILITY ACT

The SPEAKER pro tempore (Ms. ESHOO). Under a previous order of the House, the gentleman from New Hampshire [Mr. SWETT] is recognized for 60 minutes.

Mr. SWETT. Madam Speaker, I want to shift gears a little bit. I think that we have heard enough about one person's perspective. It is time to talk a little bit about how government might make it work a little bit better.

Several weeks ago I gave a speech here on the House floor in which I sought to begin a dialog about the need for a new way of doing business in Washington. My remarks tonight will be a continuation of that dialog.

All too often, Madam Speaker, debates here in Washington do not focus on real problems and real solutions that have to do with real people, people who are out in the neighborhoods, people who are back in the districts, people who want their lives improved and need that through better government. Debates become battles between extremes with each side employing hyperbole in order to make a point. Neither side bothers to really listen to the opposite point of view, and each side blasts the other with sound bites designed for partisan advantage. This extremism is creating false impressions, false questions, false choices and ultimately, I believe, faulty public policy because real problems and real solutions are not typically part of the debate.

Madam Speaker, the time has come to stand back and say, "Enough. Enough ideological extremism, enough rancorous partisanship, enough hyperbole in the debate. The time has come to devise a new way of doing business in Washington which focuses on the reality and not on the rhetoric."

Madam Speaker, that is what this series of speeches is all about. It is designed to provide a forum for an emerging coalition in the House of Representatives known as the New Democrats, a small group of Democrats dedicated to getting results and to building accountability into government programs.

This new coalition is building in strength. New Democrats played a prominent role in developing the Penny-Kasich amendment which sought to cut government spending an additional $90 billion over and above the budget cuts proposed by President Clinton. New Democrats are also helping to propel a piece of legislation coauthored by the gentleman from Connecticut [Mr. SHAYS], a Republican, and myself, a Democrat from New Hampshire, called the Congressional Accountability Act.

Madam Speaker, the idea behind the Congressional Accountability Act is simple. Congress should live by the same laws that it passes for the rest of the country. Amazing as it may seem, Congress is currently exempt from the laws that it passes for the rest of the land and does not have to comply with laws such as health and safety laws, equal employment laws and labor laws. The Congressional Accountability Act will change all of that and require Congress to abide by the laws that Congress passes. Simple enough idea; I think its time is about upon us.

In my comments tonight, Madam Speaker, I would like to talk about the need for an increased accountability in government funded scientific research, an area I have become familiar with through my work on the Committee on Science, Space, and Technology, a committee that I have served on since I first came to Congress in 1991. It is a committee that I believe is going to have a great deal to do with the future of this country because in this committee we are researching the technologies that are going to bring this country to the brink of the competitiveness that we need to possess in order to excel in the world's markets. This is a committee that is going to be acting as the fertilizer, as it were, for all the fields of science where we hope to harvest great technologies that will not only help this country, but help the world.

The gentleman from California [Mr. BROWN], chairman of the Committee on Science, Space, and Technology, has made great strides in increasing accountability in government funded science through his efforts to eliminate academic earmarking. This is something that he has done for many years, and I have to say I have appreciated his efforts knowing that, as the chairman of the Committee on Science, Space, and Technology, it is sometimes looked upon in the science community as somewhat of an oxymoron. But I believe that more needs to be done now.

Madam Speaker, the Federal Government spends billions of dollars each year on research. I am concerned, however, that a lack of accountability is how some of these funds are being spent, and we do not readlly know if we are getting any bang, let alone a small bang, for our buck.

To help illustrate what I am getting at, Madam Speaker, I would like to read from an article that I have here about scientific integrity that is written by a physics Nobel laureate named Richard Feynman. The title of the article is called, "Cargo Cult Science." These are Richard Feynman's words regarding science in the federally funded science programs.

First, Madam Speaker, I have to tell my colleagues, "You have to understand this man is a Mark Twain with a Nobel science award so he has a sense of humor that I think is something that you have got to first recognize is coming. Otherwise you might question the prose that he uses."

He writes:

"During the Middle Ages there are all kinds of crazy ideas such as that a piece of rhinoceros horn would increase potency. Then a method was discovered for separating ideas which was to try to see if it worked and, if it didn't work, to eliminate it. This method became organized into science, and it developed very well so that we are now in the scientific age. I've concluded, however, that it's not a very scientific world. We need to do a much better job of looking into theories that don't work and science that isn't science.

"Examples of what I'd like to call cargo cult science: In the South Seas after World War II there was a cargo cult of people. During the war they saw airplanes land with lots of good materials, and they wanted the same things to happen again. So they arranged to make things like runways, to put fires out along those runways, to make a wooden hut for a man to sit in and with

two wooden pieces on his head like head phones and bars of bamboo sticking out like antennae. They waited for the planes to land. They did everything right. The form was perfect. It looked exactly the way it had looked before, but it didn't work. Planes didn't land.

"This is what I call cargo cult science because they followed all the precepts and forms of scientific investigation, but they were missing something essential because the planes didn't land. It wasn't something simple like the ear phones were the wrong shape. It is our responsibility, as scientists, not to fool the layman when talking as scientists.

□ 2150

For example, I was a little surprised when I was talking to a friend, you have to remember this is a fine man, he is still talking. I was talking to a friend who was going to go on the radio. He does work on cosmology and astronomy, and he wondered how he might explain what the applications of his work were.

Well, I said, there aren't any. He said yes, but then we will not support for research of this kind.

That is dishonest. If you are representing yourself as a scientist, then you should explain to the layman what you are doing. And if they do not support you under those circumstances, then that is their decision.

That is what Richard Feynman believes is cargo science, looking for something to come because you have set up a group of theories or preconceptions that ultimately are based on really the wrong facts.

There is another problem I think that exists in government in the science fields today, and I have not got a fancy name for it. But it really has to do with setting up programs for the sake of running those programs and not for the sake of discovering what might come of theories that are postulated when those programs are first initiated.

There is a tremendous fear that as we go into the laboratory in federally funded programs, if we do not come out with the outcomes we said we were going to come out with when we went into the programs, if you can keep this all straight, that we ultimately will lose the funding that we originated the program with.

You have to realize that in order for science to really be effective and to really be meaningful, there has to be failure. Because the theory is being postulated and it has to be proven or disproven. And so often the theories that are not disproven continue to gain evidence, but sometimes that evidence may be worked around so that it never gets represented back to those who oversee those programs as a faulty theory.

Now, let me give an example where I think the U.S. Government is wasting hundreds of millions of dollars on cargo cult science, science which is missing an essential element.

Before I do that, I think it is only fair and it is really actually most appropriate that I commend the administration and particularly Secretary O'Leary for the job she has done as she has come into the Department of Energy and found many of the things that I am talking about and has moved to make changes so that we can eliminate these kinds of problems.

One very good example that has come about through this change in attitude, not necessarily specifically tied to the Department of Energy, but certainly having to do with big science projects, is the superconducting super collider, which recently, just last year, was voted down by the House of Representatives and the Senate, and whose funding was discontinued because it in fact was draining the budget.

Secretary O'Leary has gone beyond into the Department of Energy and found there are problems with the outcomes or there are problems with the experiments that have been performed on human beings over the past 40 years, and she has brought about a new openness in the department where she is looking into the effects that these experiments have had on the human subjects.

These are the things I think that are going to bring good science back into the laboratories funded by the Department of Energy, and I think that Secretary O'Leary is the person who is going to be greatly responsible for this under the leadership of President Clinton and Vice President AL GORE.

But for decades, scientists at the Department of Energy have been pursuing energy's Holy Grail, fusion energy, the same force that makes the sunshine and makes hydrogen bombs explode.

Theoretically, fusion has the potential to be a safe, secure, and affordable source of energy for thousands of years, but after 40 years and almost $10 billion of government-funded research, experts say commercial fusion energy is still at least a half a century away.

That is almost unbelievable, for me to sit down and to ask those scientists that are dealing with this technology, what is the outcome of their research? When do they expect to realize that outcome? And to find that they have difficulty defining that outcome and cannot give a date by which time they expect to accomplish anything, and that date is certainly outside the life span of many people, most people that are living in this country today.

The DOE's current fusion research effort is focused almost exclusively on one fusion concept known as the tokamak, a technology designed by the Russians back in the 1960's. According to the DOE's current schedule, which presumes continued funding for hundreds of millions of dollars each year, they plan to build a demonstration tokamak reactor sometime around the year 2040, give or take a year or two.

The problem is that U.S. utilities, who are supposed to be the beneficiaries of this research, because, remember, we are trying to harness the power of the sun and put it to good use as a clean, environmentally benign technology that will light all our homes and power all our electric cars and do all the things that we need to have it do, the U.S. utilities have said that even if such a reactor could be built, they would not want to buy one because of its extreme complexity, inordinately high cost, unreliability. And I just said it was supposed to be clean? No. It has extreme problems with radioactive waste.

That is because when the tritium is put into this accelerator, into this magnetic donut, the tokamak, it in fact causes radioactive infiltration of the core. And all of a sudden what once was nonradioactive and benign has become radioactive and has to be disposed of in the proper fashion.

Now, this is not a simple, small rod that we currently deal with in the nuclear reactors of today. This is an entire structure, whose walls weaken with the increased radioactivity, which ultimately I guess would have to be buried under a mountain of cement or dismantled piecemeal and broken into pieces and put away in some safe location where it cannot affect the general public.

Someone is going to have to do that. That person is going to be susceptible to that radioactivity.

Faced with this situation, it seems to me that DOE scientists with integrity, not the integrity of the cosmologist or astronomer, but the integrity of a scientist who is looking for answers and willing to face failure in the pursuit of those answers, should step forward and say something like this: "Despite all the work we have done, the tokamak fusion concept is not going to lead to a commercially feasible system. We should scrap it and go back to the drawing board."

That is a scary thing for anyone in the DOE or in the laboratories in this country to confess to, because right now the way we are set up, if they make that confession, they lose their funding, their program is over, and their job goes with it.

So that has not happened. Scientists receiving funding from the current program have not said anything, at least publicly, because they do not want to threaten their funding.

I say at least publicly, because I am hearing things privately that have motivated me to come to the floor and to use this as one example of where we are not looking for, nor achieving, accountability in our government programs.

As a result, we are continuing to waste hundreds of millions of dollars

annually, something which according to the utilities, will not lead to a commercially feasible reactor.

The logical question to ask is how has this been allowed to happen? The answer is very simple: Because there is a lack of accountability in monitoring the scientific programs in the government of the United States of America.

Incredible as it may seem, no one has held the Department of Energy accountable for the results from their fusion program. As it is described in cargo cult science, despite the best efforts of the members of the cargo cult, the planes did not land.

They have not come in. We have been constructing an airfield of bamboo and wood, and we have not been able to really establish the right programs that will meet the immediate and near-term future needs of this country. We are working on something that we have had a hard time defining and a harder time determining when it will, in fact, come into play.

There is very little, there is no public, no private money going into this project, or very little. And my guess is, if you follow the dollars, you are seeing that utilities, that those that are interested in developing new and alternative energies have decided that this is not a project that they should invest in. They are, rather, putting their money in alternative fusion projects.

Similarly, the Department of Energy's current fusion program is missing another essential understanding. Not only are they not understanding that the planes will not land using the tokamak, they do not understand that the program should be leading toward the development of a commercially feasible fusion power system. I do not mean to say that we should not support basic fusion or basic fusion research. I believe that we should. But what we should not do, however, is continue putting all of our research money into an outdated technology. We should not continue funding scientists who claim that the plane will land, that the tokamak will lead to a commercially feasible system, when clearly it will not, not within the foreseeable future.

We need to put accountability back into the fusion program. We need to take the hundreds of millions of dollars that are spent every year and allocate them into a field that is fertilized, where there are alternative fusion programs that are currently being funded by the private sector.

The funding that the private sector is investing in these programs, plus what additional moneys the U.S. Government could put into them, would not even come close to what is being spent on the tokamak project. That allows us to do one or two things: to allow the engineering for the tokamak project to reach a critical point where it can be terminated, because there are additional political problems with this program where, when we are talking about the ITER project, which is the international tokamak that is being developed by the Europeans, the Japanese, the United States and other foreign countries, they have run up against a roadblock where they politically cannot choose a site to locate this project.

But more importantly, we have a deficit that we have got to deal with. This is something I think responsible government has to take a very close look at and a responsible look at. That is why I think this is a program that we are going to have to look at very closely in terms of responsibility, in terms of accountability, in terms of whether big science or diverse, multiple, smaller science projects are the best policy for the Department of Energy and other departments that deal with scientific research.

I hope in the weeks ahead, as we have an opportunity to debate certain projects like tokamak, we can look at these not in terms of wiping out programs but in terms of redirecting moneys so that we can put some against a deficit that clearly needs to be brought down and eliminated, that we can clean up and tighten up programs that are wasteful and eliminate programs that are unnecessary and bring on board programs that might give us more options in the not-too-distant future and, hopefully, develop an opportunity to bring about good science that addresses the needs of Americans today and in the near term in the next several generations.

I am honored to have with me one of my colleagues from Minnesota, Congressman PENNY, who I know is very interested in congressional accountability and Government accountability and bringing about some kind of responsible management of taxpayers' dollars in Government.

I yield to the gentleman from Minnesota [Mr. PENNY] to let him say his piece on Government accountability. I thank him for coming down to share this time with me.

Mr. PENNY. Madam Speaker, at the outset, I want to compliment the gentleman for his excellent presentation on the issue of fusion research. This country has not handled its energy policy nearly as well as it should. Here, almost 20 years after the initial oil shock, we are as addicted to oil as ever. We import, frankly, more oil today than we did 20 years ago, and we have done precious little to seriously explore energy alternatives in the past 20 years.

Fusion may be an option for the future, if it is the right kind of fusion, if it is environmentally safe, but as you have pointed out so eloquently this evening, even in that area we seem to have had a misguided or misdirected notion of the sort of research in this arena that best fits our Nation's future needs.

I simply want to assure him that as he uses his influence within Congress to address that issue that he certainly will have my support, because I believe we can do better, smarter research in this area and maybe save a few dollars in the bargain. That certainly is a goal to be applauded.

If I might, I want to draw attention to the need to help the President this year with his goal of reprioritization. He submitted a budget to the Congress, a budget which we adopted last week, which calls upon this institution to implement several billion dollars' worth of spending cuts in existing discretionary programs in order to facilitate some of the high priority investments that the administration wants to finance.

The President's task will not be easy. We saw many of his recommendations for budget cuts set by the roadside last year as his budget traveled through the congressional process. And as a consequence, some of the change that he promised was not delivered at the end of the day.

This year we have an even tighter budget. I would say, in credit to the gentleman from New Hampshire, that he was a part of a strong and vocal element within the Democratic Party that led the fight for fiscal responsibility and deeper spending cuts as part of last year's budget and an attempt to make even deeper cuts at the end of the session last November.

As a consequence of those efforts, this year we do have a tighter budget. It will force more difficult choices. And the President has presented to Congress 100 program cancellations and 200 program cuts, which he wants us to enact.

We can debate whether all of that money should be transferred to high priority investments or whether some of that money could actually be used to further reduce the deficit. But nonetheless, this President is providing leadership in suggesting to the Congress that there are programs in our budget that have long ago outlived their usefulness and ought to be discarded.

There are other programs of lower priority that ought to be cut to make room for new priority items for the 1990's. As we proceed with appropriation bills in the coming months, I would hope that within the Democratic Caucus we could provide a strong coalition of votes in support of implementing the President's agenda for spending cuts. It seems to me if there is one signal we can send to the public that we are getting serious about setting priorities at the national level and living within a budget, it is at least to have a good number of Democrats in evidence during the appropriation cycle who are willing to cast a vote in support of the cuts that the President has recommended, because as the gentleman

from New Hampshire so well knows, too often these cuts are recommended but the senior leaders and the spenders within our party find a way to avoid those cuts, and the spending machine just keeps on running down the track. We need to be an element within the Democratic Party that stands with the President in support of those cuts and tries to make them a reality.

I would enlist your support in that effort, as we move into the appropriation cycle in just a few weeks.

□ 2210

Mr. SWETT. If I may reclaim my time from the gentleman from Minnesota, I think he brings up a very good point. The one thing we as New Democrats are going to have to do is, in a very constructive way, being about accountability in spending, and ensure that those cuts are going against either eliminating bad programs and being reinvested, as Rob Shapiro from the Progressive Policy Institute says, into programs that are going to bring about new growth and new opportunity, or that they will reduce the deficit, and hopefully eliminate the deficit and help us bring down the debt.

The point the gentleman is making I think bears repeating, because my sense is until this body fully embraces this understanding, and allows for a program to be cut and that money not to immediately be spent on other existing programs that are not being looked at from an accountability perspective, we are going to continue to wreak havoc throughout the system. I am hearing from people like the chairman, the gentleman from California [Mr. BROWN], very grave concerns about reducing programs like the tokamak before we have control over where that money goes, so it does not have the opportunity of going into smarter, better, more responsive science and technology.

I would ask the gentleman, how is that going to play out, based on the many years of experience the gentleman has had in the body and the changes that he senses, as he completes his last term.

Mr. PENNY. I would begin by responding that if we cannot be willing soldiers in the President's effort to cut less important programs to make room for emerging priorities, then we are not going to fare very well at any other level, whether it is within your committee in dealing with fusion research, in trying to reallocate that to a more beneficial purpose, or whether it is within the Agriculture Committee as we attempt to, perhaps, modify our price support program, or our foreign credit programs, in deference to a smarter way of investing those dollars in our rural economy, perhaps other policies or programs that have more to do with job creation and growth than the expenditures that are now a part of our farm policy.

I would say that if the President cannot succeed in winning from Congress the cuts that he has requested, there is precious little hope that we can take this a step forward and approach this issue in the committees of Congress on that same basis.

I share with you enthusiasm for the report of the Progressive Policy Institute in which they have recommended a cut-and-invest strategy, where they have a long list, several hundred programs, as well as some tax breaks, some questionable tax breaks, which they would cancel in favor of an investment strategy.

Some of those savings from program cuts and tax benefit eliminations would go to reduce the deficit, but some of that would then be transferred to the investment programs in research and in public infrastructure and in education, which will build for a stronger future.

The President has begun in a very modest way to point us in that direction. Your committee has the challenge of doing that in the arena of scientific research and energy research. My committee has the responsibility to do that for the health of our rural economy. All of us have to take this cut-and-invest attitude about our spending priorities in the years ahead, both for the sake of the deficit and for the sake of the future growth of our Nation's economy.

If you do not mind, could I touch on another topic, as long as we have some time remaining this evening? If the gentleman wants to distance himself from these remarks, I would certainly understand his sentiments in that regard.

Madam Speaker, I want to talk a little bit about the health care bill, which is following an all-too-familiar course through the Halls of Congress. Like so many issues in the past, it is being handled in three separate committees, each committee having total jurisdiction over the health care menu, each committee likely to develop a different proposal. It is redundant, it is time consuming, it is like lobbyist heaven, because the interest groups will make a lot of money from their membership as they gin up the fear factor about what one committee or another might do.

It is going to keep us all terribly busy for the next several months, but at the end of the day, we are really going to be back to square one, because it is likely we will have three separate plans developed by three separate committees, none of which can command 218 votes, a majority of support here on the House floor, so we will have to then trade back and forth, make amendments, and try to meld at that point in time a middle ground approach to health care reform that garners the necessary support within Congress to become the law of the land.

I have been greatly distressed by the approach that has been taken within this Congress on this issue, because to date in the committee hearings that have been held there is precious little pretense of bipartisanship. At the subcommittee level in the Committee on Ways and Means, we have seen any number of close votes on important policy decisions, like employer mandates and cigarette taxes, you name it, assume basically party line votes; close votes, party line votes.

I am convinced that we cannot pass health care reform without significant bipartisan support. For those that do not talk Washington's language, that means Democrats and Republicans voting for this bill in significant numbers.

I am a bit distressed that time and again leaders in my party, including the White House, the President and others in the administration, pretend bipartisanship, talk bipartisanship, and yet they have prepared a very partisan bill, a bill which, upon introduction, garnered support only from Democrats, no Republican cosponsors, and now a strategy on the part of the White House and within the Congress that seems to be pushing this issue forward on a strictly party line basis.

That may be possible at the committee level. It is not possible here on the House floor. I am firmly convinced that we will not pass health care reform without meaningful participation from the Republican Caucus, nor should we pass health care reform in a strictly partisan fashion.

There are some things that we have to accept going into this debate. If we want Republican support, we probably have to negotiate, if not back off entirely, from this notion of employer mandates. But it is not simply Republicans that balk at the idea of a mandate of that sort. Any number of Democrats in this Congress fail to be convinced that a mandate is the best way to move toward universal coverage for all Americans under a reasonable health care policy.

Price controls: When have they ever worked? I think it is immensely difficult for us to get Republican support for a bill that has Government price controls. One of their own, President Nixon, attempted price controls, not a terribly successful undertaking some 20 years ago. It seems we should learn from past experience and not pretend that price controls can work today, when they have never worked throughout our Nation's history.

Deficit reduction: Can we actually save money with health care reform? We all had better hope so, because last year we did about as much as this Congress is capable of doing in terms of cutting the defense budget, we did about as much as the public will stand for in terms of tax increases, even though primarily those increases only fell on the wealthy, and now that we

have a budget freeze on the discretionary programs. We are beginning to see that we have to pick and choose within that tighter budget to take care of priorities while cutting lower priority items.

There is precious little we can do to further reduce the deficit if we do not cut entitlement spending significantly, and the biggest chunk of the entitlement agenda is health care spending. It is the fastest growing element in the entitlement budget, growing at a double digit rate per year, projected to increase perhaps 10, 11 percent for Medicare and Medicaid costs in the coming year alone.

□ 2220

So deficit reduction has to be evident in health care reform or it is really a waste of our time to talk about it, because without cost savings in our Federal health care programs, we will never see the end of Government deficit spending.

Yet there is no deficit reduction evident in the President's health care plan. In the first 5 years of their plan, the Congressional Budget Office indicates that they are $70 billion to $80 billion over budget, and at the very best, the rhetoric from the White House would lead us to believe that within the first 5 years they may be able to keep their program deficit neutral, which means it will not increase the deficit, but neither will it reduce the deficit. We have to do better or we will have failed the American people on the critical question of whether we can rein in the costs of health care, not only for the private sector but for the Government as well, because it is the part of our budget that is running away from us at a rapid rate.

A party vote for health care reform at the end of this legislative session would be a disaster for the country. Two hundred eighteen votes from Democrats alone does not represent to the American public a serious and sincere effort to resolve this issue in the best interests of the country. It will represent to them a fiercely partisan effort to do it our way and to reject any and all suggestions from the Republicans as if they have nothing of worth to offer in this debate, and that is ridiculous on its face to suggest that there is nothing to be offered by the Republicans in the context of a health care debate that may be productive and useful and could become part of a meaningful health care reform plan.

I do not think, speaking strictly as a Democrat, that we as a party want to go down the same path that we traveled on the budget resolution and the budget reconciliation bill last year in which in the final analysis we passed it with only one vote to spare. And the public was outraged, because after a decade of deficit spending, after voting for change in the White House, after voting in numbers approaching 20 million for an independent candidate as a way of sending a message of revulsion to both the Democrats and the Republicans, what they saw in Washington last year was a strictly partisan shooting match in which the Democrats pushed through their own version of a budget plan, one that did buy us some near-term relief on the deficit, but one that does not offer any long-term solution to our deficit problem. The public will not be impressed this year with a strictly partisan health care plan, just as they were not impressed last year with a strictly partisan budget.

As Yogi Berra once said, it is deja vu all over again, and that is what the American public is going to say if they see this Congress and this White House walk down a partisan path on health care reform the way we did on the 1993 budget.

As I said earlier, the public will not trust a partisan health care reform initiative. I come from the State of Minnesota where we have a major health care reform program in place today. It is controversial. It has been to some degree disruptive. Not all of the players in the health care system are entirely satisfied with the impact of this reform on them and their livelihood or their comfort level. But it has been generally accepted because it was passed in a bipartisan fashion by the State legislature, a legislature controlled by Democrats, and signed into law by a Republican Governor. In other words, the political process reached a consensus and developed a plan that represented the best contributions of both parties and developed a plan that was somewhere within the mainstream of the electorate, a plan they could understand and accept, not a plan that frightened them and sent them into fits of rage and anger.

If we want health care reform to work, the American public must accept it, and their trust level rises only a couple of inches off the floor for either the Democratic Party or the Republican Party. If we want them to have a higher level of trust for the product of our work, we must demonstrate to them that leaders and Members in both political parties are working together in the best interests of the country for a bipartisan health plan. A bipartisan health plan will be more saleable among the electorate because based on the bipartisanship required to develop the plan, the public will accept it as a plan that is not radical, a plan that is not designed for partisan purposes, a plan that is sensitive to various points of view, because bipartisanship suggests to them that all points of view were heard.

History shows us quite clearly that monumental legislation, landmark legislation throughout the years has always been approved with strong bipartisan support. Let us not break with history just because of some notion in today's Washington because one party now controls both houses, the House and Senate and the White House, and therefore one party has all of the answers. The most important legislation in our Nation's history, including domestic legislation in the 1930's, in the 1950's and in the 1960's always enjoyed broad bipartisan support, and we ought to follow that example on health care reform.

I am amazed, after having said all of that, that so many leaders in my own party at the national level seem to resist the obvious. It is clear that there have been many signals in the past months to confirm that, that Senator DOLE is ready to deal on health care reform. It is undeniable that Senator MOYNIHAN, the chairman of the Finance Committee, has been publicly advocating a bipartisan approach to health care reform for some time now. In the House, the only proposal that has broad bipartisan support is the Cooper-Grandy bill, and yet that is the only proposal that seems to be on the enemies' list as far as many of our Democrat leaders and as far as the White House are concerned. But we ought to respect the work and embrace the work of this bipartisan group rather than rejecting it as we have to date.

And there are many Republicans, like the 92 group. I am not even sure they call themselves that any longer. They would clearly want to be part of a serious health care reform effort. They include Members like NANCY JOHNSON who serves on one of the pertinent committees, and STEVE GUNDERSON of Wisconsin. These legislators and others would prefer to be part of a solution because they are serious legislators, not partisan game players. And I have to believe, because I have worked with him now for 12 years, I have to believe that minority leader BOB MICHEL would like nothing more in his final year in Congress as he approaches retirement than to be able to be a part of something really important for the country's future, and that is a resolution of the inequities and the inadequacies of our current health care system.

So the evidence is obvious that bipartisanship is possible, and it amazes me that our party is so resistant to these indications on the part of our Republican colleagues that they are ready to come to the table. Again, I would say bipartisanship is not only possible on this issue, it is preferable.

Stealing from Yogi Berra one last time, when you come to the fork in the road, take it. We are at that fork in the road, and the right path to follow is the path toward bipartisan health care reform.

□ 2230

Mr. SWETT. I thank the gentleman from Minnesota.

I would add the words of the great New Hampshire-New England poet,

Robert Frost, that the path taken, or the path chosen be the one that is less taken. I think that represents the path of bipartisanship. Because that really is the real problem that we are facing here in the Congress today.

If you look at the society around us, if you see how crime rages in the streets, how special interests control the actions here in Congress, the divisiveness between groups, whether they be ethnic or economic or geographic, all of these differences and divisive elements throughout our society, I think, would begin to heal, would begin to come together if they saw in the Nation's power structure here in the House of Representatives and in the Senate a willingness to begin to reason and respect and incorporate the viewpoints of both sides of the aisle.

Mr. PENNY. If I might ask for the gentleman to yield again, our forefathers had it right. They envisioned a Congress in which the divergent views of a diverse Nation would be brought to bear on the debate within this very Chamber, and that by our example in reaching a consensus on critical issues, profoundly important to the Nation's future, we would convey to the American public that same sense of cooperation and consensus and togetherness and teamwork, but we exhibit that behavior far too infrequently here in the halls of Congress, and I do not think it is any surprise that the country today seems as divided and torn and distressed within many of our Nation's communities, because leaders at the top do not set the right example of working together for the common good. And so we essentially convey to everyone that you are on your own; cooperation, conciliation, accommodation is an infringement on your individual rights.

There is no larger goal, there is no larger purpose; get your own; get it while the getting is good.

We have to be better than that. I think our Founding Fathers intended that we be better than that.

Mr. SWETT. I do not think you and I come from two unique and totally different districts that are at odds with the rest of the country.

When I see people around the country, and I talk to them, they are looking for people who can view the large vision and who are willing to work within that vision to bring about these kinds of resolutions that have respect for the difference of opinions, for the variety of the Members, whether they be Members of the Black Caucus, the Hispanic caucus, the Republic caucus, the Democratic caucus, and the problem is that there is so much division it really does bring us back to cargo science.

We are here giving speeches and our rhetoric speaks of the differences between us, and we think that through those differences we are getting at the proper or the improper elements of a piece of legislation, where what we ought to really be doing is seeking out the common ground, finding where we can agree and building upon that, because only if we start building upon that common foundation are we going to get the plane to land.

We are only going to be able to see something come in that really has lasting integrity. If we agree that this common problem and these common elements of the solution ought to be incorporated, certainly one side is going to hold sway over the other. There is going to be extremely rancorous debate at times, but that does not mean that we cannot ultimately craft a solution to problems, whether it be welfare reform, crime, health care reform, you name it, the budget, all of these things are going to have to incorporate some kind of reasoned and realistic accommodation of one side or the other.

That does not make me a worse Democrat. I think it makes me a better U.S. citizen, and I think that is something that we both believe has to take precedence as we debate and as we look at and as we cultivate and as we ultimately impart at least our vision of what this country ought to be and can be.

Mr. PENNY. If the gentleman would yield again, there is no clearer example of heated debate involving intense differences than the example our Founding Fathers set in Philadelphia as they worked in 1778 to craft our Nation's Constitution.

There were philosophical differences. There were regional differences. There were differences based on age and experience. The debate there raged on for weeks and was rancorous and cantankerous at times, but in the final analysis, they set aside their differences and focused on the common ground. The product of their work was this Nation's Constitution which has lived on for these 200 years which is ample evidence of the virtue of the more bipartisan approach to dealing with the legislative issues facing this Nation.

And to get back to the quote from Robert Frost, it goes as this: "Two roads diverged in the woods, and I, I took the one less traveled by, and it has made all the difference."

In modern-day Congress, I have now been here 11 years, and you have been here less than half that time. I have seen far too little bipartisanship. It is the road less traveled by. But if we finally get on that road, I am convinced that for the workings of this institution and for the interests of this Nation, it will make all the difference.

Mr. SWETT. And I would conclude by just putting a cap on the discussion about the U.S. Constitution.

Society at that time had in it the virtues, the values, the structure that allowed for the debate to go forward.

The name of the resolution to the problems that confronted our founding forefathers was none other than the Connecticut Compromise, and how well we would be to incorporate the language or the vocabulary, the word "compromise" back into our debate that would allow us to go forward with discussions that would ultimately allow us to find resolution incorporating a little bit of everybody's ideas.

We have a President, I believe, who understands this value. There are individuals in this Congress, I believe, who want to incorporate these philosophies. We also are coming off of a time, and we still see the results in some Members' philosophies, that want to divide and conquer and destroy in order to build up out of the ashes. We cannot fall prey to that mentality. We have to hopefully see the greater glory and the greater value in incorporating the vision of our founding forefathers in coming up with the kinds of solutions that I think ultimately can be far more exciting, far more productive, and far more impacting on the attitudes of all Americans.

Because they are out there waiting for this to happen, and their trust in Government, their belief in our abilities is not going to come forward based on partisan votes where only Democrats pass legislation or only Republicans are able to thwart legislation. They are only going to trust this Government when we come to a place where they see there is openness, there is a willingness to entertain all viewpoints, there is real debate about real issues establishing real commonality in discussing differences and ultimately enacting, not rhetoric, but real solutions that are going to make differences in people's lives.

If we can do that, then I think more important than what we do, how we do it will make all the difference, and that is the road I think we should take.

I thank the gentleman very much for sharing in my time.

□ 2240

SITUATION ON THE KOREAN PENINSULA

The SPEAKER pro tempore (Ms. ESHOO). Under a previous order of the House, the gentleman from Colorado [Mr. MCINNIS] is recognized for 60 minutes.

Mr. MCINNIS. Madam Speaker, tonight I want to spend a little time with my colleagues and with the rest of you and visit the Korean Peninsula. As you know from the news in the last few days, the Korean Peninsula has been on the headlines, we have heard a great deal about it. But I think it is probably worth our time tonight to spend 30, 40, 45 minutes and just do a basic review of what we are talking about in North Korea, what the difficulty is in Korea, and get a look at the entire picture that involves the Korean Peninsula.

I think probably the first thing we should understand is that America, the United States, has a very special interest in South Korea. We begin that by saying that we have approximately 35,000 American troops stationed in South Korea. In addition to those 35,000 American troops we also have stationed in South Korea about 14,000 private civilians and about 11,000 other members of military families.

So we have a very special interest in South Korea. In addition to the families and the American citizens and United States military personnel we have in South Korea, we also have a security commitment with South Korea that followed the Korean war, which ended in 1953.

To begin this evening, I think we need to take a basic look at the geography so that we have a better understanding of what the Korean Peninsula looks like. Let us start right here so that we have a broad layout of what the geographical area is.

First of all, down here in the left-hand corner you will see the country of Japan, and right here are the Korean Straits. Those are going to be important. I will be talking a little later on about the deployment of the carrier attack force down in this vicinity. Over here you have the Sea of Japan. Up here, of course, you have China. I will be talking at some length about China, the relationship between China and North Korea, the impact of sanctions, whether or not China will agree with sanctions, whether or not sanctions are even going to work. If North Korea launched some type of military attack, what would China's response be? Of course, below China here we have North Korea and down here below North Korea we have South Korea.

Now, dividing the two Koreas is what is commonly referred to as the DMZ. So this evening when I talk about the DMZ, I am talking about this line that you can see on the diagram right here or on the other map which I have right here, the black line which I will point out right underneath of the red. That is the line. That is the neutral zone, so to speak, established after the Korean war by the United Nations agreement to divide the two Koreas.

Now, stop for a minute: About North Korea, North Korea is about one-half the size of the State of Nevada and has a population of about 22 to 23 million people. Pyongyang is the capital of North Korea; that is located right up in this vicinity right here. Now, South Korea has a very interesting geography. The reason we want to talk about this this evening is that because in South Korea you will soon understand the kind of risks, military risks that not only the American troops have but our strong ally and good friend South Korea has.

Now, let us first of all look at Seoul, South Korea. Seoul, South Korea, is the capital of South Korea, and the key part of Seoul is that in Seoul one-half of the country's population, about 10 million people, live in Seoul, South Korea. Seoul, South Korea, also provides one-half of the nation's gross national product, or one-half of the economy for the entire South Korean Peninsula.

So, as you can see, Seoul is a very, very critical area.

Now, Seoul—so you have an idea of the proportion on this map—Seoul is located approximately 35 to 40 miles from the DMZ. In other words, North Korea, which is an adversary to South Korea, is within 35 miles, 35 miles of the nation's capital there in South Korea.

Now, the terrain in North Korea is very similar to the State of Colorado. I am from Colorado, so I will be able to explain what it is like in the event of mountain warfare, what it would be like to engage in air battles in that kind of terrain; very difficult terrain in North Korea, very tough winters.

Now, China has a relation with North Korea. I will just give you a couple of statistics: 75 percent of the oil supplies of North Korea, the imports, come from China; 72 percent of the food that North Korea brings in comes from China; 88 percent of the cooking coal, which is a vital natural resource not found in North Korea, comes from China.

So, as you can see, China has a very strong economic relationship with North Korea.

Now, since World War II, actually since World War II—and right after the Korean War—it is the United States of America that has provided the security umbrella for the entire Asian region. As you know, under the constitution which General MacArthur drafted for the country of Japan, Japan is not allowed to build an offensive military force. And it is really through the event of deterrence, deterrence during the cold war, that we have been able to keep this area fairly peaceful.

But that entire concept, the entire peace that we have had since the Korean war, though it has been interrupted periodically by terrorist actions of North Korea, that entire peace is now being threatened.

Now, the threat over in the Korean Peninsula is not something that has just arisen in the last 3 or 4 days, although of course the news media across the country and across the world is highlighting North Korea. This really began to boil over about a year ago when North Korea announced that they intended to withdraw from the nonproliferation agreement.

Let us talk a little about the history of the North and South Koreas. As you can probably remember from your history books, the division of the Koreas took place after World War II. Kim il-Sung, who is the dictator of North Korea, was actually put into his position by Stalin. Kim il-Sung happens to be the longest-living dictator of any country in the world.

He has a very tight and very strong control over his people in North Korea.

North Korea launched the Korean war, which took place in 1950. It was launched by North Korea under the pretext of military exercises. In other words, North Korea was conducting what they called routine military exercises and in 1950, under the command of Kim il-Sung, who is the same dictator that we are dealing with today, issued the command to attack South Korea. And now the United States, after the Korean war, agreed to provide certain protections for the Korean Peninsula to try to keep peace along the DMZ. In a few minutes, I am going to show you, I am going to give a military comparison between North Korea and South Korea so that you have some kind of perspective of what the circumstances are of any kind of conflict on the Korean Peninsula.

Before I go any further, let me make this point very, very clear to you, and that is that should a conflict occur on the Korean Peninsula, it is not going to be similar to the situation in Iraq where we successfully retook Kuwait. That was an incident in which some human lives were lost, tragically; but the number of lives lost in Iraq will be nothing, nothing in comparison to the kind of casualties that we will take on the Korean Peninsula.

In fact, it is my belief that the casualties that we will take will not only be devastating but will be very immediate. We will, I believe, within days of any kind of military conflict beginning take thousands and thousands of American casualties. We need to be prepared for what could be the biggest challenge to us, I think, considering the other countries that are involved, perhaps, since the commencement of World War II.

Now, is a military conflict going to occur? I do not think it is. I think we have to go to great lengths to avoid military conflict. But we must understand at the very beginning that the consequences, even if the percentage or the odds of an attack by North Korea are very, very small, the long-term and tragic consequences as a result of the conflict being launched are substantial, very substantial. So we need to pay very close attention to what is going on over there and we need to properly protect ourselves.

Now about North Korea: What does Kim il-Sung—what kind of dictator is he? I mentioned to you earlier that he has very, very tight control over his people.

Over the last 10 years and even over the last 14 years, Kim il-Sung has launched terrorist attacks on South Korea. This includes an attack in 1982 or 1983 in an attempt to assassinate the

President of South Korea. They set off a bomb in Burma which I believe killed 17 South Korean cabinet members.

□ 2250

It includes a terrorist attack against North Korea, another separate attack against the President of South Korea where the President was missed by an assassin's bullet, but unfortunately the assassin's bullet found its mark with the President's wife. It includes the launching of 20 commandos to take what is called the Blue House, which is the equivalent of our White House in Washington, the launching of 20 commandos into Seoul, South Korea. They did not get to the Blue House, but to give my colleagues an idea of the dedication of these soldiers, every one of those 20 soldiers fought to their death even after they were surrounded. They had no chance whatsoever of making it to the Blue House. Every one of those 20 soldiers fought to the death.

Now we have tried the doctrine of appeasement. What is the doctrine of appeasement? It is a doctrine that says, "You try and get along. You continue to give up what you have to the other side in an effort to get along."

"A good comparison," I would say to my colleagues, "is let's say you have a garden, and you have got a neighbor who wants the fruit or vegetables out of your garden. That neighbor has threatened to take the entire garden from you if you don't on a regular basis continue to supply him with vegetables from your garden, and year after year the demand from the neighbor becomes that he wants more and more vegetables out of the garden."

Madam Speaker, that is exactly what has happened, in my opinion, in Korea. The United States has continued to practice a doctrine of appeasement with North Korea.

Now North Korea, my colleagues need to understand, and we will get a little more into the politics here in a few minutes, but one of the things about North Korea is it is very, very unpredictable. North Korea responds to actions of strength. North Korea behaves itself when it receives an action of strength. Since 1989 the United States has continued to downsize its military presence on the Korean Peninsula. Beginning in 1989, for example, we pulled 6,000 troops out. In 1991, George Bush pulled out the tactical nuclear weapons off the Peninsula. We are continuing to try and negotiate with North Korea through appeasement. I do not think the results are apparent, and I think frankly it has led us to where we are today.

Let us talk a little more about Kim Il Sung up in North Korea. We need to look at this from a perspective of being the most closed society. North Korea is the most closed society in the world. It is the most unpredictable society of any in the world. And it has a control or a grasp of its people more than any other country in the world.

I say to my colleagues, "For example, if you buy a radio in North Korea, the government manufactures the radio so that they tune into only one station. Every person in North Korea is required to carry a picture of Kim Il Sung. The children of the North Koreans are brought up to believe that everything in the world revolves around Kim Il Sung."

Our intelligence capabilities in North Korea are very, very limited. What do I mean by very, very limited? I think it is fair to say that our ground intelligence, the intelligence we have on the ground in North Korea, to get us a kind of military information or economic information, that so, so we can assess where North Korea is gong, is very limited, if almost nonexistent. Our primary source of information from North Korea is satellite reconnaissance. But satellite information is only good if there is good weather. It is not good if there is bad weather, and it does not work very effectively with tunnels, and I am going to talk about the tunnels here in a few minutes.

So Madam Speaker, we are dealing with a society that is unpredictable, we are dealing with a society that has a very tight control of its people, we are dealing with a society in North Korea where the citizens of North Korea really have had no exposure to the outside world and do not understand the ramifications, I think, of a nuclear confrontation or any kind of confrontation on the Korean Peninsula. We are dealing with a population who has had drilled in their heads since they were able to understand their language, drilled over, and over, and over again, that the Korean Peninsula must be reunited with their generation. What does "with their generation" mean? We do not know.

Let us make some military comparisons so that we have an idea exactly what we are talking about in regard to North Korea and South Korea. First of all, as I mentioned earlier, the United States of America has about 35,000 about 35,000, American troops in South Korea. The South Koreans have about 600,000. This is give or take a couple thousand, 600,000 troops. So we have got about 630,000 troops, military troops, in South Korea.

In addition to that, Madam Speaker, we have got reinforcements in Japan, in Okinawa, and of course we are able to move carrier fleets or move carrier deployment forces around in the Yellow Sea, in the Sea of Japan.

So, the North Koreans have exactly double that. They have 1,200,000 troops, and what is interesting about these 1,200,000 troops and what is of concern to all of us is that 70 percent of North Korea, 70 percent of their forces, are on the DMZ, right in this area here.

I say to my colleagues, "As you can see from our map over here, the armored forces, the mechanical corps over there and the various military functions in brigades and battalions that we have got near the DMZ; so 70 percent of the North Korean forces are on the DMZ."

Now, Madam Speaker, the DMZ is about a 3-mile neutral zone. It is about 3 miles wide. Along with the troops that are along there North Korea has a very sophisticated ballistic delivery missile system.

Now my colleagues have often heard in the last week or two about, well, North Korea has nuclear weapons. We do not believe that they have the capability at this point. They have not armed these ballistic missiles that are close to the DMZ or certainly within striking distance of Seoul, South Korea, that they are armed with nuclear missiles. They do not need to be armed with nuclear missiles. They can be armed with conventional missiles because the most likely and the most obvious target to hit in a military conflict is the community which is 35 miles away from their missiles or 40 miles away from their missiles which has one-half of their opponent's population and one-half of the economy of the entire country.

In addition to the ballistic missile systems, in addition to having an advantage of the troops, a two-to-one advantage, North Korea also has substantial means to sustain, to initiate and to sustain, chemical warfare.

Let us go over a few other things that they have in comparison. Now I have mentioned to my colleagues the chemical weapons. They have a large arsenal of tanks. Their tank forces are probably three times the armored car forces, are probably three times what South Korea has. North Korea has a very substantial tank force. The one area that South Korea and the United States on the ground in South Korea clearly outdo the North Koreans on is air superiority, but air superiority from the South, by the South over the North, has to be discounted for a couple of reasons:

No. 1, remember the mountainous conditions and the weather conditions. It is very difficult to carry out air superiority missions with tough weather, with the kind of weather, for example, that we have in the Colorado mountains and the kind of mountain peaks.

The other problem is that the North Koreans have one of the most sophisticated tunnel systems in the world. There are a number of tunnels. We have discovered three tunnels, I believe, that we have been able to dig up, and through hearing devices and so on we have discovered that those tunnels are large enough to move troops at a capacity of 10,000 troops an hour. Those tunnels are deep enough that the conventional weapons, with the estimates that we have and the professional opinions, that the weapons that we would

use would not be able to destroy those tunnel systems.

So, air superiority is important. We could bring in additional air enforcement from Japan, and of course, if we have a carrier deployed in the area, we could bring in air enforcement from that. So, on air superiority we clearly have an advantage, but, when it comes to armored service vehicles, surface to surface vehicles, North Korea has twice as many surface to surface missiles as we have in South Korea.

They have got 2,400 multiple rocket launchers. We have got 114 of those multiple rocket launchers. They have got 800 surface to air missiles, 800 surface to air missiles. We have got 250 in South Korea.

I think it is clear, and even the people who disagree as to the policy that we should follow on the Korean Peninsula, even those people, I think, agree that we do not have the proper equipment, that we are not properly prepared in South Korea to handle, for example, a chemical attack, and frankly, if North Korea launched a military conflict and hit their most obvious target, Seoul, they would throw that country into immediate chaos.

□ 2300

There have been military estimates that say, and it is a recent study that came out about 2 years ago from our own defense papers—and I am not telling you a secret, these are public documents—that said we could lose the peninsula in as short a period as 2 weeks.

One of the difficulties, of course, if a military conflict were launched, would be we would need to bring reinforcements down through this area, and you would have large numbers of people that survived the attack on Seoul heading in this direction, blocking up roads, and so on, and preventing the kind of reinforcement that we would need to bring up through South Korea.

Another interesting thing is that North Korea not only has twice the number of military troops that we have in South Korea down here, but they also have 10,000 special forces. That is one of the largest numbers of special forces of any country in the world.

North Korea also has submarines. They have got what they call two-man submarines. Their purpose would be to drop those subs in areas like this where they could go in to Pusan, for example, and mine the harbor.

So we face a real challenge in regard to reinforcements. Now, if an attack were to take place against South Korea, let me compare that type of military conflict with the kind of military conflict we had when Kuwait was overtaken by Iraq.

When Iraq overran Kuwait, we knew for a period of time that Iraq was moving large numbers of military forces towards Kuwait. We had several weeks warning that a conflict was about to occur. And after Iraq took Kuwait, we had several months to move over our military forces, to set up military hospitals, and to prepare for a major conflict. Several months.

Keep this in mind. If a conflict were to begin or be initiated by North Korea, we believe that we would have about a 24-hour notice. About a 24-hour notice. If North Korea launched a military attack against South Korea, they would throw at South Korea everything they have. And the most devastating things, of course, would be those missiles and the chemical warfare.

If in fact that study is correct that they could push us off the peninsula within a 2-week period of time, it would take us months and months, probably 400,000 American soldiers, to come back and mount a counteroffensive.

We are facing a very dangerous situation on the Korean peninsula.

Let us talk for just a minute or two about the nuclear issue. That seems to be what has spurred on the latest brinkmanship in regard to the issue over there.

First of all, there is the Central Intelligence Agency, and I think now it is the majority opinion in the intelligence community, that North Korea does in fact possess at least one nuclear weapon. Now, a lot of people say, well, you know, is North Korea going to use that nuclear weapon? Are we afraid of them using that weapon?

North Korea would be very, very foolish to use one nuclear weapon or two nuclear weapons. My concern, personally, I am not concerned that North Korea is going to use a nuclear weapon. I am concerned that North Korea is going to sell the nuclear weapon.

Every weapons system that North Korea has developed, they have sold to other countries. Obviously they keep some back for themselves. But the relationships, for example, between North Korea and—are substantial. And I think it is very clear that if North Korea is able to develop these nuclear weapons, or if in fact they have the nuclear weapons, the next step in their program would not be to deploy a nuclear weapon against South Korea, not use a nuclear weapon in South Korea or against the United States. They do not have to. Seoul, South Korea is 35 miles away. Hitting that with a conventional ballistic missile is like dropping a penny in a glass of water when you hold it half an inch above the glass. You do not need a nuclear weapon.

Our danger is and the problem with proliferation is, No. 1, an arms race in this Asian hemisphere, and No. 2, that North Korea would begin selling these nuclear weapons to other countries.

About a year ago, well, some time ago, North Korea agreed to join as one of the parties to what is called the Nonproliferation Agreement. About a year ago North Korea indicated that it was going to pull out of the Nonproliferation Agreement. This came as a result of inspections under this agreement. The countries are entitled to inspect the other countries, peer inspection, peer enforcement for example. And North Korea hesitated and then went from hesitation to pure refusal to allow these inspectors to come to see whether or not North Korea was developing nuclear power for a military type of weapon.

So for about the last year and a half, North Korea has gone to the brink, said they are going to pull out of the nonproliferation agreement. Then they back off, then they come back up to the brink again, and then they back off. And most recently, about seven weeks, ago, they said all right, we are going to allow the inspectors in.

Our President, this administration, agrees to withdraw Team Spirit. Team Spirit is the exercise by the way, the drill between South Korea and the United States, a military exercise called Team Spirit. Our President agrees to suspend Team Spirit. This is after he told North Korea that they can never obtain a nuclear weapon, on the premise that North Korea will allow these inspections.

North Korea says we will allow you to come in and inspect our nuclear sites, that is, we will allow you to come in and inspect seven of the sites, but we will not allow you to inspect the two suspicious sites.

It is kind of like drug enforcement people come into your house, to a drug dealer's house, let's say, and saying we have got a search warrant for your house. And the drug dealer says that is fine, you can look in five of the rooms, but do not look in those two rooms. Then when you go out, certify to the court I am in full compliance with the search warrant. That is what North Korea has done.

So the inspectors went over there last week, and, as many of you know who have read the paper, the results are that North Korea has refused to cooperate. The inspectors have left and certified they cannot certify that North Korea is in compliance with the nonproliferation agreement. And that brings us up to today.

The IAEA, remember those initials, IAEA is the group that is in charge from the United Nations to enforce the nonproliferation agreement. The IAEA yesterday referred the matter to the United Nations Security Council for further follow-up by the United Nations Security Council.

Well, what is going to be the diplomatic approach? What diplomatically have we done to try and quiet this situation down?

We do not want a conflict on the Korean peninsula. On the other hand, while we think about not wanting a

conflict, we must also remember that the only way that you can negotiate with North Korea is through a position of strength. The North Koreans are very bright and very capable people. They sense a sign of weakness very quickly, and they snap on it and they take advantage of it. If you show weakness, if our administration uses a carrot approach, goes up to North Korea and says let's make a deal, tonight is the night to make a deal, if they sense negotiating space, they are going to push you as far as they can push you.

So we have to determine what kind of an approach is going to be necessary to force North Korea into compliance with the nonproliferation agreement and to minimize the threat against South Korea.

We need to talk about deterrence. When we had the cold war with the Soviet Union, we were able to have peace for a number of years through a policy of deterrence. And what is deterrence and what does it require?

Deterrence means I have got a gun, you have got a gun. If I shoot my gun, you will shoot your gun, and we are going to kill each other. It does not make any sense. So you do not fire your gun, I do not fire my gun, but we both know that if the other person does fire their gun, I can respond in a like manner.

So that is deterrence. You stop a bomb with a bomb. You stop a missile with a missile. And in the cold war, it was fairly effective. It kept us at peace, although it was a very tenuous peace. It kept us at peace during all those years with the Soviet Union.

But what is necessary for deterrence to work? First of all, you have got to have communication with the party on the other side. Second of all, the party on the other side has to be rational. Third of all, you have to be very familiar with the citizens, with the economic structure, with the infrastructure, with the military structure of the country you are dealing with.

With North Korea, we do not meet any of those circumstances. We are not very familiar with what goes on in the society, because it is a very closed society. It is the most unpredictable society, unpredictable government under Kim Il-Sung, in the world. And we are not able to communicate, obviously, very effectively with North Korea.

So is deterrence going to work? I do not think deterrence is going to work. And I think it is demonstrated in a very small way when those 20 commandos tried to take the Blue House and were killed. They fought to the very last man, even though they knew they could not accomplish their goal. They refused to surrender. Death was better than surrender.

□ 2310

This is not a rational thinking country. They are not crazy. They just do not have the kind of philosophy that we do. They are very, very unpredictable. So I do not think deterrence is going to work.

What then are the answers that we should look at while we approach or while we go down a diplomatic type of path? You need to have defense. There is a difference between deterrence and defense. If deterrence does not work, then you need to put in some strong ingredients of defense.

What do we need to do for defense? You have heard about it for several months. This administration, mark my word, look at the papers, look at Time, Newsweek, any of the periodicals, Wall Street Journal that you read, you will see that back in about November the administration said North Korea must never have a nuclear weapon. That now has been softened, and you will see also during that period of time that there was an attempt to deploy Patriot missiles. Then South Korea, who is very concerned, remember, South Korea is the one that has the most to lose. They face a nuclear attack, a possibility of one, although, as I said, I do not think the North Koreans are going to use the nuclear weapon. I think they will sell the nuclear weapon. They face devastation of their economy, devastation of their capital city and just a re-picture of the Korean War. So South Korea does not want to irritate North Korea. On the other hand, they understand the threat is coming to them. Months ago, we were intending to deploy what is called the Patriot missile. The Patriot missile was the missile that got all the publicity in the Iraq war. It is our best known defense against ballistic missiles with conventional warheads.

So the Patriot missile deployment was to take place several months ago. All of a sudden the defense, remember, we have been downsizing. Every time we downsized in South Korea, North Korea took a step up. So we took off our tactical weapons off the Korean Peninsula, and we canceled Team Spirit several years ago.

Now we are trying to bring the Patriot missile back. We have a very basic obligation to our troops, to those 35,000 American soldiers, to those 11,000 military family members, to those 14,000 U.S. citizens. We have a very basic obligation to provide for them a maximum defense force. That includes deployment of the Patriot missiles.

This week, finally, we are going to ship Patriot missiles, 150 to 200 Patriot missiles. They will be leaving Fort Bliss, Texas on a ship. They should be in place in about 30 to 45 days. That will help. It will not stop a ballistic missile attack.

In addition to that, what else should we do to put in proper defense? There are a couple options that I think we need to take. One of the options would be to provide additional radar. We have a good deal of radar along the DMZ and we can observe the actions that are being taken by the North Koreans. The difficulty is if there were a conflict that were to arise, I think it is safe to assume that several of those radar stations would be taken out immediately as a result of the conflict. I think we need to deploy AWAC aircraft, which can provide us with the necessary radar.

In addition to that, I think that we should deploy a carrier attack force, simply as a defensive tool down in the Korean Strait, down in this area here.

Along with these deployments, I think we need to put in a force of Apache attack helicopters. What is the Apache helicopter? It is an offensive weapon, but it is also a defense weapon. It is our most effective weapon against tanks. Remember, earlier in my discussion I told you that South Korea is greatly outnumbered, probably 5 to 1, by tanks. We have to have some type of defense in South Korea to stop the tank invasion should that take place, and the answer to that is the Apache attack helicopter.

So let us review where we are. We realize that a deterrence will not be effective on the Korean Peninsula, so we have to move into the doctrine of defense. In order to move into the doctrine of defense, we need to deploy several things. One, we need to have a carrier task force off the shores of Korea, simply as a defensive measure. Two, we need to deploy the Patriot missile. That actually is being done right now as we speak. They are being prepared to be shipped out of Fort Bliss, Texas. We need to bring in the Apache attack helicopter.

Furthermore, we need to equip our troops with the best equipment we have got as well as the South Korean troops in preparation for chemical warfare. The United States does not use chemical warfare, but we must be prepared to defend against it. Because you can imagine, you can bet that North Korea will fully use chemical warfare.

Using those kind of things, I think then we can defensively protect ourselves. Then we need to look and say, What options are available to us through a diplomatic approach? It is, after all, our goal to have a diplomatic settlement to the crisis that we now have on the Korean Peninsula.

There are a couple things that we can do. First of all, we need to talk tough with the country of China. China has a good trade relationship with the United States. They enjoy Most Favored Nation status.

I think China will be cooperative with us. I do not think that the policy of sanctions will work. First of all, you have the issue, will China cooperate, will they veto any type of sanctions by the United Nations.

They probably will not veto it or, if they do not veto it, will they abstain from it. And if they abstain from it and

the United States invokes sanctions, will China help enforce them.

You realize that the largest border of North Korea is the border they share with China. I went through earlier with you the percentage, the high percentage of food, the high percentage of oil, and the high percentage of heating coal that comes from China to North Korea. If you do not have China's full cooperation with sanctions, sanctions will not work.

I think we have some leverage on the Most Favored Nation status, which we are now negotiating back in the United States Congress. I think that we have some negotiating room there to talk to China, to talk to North Korea.

In addition, what is interesting is out of the country of Japan. There are large numbers of people who live in Japan who are dependents from North Korea. They contribute about a billion dollars in hard cash every year, private contributions out of Japan as contributions to North Korea.

We have an obligation to protect Japan. I think we need to send a message to Japan that says, if you expect us to provide defense for your country, which is exactly what you are going to expect, if any kind of conflict occurs on the Korean Peninsula, you need to stop sending a billion dollars a year up to North Korea.

What about the other options that the United Nations can pursue. I think it is important for our President, and I think this is what the Administration intends to do, to have a strong message sent by the world to North Korea that this type of misbehavior will simply not be tolerated. I said to you that I do not believe sanctions are going to work.

There is another option that has come up. I have had several people say to me, SCOTT, why do we not make a preemptive strike. Why do we not go up and strike. We know that over here at Yongbyon is where we think some of the nuclear facilities are. We know where the suspect sites are. Why do we not launch a preemptive attack and take those nuclear facilities out.

Any kind of preemptive attack along that line would be foolish. First of all, in order to penetrate the kind of depth that you have in the tunnel systems and so on, you would have to set those nuclear weapons off in the air. The radiation, the winds that blow blow just this direction. And you could very easily float radiation down into South Korea, the very country you are trying to protect, as well as into Japan.

In addition to that, as you know, I mentioned earlier that it is very difficult, with the type of weapons we have, if not impossible, to penetrate the kind of tunnels that they have in North Korea. So if we launched an attack and if we did not use weapons that set off radiation, would be able to penetrate the storage facilities where these nuclear weapons may be.

The answer to that is no. Our chances of success in a unilateral or a preemptive attack are almost zero.

It would be foolish to undertake that.

□ 2320

Let us step back. Where are we as far as the diplomatic approach? The President has made it clear, but I think he needs to continue to enforce it, and I think he needs to speak to the American people and say, "Any kind of military action initiated by North Korea is the same as an attack initiated against the United States of America."

The President needs to speak strongly to North Korea. Remember, North Korea understands strength. The President needs to say, and the administration needs to send the message, that we intend to fully defend South Korea. That requires that we send over defensive weapons.

The Patriot missile is not an offensive missile, it is used for defensive purposes. The apache helicopter is used for the defensive purpose of stopping those tanks. The chemical warfare defensive equipment we are sending over there is to defend our troops and South Korean troops against chemical warfare by North Korea.

We need to make it very clear and we need to deploy immediately. We have that obligation to deploy immediately those types of defense weapons as we pursue the diplomatic approach. In addition, remember the steps: We need to make a demand on Japan that the private contributions out of Japan stop, and we need to work with China through the MFN negotiations or any other type of procedure we are able to use to get China's cooperation in trying to contain North Korea.

Let me summarize by saying this. North Korea, in my opinion, is the most precarious international situation that our country faces today. I hope all of the Members, and our constituents throughout this fine country, find it upon themselves to discuss North Korea at their dinner table, to understand what the ramifications are of any kind of conflict in North Korea, and even if we did not have a conflict on the Korean Peninsula, what the ramifications are of nuclear proliferation over is Asia. You need to discuss with your families the commitment we have and the reason we have that commitment.

If we have a nuclear arms race in Asia, we will face problems that will dwarf this problem in the future. It is important not to overestimate and not to overreact to North Korea's words. Two days ago, North Korea said that Seoul will burn in fire. Today they said the deployment of the Patriot missiles is as if it is a declaration of war.

North Korea uses that kind of colorful language. We have to be careful not to let them overreact. We have to be careful we do not overreact, but we must act. We must prepare defensively in case a military conflict were to occur, even though at the same time we are pursuing diplomatic solutions to the problem. Obviously, diplomatic solutions are what we want to work, but if they do not work, we have to be prepared.

Madam Speaker, I intend over the next few weeks to continue to try and update all of the Members on what I believe is going on in the Korean peninsula, what I think is important for us to consider. This is not a problem that is going to go away next week, it is not a problem that is going to go away next year. We are into a long-time commitment to resolve a long-term problem. It is incumbent upon all of us to know as much and to learn as much about Korea as we can, and to understand the circumstances of a military conflict, to understand the necessities of a military defense over there, and to try and figure out as a collective body which is the best diplomatic approach, in combination with the administration, to bring peace, or at least continued negotiations, on the Korean Peninsula.

LEAVE OF ABSENCE

By unanimous consent, leave of absence was granted to:

Mrs. MEEK of Florida (at the request of Mr. GEPHARDT) for today before 5 p.m., on account of personal business.

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

(The following Members (at the request of Mr. BACHUS of Alabama) to revise and extend their remarks and include extraneous material:)

Mr. BEREUTER, for 5 minutes, today.

Mr. MICHEL, for 5 minutes, today.

(The following Members (at the request of Mr. GONZALEZ) to revise and extend their remarks and include extraneous material:)

Mr. JACOBS, for 5 minutes, today.

Mr. GONZALEZ, for 5 minutes, today.

Mr. OWENS, for 5 minutes, today.

Mr. RICHARDSON, 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. BACHUS of Alabama) and to include extraneous matter:)

Mr. SOLOMON.

Mr. GILMAN in two instances.

Mr. BURTON of Indiana.

Mr. DORNAN.

Mr. BATEMAN.

Mr. SAXTON.
Mr. SMITH of New Jersey.
(The following Members (at the request of Mr. GONZALEZ) and to include extraneous matter:)
Mrs. THURMAN.
Mr. GONZALEZ in three instances.
Mr. GEJDENSON.
Mr. STARK in two instances.
Mr. SWIFT.
Mrs. KENNELLY in two instances.
Mr. BONIOR.
Mr. FOGLIETTA.
Mr. MANTON.
Mrs. MALONEY.
Mr. HOYER.
Mr. SWETT.
Mr. KLEIN.
Mr. HOCHBRUECKNER.
Mr. GUTIERREZ.
Mr. BEVILL.
Mr. SWETT.
Mr. TOWNS.
Mr. JACOBS.
Mr. HAMILTON in two instances.
Mr. MENENDEZ.
(The following Member (at the request of Mr. MCINNIS) and to include extraneous matter:)
Mrs. FOWLER.

ADJOURNMENT

Mr. MCINNIS. Madam Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 11 o'clock and 25 minutes p.m.) under its previous order, the House adjourned until Wednesday, March 23, 1994, at 11 a.m.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows.

Mr. GONZALEZ: Committee on Banking, Finance and Urban Affairs, H.R. 3841. A bill to amend the Bank Holding Company Act of 1956, the Revised Statutes of the United States, and the Federal Deposit Insurance Act to provide for interstate banking and branching; with an amendment (Rept. 103–448). Referred to the Committee of the Whole House on the State of the Union.

Mr. DERRICK: Committee on Rules. House Resolution 395. Resolution providing for consideration of the bill (H.R. 4092) to control and prevent crime (Rept. 103–449). Referred to the House Calendar.

PUBLIC BILLS AND RESOLUTIONS

Under clause 5 of rule X and clause 4 of rule XXII, public bills and resolutions were introduced and severally referred as follows:

By Mr. CASTLE:

H.R. 4103. A bill to codify regulations restricting the sale and donation of excess firearms owned or held by Federal agencies; to the Committee on Government Operations.

By Mr. HOLDEN (for himself and Mr. MCMILLAN):

H.R. 4104. A bill to suspend until January 1, 1996, the duty on certain chemicals; to the Committee on Ways and Means.

By Mr. JACOBS (for himself, Mrs. KENNELLY, Mr. BUNNING, Mr. HOUGHTON, and Mrs. MEEK of Florida):

H.R. 4105. A bill to make improvements in the old-age, survivors, and disability insurance program under title II of the Social Security Act; to the Committee on Ways and Means.

By Mrs. KENNELLY:

H.R. 4106. A bill to amend the Internal Revenue Code of 1986 to exclude national service educational awards from gross income; to the Committee on Ways and Means.

By Mrs. MINK of Hawaii:

H.R. 4107. A bill to amend the Radiation Exposure Compensation Act to remove the requirement that exposure resulting in stomach cancer occur before age 30, and for other purposes; to the Committee on the Judiciary.

By Mr. SCHUMER:

H.R. 4108. A bill to prohibit contingency fees in lobbying; to the Committee on the Judiciary.

H.R. 4109. A bill to prohibit contingency fees in lobbying; to the Committee on the Judiciary.

By Mr. WILLIAMS:

H.R. 4110. A bill to provide for the imposition of enhanced criminal penalties for carrying a firearm during and in relation to a crime of violence; to the Committee on the Judiciary.

By Mr. SWIFT (by request):

H.R. 4111. A bill to authorize appropriations for the National Railroad Passenger Corporation, and for other purposes; to the Committee on Energy and Commerce.

By Mr. GEKAS (for himself, Mr. MONTGOMERY, Mr. DELLUMS, Mr. SOLOMON, Mr. FILNER, Mr. FROST, Mr. WILSON, Mr. FALEOMAVAEGA, Mr. KING, Mr. DORNAN, Mr. PARKER, Mrs. THURMAN, Mr. LIPINSKI, Mr. HUTTO, and Mr. KASICH):

H.J. Res. 343. Joint resolution to designate each of the months of May 1994 and May 1995 as "United States Armed Forces History Month"; to the Committee on Post Office and Civil Service.

By Mr. MORAN (for himself, Ms. EDDIE BERNICE JOHNSON of Texas, Ms. FURSE, Mr. OLVER, Mr. MILLER of California, Ms. WOOLSEY, Mr. STUDDS, Mr. ANDREWS of Maine, Mr. FILNER, Ms. NORTON, Mr. MARTINEZ, Mr. WHEAT, Mr. EDWARDS of California, Mr. FAZIO, Mr. FARR, Mr. YATES, Mr. GEJDENSON, Mr. CONYERS, Mr. RUSH, Ms. VELÁZQUEZ, Mr. MEEHAN, and Mr. ANDREWS of Texas):

H. Con. Res. 229. Concurrent resolution expressing the sense of the Congress that any national comprehensive benefit package that results from health care reform legislation should cover the full range of reproductive health services for women; jointly, to the Committees on Energy and Commerce and Ways and Means.

By Mr. GEPHARDT (for himself and Mr. MICHEL):

H. Res. 394. Resolution to express the sense of the House that Congress has a constitutional obligation to conduct oversight of matters related to the operation of the government; considered under suspension of the rules and agreed to.

ADDITIONAL SPONSORS

Under clause 4 of rule XXII, sponsors were added to public bills and resolutions as follows:

H.R. 291: Mr. WILSON, Mr. LEVY, Mr. EWING, Mr. SCHIFF, Mr. GREENWOOD, and Mr. MCHALE.
H.R. 326: Mr. CARR and Mrs. SCHROEDER.
H.R. 431: Mr. FILNER.
H.R. 485: Ms. LAMBERT.
H.R. 794: Mr. TORKILDSEN and Mr. THOMPSON.
H.R. 830: Mr. HOYER.
H.R. 911: Mr. STEARNS.
H.R. 963: Mr. ROSE.
H.R. 1086: Mr. HILLIARD and Mr. MCDADE.
H.R. 1106: Mr. BERMAN, Mr. FOGLIETTA, Mr. FRANK of Massachusetts, Mr. OLVER, Ms. VELÁZQUEZ, and Ms. WOOLSEY.
H.R. 1120: Mr. POMEROY.
H.R. 1517: Mr. ROMERO-BARCELO.
H.R. 1596: Mr. BOEHNER and Mrs. MORELLA.
H.R. 1718: Mr. DURBIN and Ms. WATERS.
H.R. 1900: Mr. PAYNE of New Jersey.
H.R. 2670: Mr. BARLOW, Ms. FURSE, Mr. HUGHES, Mr. NADLER, Mr. FORD of Michigan, Mr. FINGERHUT, Mr. DEUTSCH, Mr. FISH, Mr. STUDDS, Mr. LIPINSKI and Mr. BATEMAN.
H.R. 2681: Mr. FOGLIETTA, Mr. QUINN, Mr. CLYBURN, Mr. BOEHLERT, and Mr. LAFALCE.
H.R. 2710: Mr. ACKERMAN, Mr. DEFAZIO, Ms. EDDIE BERNICE JOHNSON of Texas, Mr. PASTOR, and Mr. SCHUMER.
H.R. 2959: Mr. BLILEY, Mr. CAMP, and Mr. CALVERT.
H.R. 3017: Ms. FURSE and Mr. BACCHUS of Florida.
H.R. 3039: Mr. LEWIS of California, Ms. SHEPHERD, Mr. CRANE, and Ms. ROS-LEHTINEN.
H.R. 3076: Mr. SHAYS.
H.R. 3203: Mr. STUDDS.
H.R. 3288: Mr. HOEKSTRA.
H.R. 3293: Mr. THOMPSON.
H.R. 3328: Mr. PASTOR and Mr. GILCHREST.
H.R. 3367: Mr. RAVENEL and Mr. BLILEY.
H.R. 3392: Mr. TRAFICANT, Mr. GALLEGLY, and Mr. DICKEY.
H.R. 3407: Mr. SARPALIUS, Mr. KINGSTON, Mr. SMITH of Iowa, and Mr. HOBSON.
H.R. 3434: Mr. LIPINSKI and Mr. REYNOLDS.
H.R. 3472: Mr. KING and Mr. LEVY.
H.R. 3486: Mr. RAVENEL, Mr. COMBEST, Mr. CRAMER, Mr. CLEMENT, Mr. LEVY, Mrs. VUCANOVICH, Mr. HALL of Ohio, Mr. MONTGOMERY, Ms. PRYCE of Ohio, Mr. KNOLLENBERG, Mr. PETE GEREN of Texas, Mr. YOUNG of Alaska, and Mr. HOEKSTRA.
H.R. 3614: Ms. SHEPHERD.
H.R. 3624: Mr. SUNDQUIST and Mr. GOODLATTE.
H.R. 3627: Mr. ORTON, Mr. WYDEN, Mr. EDWARDS of California, Mr. FINGERHUT, Mr. FRANK of Massachusetts, Ms. SHEPHERD, Mrs. UNSOELD, Mr. JOHNSTON of Florida, Mr. KREIDLER, Mr. INSLEE, Mr. MCDERMOTT, Mr. MCCLOSKEY, and Ms. ESHOO.
H.R. 3656: Mr. UPTON, Mr. BILBRAY, Ms. MOLINARI, Mr. FILNER, Mr. WAXMAN, Mrs. BYRNE, and Mr. CALVERT.
H.R. 3685: Mr. KING, Mr. HEFLEY, and Mrs. THURMAN.
H.R. 3706: Ms. EDDIE BERNICE JOHNSON of Texas, Mr. NEAL of North Carolina, and Ms. ROYBAL-ALLARD.
H.R. 3814: Mr. DOOLITTLE and Mr. PAXON.
H.R. 3900: Mr. BARRETT of Nebraska, Mr. HOYER, Ms. EDDIE BERNICE JOHNSON of Texas, Mr. LANCASTER, Mrs. LLOYD, Mr. MONTGOMERY, Mr. RUSH, and Mr. WHEAT.
H.R. 3923: Mr. KOPETSKI.
H.R. 3949: Mrs. BENTLEY.
H.R. 3951: Mr. SARPALIUS, Mr. CHAPMAN, Mr. SISISKY, Mr. HOEKSTRA, Mr. SPENCE, and Mrs. LLOYD.

H.R. 3955: Mr. MORAN and Mr. KYL.

H.R. 3967: Mr. MURPHY, Mr. LIPINSKI, Mr. DEFAZIO, Ms. DANNER, Mr. DICKEY, Mr. HANSEN, Mr. THOMAS of Wyoming, Mr. HOLDEN, Mr. BARLOW, Mr. JOHNSON of South Dakota, Mr. DOOLITTLE, Mr. HEFLEY, Mr. KLEIN, Mr. ALLARD, and Mr. HUGHES.

H.R. 3990: Mr. BONIOR, Ms. DUNN, Mr. HINCHEY, and Mr. SLATTERY.

H.R. 3993: Mr. FIELDS of Texas, Mr. JOHNSON of South Dakota, Mr. CUNNINGHAM, and Mr. LEWIS of Florida.

H.R. 4024: Mr. MORAN.

H.R. 4036: Ms. MOLINARI.

H.R. 4041: Mr. SAXTON.

H.R. 4050: Mr. FRANK of Massachusetts.

H.R. 4062: Mr. BARRETT of Wisconsin, Ms. FURSE, and Mr. ANDREWS of Maine.

H.J. Res. 122: Mr. ROGERS.

H.J. Res. 253: Mr. SCOTT, Mr. FIELDS of Louisiana, Mr. LEWIS of Georgia, Mr. CALVERT, Mr. GALLO, Mr. BECERRA, and Mr. SMITH of Iowa.

H.J. Res. 302: Mr. REYNOLDS and Mr. BLACKWELL.

H.J. Res. 303: Mr. BORSKI, Mrs. MINK of Hawaii, Mr. SERRANO, Ms. BYRNE, Mr. SWETT, and Mr. MINETA.

H.J. Res. 318: Mr. BARTLETT of Maryland, Mr. LEWIS of California, Mr. GINGRICH, Mr. MCDADE, Mr. VALENTINE, Mr. BLUTE, Mr. PAYNE of Virginia, Mr. BACCHUS of Florida, Mr. HILLIARD, Mr. DORNAN, Mr. BEILENSON, Mrs. MEYERS of Kansas, Mr. SYNAR, Mr. PASTOR, Mr. SISISKY, and Mr. BALLENGER.

H.J. Res. 320: Mr. NEAL of Massachusetts, Mr. KASICH, Mr. BOEHLERT, Mr. TORKILDSEN, Mr. HILLIARD, Mr. KLEIN, Mr. KING, and Mr. WYNN.

H.J. Res. 333: Mr. MCCLOSKEY, Mrs. BENTLEY, Mr. BARRETT of Wisconsin, Mrs. MEEK of Florida, Mr. CLYBURN, and Mr. GEJDENSON.

H.J. Res. 335: Mr. SAXTON, Mr. MCHUGH, Mrs. BENTLEY, Mr. BISHOP, Mr. CALLAHAN, Mr. BORSKI, Mr. LEWIS of Georgia, Mr. DE LUGO, and Mr. KASICH.

H. Con. Res. 98: Mr. SWIFT, Mr. DOOLITTLE, Mr. WYNN, Mr. MINGE, Mr. HOAGLAND, Mr. WOLF, Mr. CUNNINGHAM, Mr. DEAL, and Mrs. LLOYD.

H. Con. Res. 110: Mr. GOODLATTE, Ms. PRYCE of Ohio, Mr. THOMAS of Wyoming, Mr. HEFNER, Mr. KLUG, Mr. DORNAN, and Mr. RICHARDSON.

H. Con. Res. 122: Mr. CARR and Mr. FRANKS of Connecticut.

H. Con. Res. 138: Mr. KYL, Mr. PORTER, Mr. RANGEL, and Mr. BORSKI.

H. Con. Res. 147: Mr. HOLDEN.

H. Con. Res. 199: Mr. BARTON of Texas, Mr. DREIER, Mr. BAKER of California, Mr. DOOLITTLE, Mr. ABERCROMBIE, Mr. VOLKMER, Mr. PETE GEREN of Texas, Mr. TAYLOR of Mississippi, Mr. STENHOLM, Mr. GUNDERSON, Mr. LIGHTFOOT, Mr. MICHEL, Mrs. JOHNSON of Connecticut, Mr. EWING, Mr. TORKILDSEN, Mr. QUILLEN, Mr. THOMAS of Wyoming, Mr. INHOFE, Mr. SHAW, Mr. TEJEDA, and Mr. FINGERHUT.

H. Res. 122: Mr. MCCRERY and Mr. TORRICELLI.

H. Res. 202: Mr. CRAMER.

H. Res. 368: Ms. SLAUGHTER, Mr. SANDERS, Mr. KING, Mr. MOAKLEY, Mrs. MORELLA, Mrs. LLOYD, Mr. BURTON of Indiana, Ms. DANNER, Mr. EDWARDS of California, Mr. FRANK of Massachusetts, and Mr. REYNOLDS.

H. Res. 383: Mr. MCHUGH, Mr. EWING, Mr. BARTON of Texas, Mr. KOLBE, Mr. BALLENGER, Mr. DORNAN, and Mr. CLINGER.

DELETIONS OF SPONSORS FROM PUBLIC BILLS AND RESOLUTIONS

Under clause 4 of rule XXII, sponsors were deleted from public bills and resolutions as follows:

H.R. 4041: Mr. PAXON.

AMENDMENTS

Under clause 6 of rule XXII, proposed amendments were submitted as follows:

H.R. 4092

By Mr. MANZULLO:

—Page 233, after line 8, add the following:

SECTION. . BENEFITS FOR CHAPLAINS.

(a) IN GENERAL.—Section 1204 of the Omnibus Crime Control and Safe Streets Act of 1968 is amended—

(1) by redesignating paragraphs (2) through (7) as (3) through (8), respectively;

(2) by inserting after paragraph (1) the following:

"(2) chaplain means any individual serving as an officially recognized or designated member of a legally organized volunteer fire department or legally organized police department, or an officially recognized or designated public employee of a legally organized fire or police department who was responding to a fire, rescue, or police emergency."; and

(3) in paragraph (8), as redesignated by paragraph (1) of this Act, by striking "or rescue squad or ambulance crew" and inserting "rescue squad or ambulance crew, or chaplain".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect on the date of enactment of this Act and shall apply to injuries or deaths that occur in the line of duty on or after such date.

EXTENSIONS OF REMARKS

EXAMPLE 5,734 ON WHY WE NEED NATIONAL HEALTH CARE REFORM

HON. FORTNEY PETE STARK

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 22, 1994

Mr. STARK. Mr. Speaker, In the last several years, I bet I have read 5,734 or more letters from Americans giving good, specific examples of why we need health care reform.

I've put a score or so in the RECORD—but the examples really are countless. And unless we act, they will be endless.

The following letter is from Mr. Sam Alex Bezanis of Chicago. His monthly insurance was $489 a month in 1989. In 9 days, it will rise to $973.10 per month. He desperately needs health insurance—but he also needs to eat and keep a roof over his head. At these ever-inflating insurance rates, it is an impossible task.

Mr. Speaker, we are all in this together as a society, and we should enact open enrollment, community rates insurance so that the Sam Bezanis's of the world—which could be any one of us at a moment's notice—have a fighting chance.

MARCH 9, 1994.

Hon. FORTNEY "PETE" STARK,
Chairman, Health Subcommittee, House of Representatives, Washington, DC.

DEAR CHAIRMAN STARK: At 56 years of age I've struggled since age 23 to keep myself alive, well, and a productive member of society and tax payer. I suffer from coronary artery disease and familia hypercloserterima, an inherited disorder, requiring LDL apheresis once every second week superimposed on a drug regime.

My very existence is now threatened because my insurance coverage which was $489.00 per month in 1989 is now $869.10 per month and is increasing by 12% in April of 1994. I do not have the financial resources to continue paying the $869.10 let alone $973.10 in April.

This being the case I started looking for alternate types of coverage.

Following are the reasons I cannot buy coverage, pursuant to the insurance and managed care companies:

1. I am an individual—I knew that—not a group and do not belong to a group.
2. I am too old.
3. Two preexisting conditions.
4. Any employer I've talked to about employment will not offer insurance because I'd be a liability to the existing group.

The long and short of it is that I'd have to attain the financial status of poverty disposing of assets etc., in order to be eligible for Federal or state medical insurance and then there would be no prescription drug coverage.

As one of the elected officials serving on this committee I sincerely hope you can put aside party differences and politics and make a significant contribution to the citizens of the United States by drafting a truly equitable and affordable health care plan.

I'd like to hear your thoughts for a solution to my immediate problem and you plans for a comprehensive health care plan.

Sincerely,

SAM ALEX BEZANIS.

TRIBUTE TO FREDERICA GRAY

HON. BARBARA B. KENNELLY

OF CONNECTICUT

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 22, 1994

Mrs. KENNELLY. Mr. Speaker, today I would like to honor an outstanding individual who has made a great contribution to the assurance of rights and opportunities for women in Connecticut and the Nation, Frederica K. Gray.

As executive director of the State of Connecticut Permanent Commission on the Status of Women, Frederica Gray has worked diligently and successfully toward the elimination of sex discrimination and the improvement of economic and social opportunities for all women. She has been instrumental in developing public policy and programs to improve the status of women through numerous boards, commissions, and councils, and has been an effective liaison between the executive and legislative branches of State government.

Frederica Gray has been a strong voice on behalf of women's rights, opportunities, and accomplishments in many forums, including universities, government panels, international conferences, and the media. She has been the recipient of numerous awards at the city, State, and national levels, including a doctorate in humanities honoris causa through Briarwood College. She is the author of numerous publications concerning the status of women.

Frederica K. Gray is a bastion of strength for all citizens of Connecticut and the Nation. I join many others in honoring her accomplishments and in extending my very best wishes for her future endeavors.

TRIBUTE TO WILLIAM H. "BILL" WYNN

HON. DAVID E. BONIOR

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 22, 1994

Mr. BONIOR. Mr. Speaker, today, I would like to pay tribute to one of the giants of the labor movement who has recently been forced to step down as president of one of this Nation's great unions due to on-going health problems. William H. "Bill" Wynn, the longtime president of the United Food and Commercial Workers International Union leaves a legacy of unparalleled leadership. Serving as the UFCW's first—and until his retirement earlier this year—only president, he built this now 1.4 million member union into one of the Nation's largest, most innovative, and effective labor organizations.

Wynn, who was elected international president of the Retail Clerks International Union in 1977, was the principal architect of two key mergers—one that gave birth to the UFCW, and one that consolidated the UFCW's strength in the retail food and food processing industries.

Wynn earned a place in labor history for crafting the landmark merger between the Retail Clerks and the Amalgamated Meat Cutters and Butcher Workmen in 1979 that formed the United Food and Commercial Workers. He was unanimously elected as president of the new union, a post he held from the UFCW's founding until February 3, 1994.

The Retail Clerks–Amalgamated Meat Cutters merger took place on the eve of the Reagan era, when a wave of anti-worker economic and political forces were unleashed on this Nation. These swept through UFCW-represented industries like a hurricane, transforming many once stable, profitable companies to debt-strapped enterprises struggling for their economic lives. The newly formed UFCW was able to fight back forcefully, with strength that neither of the former unions could have generated alone.

Wynn not only engineered the merger between the two unions at a critical time, but he also determined to make it work—and it did. Through tenacity, creativity, and a commitment to problem-solving, the UFCW did more than just survive the 1980's; it grew, thanks to Wynn's determination to aggressively meet the challenges posed by increasing non-union competition—and an unswerving commitment to organizing.

Perhaps his second greatest accomplishment was the 1993 merger between the UFCW and the Retail, Wholesale, and Department Store Union. At the time he described it as a perfect fit. Indeed it is. After all, the UFCW and the RWDSU share virtually identical jurisdictions. Also, and most importantly, this newly formed partnership makes the UFCW the largest private sector union in North America.

But Bill Wynn was more than a labor leader. He dedicated himself to promoting civil rights and affirmative action. His commitment is reflected among the UFCW's leadership ranks and professional staff, as well as in the union's special emphasis on organizing those who need a union most: low-wage and minority workers.

Bill Wynn was a consummate consensus-builder who commanded great respect. He touched the lives of millions of working families and through his leadership those lives have been improved.

For those of us who have long worked with the UFCW, and who came to know and re-

spect Bill Wynn, we offer a heartfelt salute and our eternal respect. Bill Wynn is one man whose leadership will be sorely missed.

RECOGNITION OF PROJECT LONG ISLAND

HON. GEORGE J. HOCHBRUECKNER

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 22, 1994

Mr. HOCHBRUECKNER. Mr. Speaker, I rise today on behalf of the members of the Long Island, New York congressional delegation, Congressman PETER KING, Congressman DAVID LEVY, Congressman RICK LAZIO, Congressman GARY ACKERMAN, and myself, in order to recognize a new program now underway on Long Island which will enhance and improve the lives of my constituents.

"Project Long Island: A Century Council Coalition" combines in an unique partnership the efforts of public officials, law enforcement agents, media, and business and civic leaders in combating drunk driving and underage drinking problems. Through their work, Project Long Island's members design, locate, and implement model programs that are useful not only to the people of Long Island, but to the nation as well.

Project Long Island is part of a national program sponsored by the Century Council. The council is a not-for-profit organization that is committed to reducing alcohol abuse in the United States. Originally funded by 17 members of the licensed beverage industry, the Century Council receives support from over 450 brewers, vintners, distillers, and wholesalers.

Drunk driving plagues every community in our country. The battle against it must be fought on all levels. Through grassroots community action and alliance building, Project Long Island is fostering comprehensive public awareness through education initiatives in its quest to stifle this problem.

In this era of limited local resources, this kind of public-private partnership is crucial to solving the problems that affect each and every one of us. My heartfelt admiration and thanks go out to everyone who is helping to make Project Long Island a success. I believe that the work of Project Long Island will serve as an example for other communities to follow.

IN CHALLENGE TO CONGRESS, CLINTON TO ADMIT HIV-INFECTED IMMIGRANTS

HON. GERALD B.H. SOLOMON

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 22, 1994

Mr. SOLOMON. Mr. Speaker, last May the American public spoke their will and the Congress enacted a law to ban the immigration of individuals infected with HIV, a deadly communicable disease of public health significance. This legislation made it absolutely clear to the White House that HIV-infected immigrants pose a threat to the health and well-being of American citizens.

Well, here it is not even 1 year after the enactment of the ban and President Clinton is poised to run roughshod over the will of people. The Clinton administration is preparing to allow HIV-infected immigrants to enter the United States to participate in the New York Gay Games in June. This directly conflicts with both the spirit and letter of the law and it is outrageous.

With all the efforts being made to prevent the spread of the AIDS epidemic, how can the President knowingly admit new sources of contagious diseases into our country? President Clinton should stop playing politics to win the approval of a few liberal organizations and start using a little common sense.

[From the New York Times, Feb. 25, 1994]

WHITE HOUSE SET TO WAIVE HIV BAN FOR GAY GAMES

WASHINGTON.—The Clinton administration is expected to waive the rule that bars foreigners with human immunodeficiency virus from entering the United States to accommodate athletes and spectators planning to attend the Gay Games in New York in June, officials in several federal agencies said Thursday.

The State Department actually took the first steps toward issuing the visas, but suspended the effort after the Justice Department said it had not yet approved the waiver.

The Department of Health and Human Services and senior officials of the Immigration and Naturalization Service are urging the Justice Department to grant the waiver, after numerous gay groups asked the administration to remove obstacles to the games. Sponsors say they expect 15,000 athletes from more than 40 countries.

Attorney General Janet Reno said Thursday that she had not yet made up her mind on the subject, a matter of great political sensitivity. But several officials said she is expected to give her approval as a way of allowing the administration to make a gesture to gay groups that have attacked Mr. Clinton over his policy on homosexuals in the military and his failure to meet a campaign promise to lift the visa restrictions permanently.

The Immigration and Naturalization Service is already developing plans on the most efficient way to grant the waivers. Under U.S. law, visas are denied to anyone with a "communicable disease of public health significance," a requirement that includes infection with HIV.

Making an already delicate situation something of a public embarrassment, the State Department sent cables on Wednesday to embassies and consulates around the world, telling them to grant blanket 30-day waivers to people attending the Gay Games.

After the Justice Department objected, the State Department said Thursday that the cables went out in error and rescinded the instructions.

"The person over at State who sent that message simply misunderstood the status of things," said Carl Stern, the Justice Department spokesman.

David M. Smith, spokesman for the National Gay and Lesbian Task Force, said, "It was a bureaucratic foulup, but there's no reason to believe that Janet Reno won't ultimately approve this request."

The Gay Games will be held from June 18 through June 25 in conjunction with a cultural festival.

AMTRAK INVESTMENT ACT OF 1994

HON. AL SWIFT

OF WASHINGTON

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 22, 1994

Mr. SWIFT. Mr. Speaker, I am pleased to introduce at the request of the administration through the Department of Transportation, legislation to authorize appropriations for fiscal years 1995 and 1996 for the National Railroad Passenger Corporation [AMTRAK]. The legislation reflects the commitment of this administration to intercity passenger rail service, and recognizes the need for capital investment if AMTRAK is to improve upon the services that it supplies to the traveling public.

As Secretary Pena states in his letter of transmittal, "passengers have a right to expect and receive superior service in exchange for their transportation dollar, and the expectations are all the more important because the Federal Government supports AMTRAK financially."

This legislation authorizes necessary capital funding to allow AMTRAK to acquire new and modern equipment in order to upgrade service, and as well, to modernize its maintenance facilities to ensure that current equipment will be maintained efficiently and will perform effectively.

I believe this legislative proposal to modernize and improve our national rail passenger system is both cost-effective and a necessary investment in our national transportation infrastructure. I look forward to working with Secretary Pena and other Members of Congress in furthering these goals.

INVESTIGATE HUMAN RIGHTS ABUSE ALLEGATIONS

HON. FORTNEY PETE STARK

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 22, 1994

Mr. STARK. Mr. Speaker, I am concerned about the recent reports by Amnesty International of human rights abuses by the Mexican Army against the indigenous people in Chiapas, Mexico. Since Mexico is now a signatory to NAFTA with the United States, it has become imperative for a nonbiased commission to investigate these allegations.

On January 1, 1994, several thousand peasants and indigenous peoples in the southern Mexican State of Chiapas rebelled against years of exploitation and racism. The rebels denounced years of undemocratic and corrupt politics of the ruling PRI Party that led them to take direct action to address their grievances. Representatives from United States labor unions were eyewitnesses to a recent union election held in Tiajuana, Mexico, exposing the undemocratic and intimidating policies of Mexican labor law which make free trade union elections virtually impossible.

Journalists and respected human rights groups have been denied access to the Chiapas region. There were reports of execution style murders by the army, and indiscriminate bombing and shelling of populated areas.

The United States State Department issued a report on February 1 that charged the Mexican Army with "serious human rights violations."

Since the backers of NAFTA assured the people of the United States that the Mexican Government enforces human and worker's rights, I believe an independent commission should be established to investigate these serious allegations against our newly favored trading partner.

NATIONAL SERVICE ACT

HON. BARBARA B. KENNELLY

OF CONNECTICUT

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 22, 1994

Mrs. KENNELLY. Mr. Speaker, last year, Congress passed the National Service Act, a program conceived by President Clinton to give young people throughout the country an opportunity to provide community service while earning money toward their college tuition. Students who choose to participate in this program have a wonderful opportunity to expand their practical education, and participate in improving the state of our Nation.

In addition to an hourly stipend, participants in this community service program will earn up to $4,725 a year in educational awards for a maximum of 2 years. The IRS recently ruled that these educational awards will be counted as taxable income. This ruling places an unfair burden on students involved in community service, but more important, this additional taxable income could jeopardize opportunities to receive income-based financial aid such as Pell grants.

The National Service Trust Fund was set up with the goal of providing educational opportunities for individuals who make a substantial commitment to community service. Taxing educational awards could severely hinder this goal. For this reason, I am introducing legislation today to exclude national service educational awards from gross income. I would urge my colleagues to join me and cosponsor this legislation.

THE FUTURE OF DEMOCRACY IN TURKEY

HON. DAN BURTON

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 22, 1994

Mr. BURTON of Indiana. Mr. Speaker, there has been much discussion about the future of democracy in Turkey. In a March 14, 1994, Washington Times editorial, Turkey's Ambassador to the United States points out that Turkey's fight against the terrorist PKK should not be viewed as a threat to democracy. The Marxist-Leninist, PKK has murdered thousands of civilians, many of whom are Kurds who were unwilling to support their terrorist agenda, in an effort to carve a Kurdish state out of the sovereign territory of Turkey.

I also believe that it is important not to confuse Kurds who have been oppressed under the rule of Saddam Hussein in Iraq and those who reside in Turkey. As Ambassador Nuzhet Kandemir explains in his editorial, "Turkish citizens of Kurdish origin live throughout Turkey and participate without discrimination in all walks of life." "Kurds have served as presidents and prime ministers of the Republic of Turkey" and currently, "they serve in large numbers in Parliament," he adds. While it is natural to be sympathetic to the plight of Kurds in Iraq, I must emphasize that the terrorist activities of the PKK do not have the support of the great majority of Turkish citizens of Kurdish origin.

For those Members of Congress who want a realistic picture of PKK terrorism in Turkey, and who want to know about some of the positive steps which Turkey has taken to benefit its citizens of Kurdish origin, I highly recommend Ambassador Kandemir's editorial.

[From the Washington Times, Mar. 14, 1994]

TURKEY HAS A RIGHT TO PROTECT ITS DEMOCRACY

(By Nuzhet Kandemir)

Recent press commentary, such as Sen. Dennis DeConcini's (Op-Ed, March 8) has expressed anxiety about the future of democracy in Turkey. Democracy has been a rare, precious and often fragile institution throughout human history, so attentive concern for its preservation is always in order. But it is not correct to view. Turkey's fight against terrorist criminals as a sign of democracy in danger. On the contrary, true danger would be signified if a democratic government were unwilling or unable to protect its country's territorial integrity or its citizen's human rights from the depredations of a terrorist organization.

A much-misconstrued event has prompted some of the current concerns: The vote of the General Assembly of the Turkish Parliament on March 2 and 3 to lift the immunity of eight Turkish parliamentarians. The vote, taken pursuant to the legal process prescribed in the republic's constitution, occurred in connection with judicial investigations of charges that the eight individuals have engaged in activities against the country's constitutional democratic system and its territorial integrity. The issue is not the political views the parliamentarians have been expressing. None of the individuals have been arrested and none has been stripped of membership in the Parliament. The action regarding their immunity is consistent in principle with the immunity provisions of the U.S. Constitution (Article 1, sections 3 and 6).

The Turkish constitution provides that all citizens have the same political rights and civil liberties which they may exercise equally, without impediment, regardless of ethnic or religious background. Allegations that the immunities of the eight parliamentarians were lifted because of their pro-Kurdish politics are completely unfounded. Turkish citizens of Kurdish origin live throughout Turkey and participate without discrimination in all walks of life; this is a crucial fact that is widely and wildly misunderstood. Kurds have served as presidents and prime minister of the Republic of Turkey. They serve in large numbers in Parliament, belonging to a wide range of political parties. They enjoy full political representation, and all Turkish citizens, including the great majority of citizens of Kurdish origin, do not support Kurdish extremism.

Such extremism manifests itself most virulently in the violence perpetrated by the PKK, an antidemocratic, indeed Marxist-Leninist, terrorist organization. The violence aims at carving a Kurdish state out of the sovereign territory of Turkey, thereby undermining the peace and stability of the entire region. Since its inception in 1984, the PKK has based its operations on intimidation and extortion. After the Gulf War, the PKK increased its atrocities and intensified its attacks on the human rights of Turkish citizens of Kurdish and non-Kurdish origin. It has killed thousands of civilians, many of whom are Kurds whom the PKK claims to serve and represent. The PKK took full advantage of the post-war power vacuum in the areas of Iraq bordering Southeast Turkey, which became a breeding ground for terror. The U.N. Human Rights Commission, in its March 2 resolution, recognized that terrorist organizations perpetrate grievous human rights violations. It condemned such violations and asked its members to cooperate to fight terrorism, as required in a large number of international agreements and resolutions, including those of the Conference on Security and Cooperation in Europe (CSCE) and NATO.

The Turkish government has accelerated its reform programs for the southeast region. These programs—economic, social and political—have been severely hampered by PKK terror. But the government, operating within the rule of law, is determined to eradicate terror and to continue its reform programs for the region. Economic and social programs claim nearly 17.5 percent of Turkey's total investment capital for enormous development projects in the Southeast, such as the Southeastern Anatolia Project (GAP). GAP alone consumes the equivalent of $1.7 million daily (at 1992 exchange rates). Turkey invests in the southeast 13 times more than it collects in taxes from the region. In 1993, investment there was 1.6 times greater than investment in the Western regions.

Despite the challenges, democracy in Turkey remains strong. The Turkish democratic system is the foundation for existing open, secular, pluralistic society and an expanding free market economy. Since the republic's establishment, the Turkish people and their successive governments have dedicated themselves to furthering these values.

Supporting a strong democratic Turkey in a generally volatile region has long been recognized as an important interest of the United States. For over half a century, Turkey has been a staunch ally of the United States and NATO. In the evolving new world order after the collapse of Soviet communism, U.S.-Turkish bilateral relations are a major force for good in a vast region stretching from Central Asia through the Middle East to the Balkans. Turkey's heightened strategic importance at the epicenter of important geopolitical changes increases its potential to expand and deepen its "enhanced partnership" with the United States. Military and economic assistance to Turkey should be evaluated with respect to NATO requirements as an investment in bolstering Turkish democracy.

Turkey's local elections on March 27 will be conducted according to law, as appropriate for an open, free and democratic society, notwithstanding any attempts by terrorist organizations to poison the country's political climate. We are vigilant and have the wisdom not to play into the hands of those who would undermine Turkish democracy or damage Turkey's deep-rooted relations with its democratic friends and allies in the United States.

TRIBUTE TO DAVID SCHECHNER

HON. HERB KLEIN

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 22, 1994

Mr. KLEIN. Mr. Speaker, I rise today to pay special tribute to Mr. David Schechner who is being honored by the village of South Orange for his 25 years of service as the village counsel. I am very proud to join the village president and board of trustees in honoring Mr. Schechner for his accomplishments.

Mr. Schechner has served South Orange in many ways. He is a former president of the Citizens Party League and a founding member of the South Orange Friends of the Library. He is also the past president of the Congregation Oheb Shalom located in South Orange. Moreover, he found the time to be an original trustee of the South Orange-Maplewood YMCA.

Professionally, Mr. Schechner has helped South Orange, too. In addition to his position as village counsel, he has served as acting magistrate and attorney for the planning board. The Legal Education Institutes of the New Jersey Bar Association has also benefited from his talents.

Mr. Schechner has made the village of South Orange a better place, and it is with great pleasure that I ask my colleagues to join me in wishing him continued success.

FANNIE MAE AFFORDABLE HOUSING COMMITMENT

HON. HENRY B. GONZALEZ

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 22, 1994

Mr. GONZALEZ. Mr. Speaker, last week James A. Johnson, chairman and chief executive officer of the Federal National Mortgage Association [Fannie Mae] announced a trillion dollar commitment by Fannie Mae to affordable housing between now and the end of the decade.

This commitment to affordable housing will finance over 10 million homes for households with incomes below the area median income. It will serve minorities and new immigrants, families living in central cities and distressed communities, and people with special housing needs.

As part of this commendable effort, Fannie Mae is seeking to transform the Nation's housing finance system. It will do so by reaching out to every renter in the United States to provide information they need to buy a home; break down arbitrary barriers to getting a home mortgage; and will make every effort to eliminate discrimination the top priority of the mortgage finance system.

Mr. Speaker, I want to commend Mr. Johnson and Fannie Mae for this great effort. Mr. Johnson has aggressively moved forward to implement the affordable housing mission which the Congress created in the Housing and Community Development Act of 1992.

I am including, following my remarks, Mr. Johnson's statement and a summary of the initiatives that Fannie Mae will be taking.

SHOWING AMERICA A NEW WAY HOME

(By James A. Johnson, Chairman and Chief Executive Officer, Fannie Mae)

Good morning and Welcome.

Thank you for being a part of the most important announcement in Fannie Mae's history.

We are very pleased that so many good friends, including the Secretary of Housing and Urban Development, Henry Cisneros, could join us.

Three years ago yesterday, Fannie Mae committed to deliver $10 billion in housing finance for low- and moderate-income families and others with special housing needs by the end of 1994.

At the time, our commitment was the largest ever made by a shareholder owned company. Some people thought we couldn't do it. Others though we didn't mean it. But we not only delivered on our commitment—16 months ahead of schedule—we exceeded it.

Now we are ready to do more

Today is the first day of a new commitment, massive in scope and revolutionary in design. We call it "Showing America a New Way Home." Through it, we believe we can help show ten million families who have been shut out of the housing finance system a new way to achieve the American dream of homeownership.

Today, too many minorities are victims of racial bias in lending. Fannie Mae will do everything in our power to make eliminating discrimination the number one priority of every participant in the mortgage finance system.

Today, too many people are unaware of how to buy a home and qualify for a mortgage. Fannie Mae will reach out to every renter in America and provide the information they need.

Today, too many low- and moderate-income families, residents of central cities and rural areas, and people with special needs are denied mortgage credit. Fannie Mae will break down the arbitrary barriers that stand in their way.

Our commitment includes 11 very significant initiatives.

OPENING DOORS TO EVERY AMERICAN

First, Fannie Mae will reach out to open the doors of homeownership to every American. We will launch an unprecedented national consumer education effort, using television, radio, and print advertising, and direct mail, and other techniques to reach out to every renter in the nation. We want to have an ongoing conversation about how to buy a home with everyone who wants to become a homeowner.

We've learned in recent years that millions of people are confused and intimidated by a mortgage process that is often unwelcoming, but they will respond when they are given an invitation, and a map to the front door. When we conducted our consumer outreach effort in just seven cities last year, more than 100,000 people responded. We believe that at least five million motivated households will respond to the outreach effort we are announcing today and take their first step to owning a home.

THE "NEW AMERICANS" CAMPAIGN

Our second initiative is a "New Americans" campaign, targeted to the fastest growing segment of the population—new immigrants. As many immigrants will arrive in the United States in the 1990s as came during the peak immigration years at the turn of the 20th century. They are highly motivated to become citizens, and homeowners. Fannie Mae will use multilingual media to communicate with millions of these new Americans, and we'll provide them with consumer information as often as possible in their native language. We want the path to citizenship to also be a path to homeownership for as many immigrants as possible.

FANNIE MAE PARTNERSHIP OFFICES

Third, Fannie Mae will open at least 25 Fannie Mae Partnership Offices, beginning with 10 this year, in communities around the country that will form long-term partnerships with us to address a broad range of affordable housing and homeownership needs. The staff of our new offices will work in a practical way with lenders, public officials, housing advocates, and others, to expand Fannie Mae's outreach and service in those communities.

THE HOMEPATH INITIATIVE

The HomePath initiative involves one of the most far-reaching commitments we have ever made. We want to eliminate any final "no" from the mortgage application process. Our goal is for every mortgage application that is denied to get a second look; if it is still denied, the applicant can take it to a third-party review board to be looked at again. For applicants who are still not approved for a mortgage, home buyer counseling will be available. The counseling will give them the information they need to get firmly on a path that can lead to a home of their own.

To reach this goal, Fannie Mae will encourage our lenders to conduct "second look" reviews for minority- and low-income applicants, and we'll help create models for third party review boards made up of community representatives and lenders.

The Fannie Mae Foundation will commit $5 million over the next three years to increase the effectiveness of home buyer counseling organizations nationwide, many of which are hampered by a lack of resources, capacity, training, tools, and a comprehensive referral system. Our $5 million in funding will help address those needs.

We will also provide a new computer software program called Desktop Home Counselor, and within 90 days we will begin operating a nationwide toll free number that consumers can call for referrals to counseling agencies. Fannie Mae's Public Information Office will hire counselors to provide counseling services directly to consumers who live in communities where no such agencies exist.

UNDERWRITING FLEXIBILITIES

Our fifth initiative is a commitment we admit is long overdue. We will make sure that our underwriting guidelines are clear and flexible, and are applied equally to everyone. Our lenders have told us they need better guidance on how to use our guidelines. A study conducted by the Federal Reserve Bank of Boston confirms this fact. It shows that some lenders apply the flexibility in Fannie Mae's underwriting guidelines to white mortgage applicants more often than to minority applicants. And a recent report of the Interagency Task Force on Fair Lending, of which Secretary Cisneros is a key member, urged lenders to be aware of "the provisions of the secondary market guidelines that provide various alternative and flexible means by which applicants may demonstrate their ability and willingness to repay their loans."

We assume the full responsibility to make sure our guidelines are understood, and appropriately used, by all our lending partners. To do this:

We will maintain a constant dialogue with our mortgage lending partners to identify

the loan characteristics and underwriting procedures they think need clarification.

We will develop the most comprehensive training program for mortgage industry underwriters in the country.

We will develop easy-to-use reference tools for underwriters, including on-line access to Fannie Mae guidelines.

We will establish regional hotlines that lenders can call for instant guidance on our underwriting.

We will establish an internal Fannie Mae loan review board to review loans initially rejected by our underwriters.

We will make a new automated underwriting system available to lenders very soon that will use artificial intelligence to analyze loans, ensure consistency, and free up time for underwriters to work on complex applications.

UNDERWRITING EXPERIMENTS

A commitment of $5 billion to conduct experiments in new underwriting approaches is our sixth initiative. We will probe and test ways to underwrite loans that could make credit more accessible to minorities, low- and moderate-income families, central city and rural residents, and people with special housing needs. We will also systematically revalidate the components of our own underwriting guidelines.

INNOVATIONS FOR CHANGE

Our seventh initiative, "Innovations for Change," is the most significant product research and development effort in the history of housing finance. Through it, we will develop at least ten new financing tools to serve the full range of housing needs.

Our efforts will initially focus on rural communities; elderly people who want to stay in their homes; Native Americans living on tribal lands; families who want to make their homes more energy efficient; and those who want to renovate their homes. Because we are also the nation's largest private investor in multifamily housing, Innovations for Change will also find new ways for the private sector to finance rental housing for low-income families; shelter for the homeless; the developmentally disabled; people who suffer from AIDS and other illnesses; as well as the frail elderly and other groups in need of housing and supportive services.

MULTIFAMILY HOUSING

Our eighth commitment is to provide $50 billion in new financing for multifamily rental housing between now and the end of the decade. This level is double what we provided over the past seven years. Through it, we will help create affordable housing opportunities for people who want to make their homes in rental housing, or who need to live in apartments while they are preparing to buy a home.

USING TECHNOLOGY TO LOWER COSTS

Our ninth initiative is to develop and use advanced technology to reduce the largest barrier to homeownership faced by many families: the cost, complexity, paperwork and time it takes to get a mortgage. By simplifying and streamlining the way mortgages are created and serviced, Fannie Mae can cut the cost of lending and reduce the fees charged to borrowers by at least $1,000.

We will also provide technology to make it more profitable for lenders to originate loans to buy homes that don't cost very much, because these are the kinds of loans that low- and moderate-income families, and residents of distressed communities, are more likely to seek.

FANNIE MAE FOUNDATION

Our tenth initiative is a commitment to provide more than $30 million over the next three years to support non-profit housing efforts around the country. This commitment will make Fannie Mae the most significant source of corporate philanthropic funds dedicated to housing and community development in the country, and one of the top five sources of private and corporate funding in this arena.

COMMITMENT TO FIGHT DISCRIMINATION

Our final, and most important commitment under "Showing America a New Way Home," is to fight racial discrimination in mortgage lending.

We believe all our new initiatives will help ensure that minorities gain equal access to mortgage credit. But sadly, these efforts won't be enough. For reasons that most Americans cannot and will not accept, credit continues to be allocated based on a person's race, rather than on their ability and willingness to pay.

We know Fannie Mae can't singlehandedly eliminate racial discrimination from lending. But today we commit to do everything in our power to make eliminating it the number one priority of every participant in the mortgage finance system. It is our moral obligation, and a core value of our company, to help lead the fight.

We join the Congress, the Administration, and many others in the lending community who want to hold those who discriminate accountable for their actions. We strongly support the renewed vigor with which the federal government is clarifying and enforcing fair lending laws, and we are working with the U.S. Department of Housing and Urban Development, represented here today by Secretary Cisneros, to identify the steps we can take to aid the government's efforts. The "sunshine" of public disclosure must shine on those who would discriminate, leaving them no place to hide.

Our principal role in promoting fair lending is to provide our lenders with the products and services they need to reach minority families and underserved communities. We will do this in a number of ways.

We will provide our lenders with data on how well they are serving minority families and communities.

We will help make the industry more diverse, and more responsive to minority borrowers, by training minorities for positions in mortgage lending.

We will increase the participation of minorities and women in the mortgage industry by providing additional training to current Fannie Mae lenders, qualifying more minority- and women-owned lenders as our seller-servicers, and by helping others establish relationships and financial conduits through which they can deliver their loans to Fannie Mae.

We will pursue business relationships with every community development financial institution that provides residential housing finance in minority and distressed communities.

We will invest $25 million of seed capital in new and existing community lending institutions.

THE TRILLION DOLLAR COMMITMENT

"Showing America a New Way Home" is our commitment to transforming the housing finance system in America.

We're putting $1 trillion on the table to back it up.

Between now and the end of the decade, we will provide $1 trillion to finance 10 million homes for the families and communities that have not been well served by the housing finance system in the past.

We're already on our way to providing some of this financing; the rest will be a stretch. The $1 trillion in targeted lending we will do in the next seven years is twice the amount of targeted lending we did over the past seven years. It is also twice the amount of financing we provided to all households in the 1970s and 1980s combined. The result of this commitment will be that significantly more than half of all the business we do in the next seven years will be targeted to those who have not been well served in the past.

We will provide $1 trillion in housing finance, and do all the things I've mentioned, through the genius of a system in which Fannie Mae, as a shareholder owned company, seeks out good and profitable business from markets that have never before been tapped.

Three years ago, when I announced our $10 billion "Opening Doors to Affordable Housing" initiative, I said "I know we will meet this challenge, as we have met so many in the past, with intelligence, commitment, a sense of fairness, and hard work."

Fannie Mae's employees may have been worried, or skeptical, or just plain thought I was crazy about the new challenge. But you delivered far beyond anyone's greatest expectations. Your performance was a credit not only to Fannie Mae, but also to yourselves, your families, and your nation.

On March 14, 1991 I told you "there will be more to come," and that $10 billion was "the preface for future programs and initiatives still on the drawing board or only now coming into focus."

Ladies and Gentleman, the future is here.

We learned a lot in the past three years. We are ready to put what we learned in to action.

When we're through, Fannie Mae will be a very different place than it was when we started.

It will be stronger, better, more efficient and effective.

The Housing finance industry we lead will be very different than when we started.

It will be more open, fair, diverse and easy to understand.

The nation we love will be different.

It will have more homeowners—and the kind of strong and vibrant communities that homeownership builds.

That is a result that is well worth the effort.

Thank you for all you have done, and all you will do, to make the American dream come true for those who need it most. [Applause.]

It is now my great pleasure to introduce to your the distinguished Secretary of Housing and Urban Development, Henry Cisneros.

IN HONOR OF THE 70TH ANNIVERSARY OF JUDICKE'S BAKERY IN BAYONNE, NJ

HON. ROBERT MENENDEZ

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 22, 1994

Mr. MENENDEZ. Mr. Speaker, I rise today to celebrate the 70th year of Judicke's Bakery, a cornerstone of the business community in Bayonne, NJ, and a fixture on the corner of Broadway and 34th Street. Since the purchase of the bakery in 1924, the Judicke family has been catering to the sweet tooth of Bayonne,

and the cravings of Bayonne natives as far away as Hawaii and Europe, with their famous donuts, Bavarian creme cakes, and apple turnovers.

Current owners Harold and Ingrid Judicke bought the bakery from Harold's parents, Paul and Frieda, and have kept the business all in the family. Today, daughter Audrey works in the family shop, and manages the store while Harold and Ingrid enjoy a well-deserved vacation, or attend bakers conventions. Judicke's famed sprinkled donuts have been a staple for local customers since Harold first purchased his donut machine, after his service in the Army during World War II.

The bakery has employed as many as 10 bakers and 15 part-time and full-time counter workers, each of whom are like family to the Judickes. Having served Bayonne for 70 years, the family has seen many generations grow up on their favorite treats. The long hours that Harold and Ingrid put in at the bakery are well worthwhile when they see their loyal customers visit again and again, bringing their children, and their children's children, into the store.

Mr. Speaker, when we think of American small businesses, of the Mom and Pop stores that line Main Streets across the country, it is really people like the Judickes that we are thinking of. They are people who have dedicated their lives to their craft, and built more than just a business, more than just a reputation, they have built a community, and a permanent connection between themselves and the people they serve every day. If you are in Bayonne, stop by the bakery and try one of their specialties. You have not been to Bayonne if you have not been to Judicke's.

JOHN O'TOOLE AND BURTCH DRAKE: ADVERTISING LEADERS

HON. THOMAS J. MANTON

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 22, 1994

Mr. MANTON. Mr. Speaker, helping drive our economy, spur competition, and allowing for international competition, the advertising industry is extremely significant in our society. Madison Avenue is every part as much of the American lexicon as Wall Street or Main Street. While the U.S. advertising industry is responsible for the wide variety of commercials and advertisements that promote thousands of different products, the industry can be justly proud of its many public service advertising campaigns. These campaigns point out the need to buckle up for safety, not to drink and drive, say no to drugs, and many other lessons hat have taken hold in our society.

Over the past several years, John O'Toole has served this important industry as president of the American Association of Advertising Agencies [AAAA]. John O'Toole has recently stepped down as president of the AAAA. Under Mr. O'Toole's leadership, the AAAA has become an important voice in shaping public policy affecting the advertising industry. His great knowledge and experience of the industry, coupled with a keen understanding of the political, economic, and constitutional issues of the day, will be sorely missed.

However, Mr. Speaker, the advertising industry is most fortunate to have chosen an able successor, Burtch Drake, to be the new president the AAAA. Like Mr. O'Toole, Burtch Drake knows the business of advertising as someone who has spent decades in it can. Mr. Drake has been executive vice president and chief operating officer of the AAAA since 1989 and has been responsible for implementing many of the AAAA's new programs, including the value and advertising campaign. I am confident that under his leadership the AAAA will continue to make a great contribution in Washington and throughout the country.

TRIBUTE TO MOTHER AFRICAN ZOAR UNITED METHODIST CHURCH

HON. THOMAS M. FOGLIETTA

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 22, 1994

Mr. FOGLIETTA. Mr. Speaker, I rise on this occasion to pay tribute to the Mother African Zoar United Methodist Church in Philadelphia on the occasion of its 200th anniversary. This church has a rich and interesting history. Actually born as early as 1792, the church was formed when a group of African-Americans withdrew from Old St. George's Church in protest of patterns of discrimination, and was formally recognized in 1794.

While withdrawing from Old St. George's, they refused to formally separate themselves from the Methodist Church, in recognition of the fact that it was the John Wesley Methodists who had come out against slavery, with John Wesley referring to it as "the sum of all villainies." These early founders chose instead to stay with the church and help to improve it from within.

When it first began, African Zoar occupied an abandoned butcher shop at 4th and Brown Streets, in Philadelphia, as its first place of worship. The church remained there for 89 years until 1883, when it moved to 12th and Melon Streets, where it remains to this day. Mother African Zoar United Methodist has enjoyed a long history of activism in the community. It served as a stop on the underground railroad during the time of its operation, and in 1838 held a public meeting at the church to solicit funds and increase membership for the Vigilant—Fugitive Aid—Association and committee. In August of 1852, under the leadership of Levi Scott, African Zoar hosted the first convention of colored preachers and laymen, the first meeting of its kind among Africans called by the Methodist Episcopal Church in America. In 1864, a general conference was held in Philadelphia which led to the formation of two mission conferences of colored preachers. The 1920's brought the establishment of the Zoar Community Building and Loan Association, founded by Dr. W. Harry Barnes in 1924, and the first church community center under the guidance of Rev. John T. Fletcher in 1926. The community center was home to the first Baby Well Clinic, under the direction of Dr. Barnes, and also served as the meeting place for the Armstrong Association—Urban League, and housed homemaking and sewing classes. In 1965, in order to further community development and progress, the Zoar Federal Credit Union was organized to provide loans for members and to encourage regular savings.

To this day, Mother Zoar African United Methodist Church continues it its role of leadership in the community under the guidance of Rev. Ralph Blanks, one of the great clergy leaders in Philadelphia today. I join with the congregation of Mother African Zoar United Methodist Church and the rest of the Philadelphia community in celebrating the church's 200th year of service to God.

IN HONOR OF ALFRED McKETHAN

HON. KAREN L. THURMAN

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 22, 1994

Mrs. THURMAN. Mr. Speaker, I rise today to honor a very special Floridian, Alfred McKethan, for his many years of service to the banking industry and the people of Florida.

Alfred McKethan is a hero and a legend, not only to those people lucky enough to know him personally, but also to the thousands of strangers whose lives have been enriched by his deeds. His belief that "by building your community to build a bank," guided his 71-year banking career and earned him the title "Mr. Florida Banker."

From the helm of the Hernando State Bank and later Sunbank and Trust Company, Alfred McKethan carried out his great vision for Hernando County and Florida. Once a sleepy county of 4,000 citrus growers and farmers, Hernando County is now a thriving community of 125,000 which, despite its growth, has preserved its values and country heritage. And long before water issues dominated the news, Alfred McKethan forced people to think about the future as the first chairman of the Southwest Florida Water Management District.

As a member of the old Road Board, Alfred McKethan used his determination and vision to improve Hernando County roads and chart the future of transportation in Florida. The Sunshine Skyway, State Road 50 from Hernando to the east coast and U.S. 98, and Eckerd College are all projects conceived and carried out by Alfred McKethan. Today, his name graces the University of Florida baseball stadium, owing to his years of financial support, as do many public parks and buildings in his home county.

Pasco-Hernando Community College's Hernando campus might never have been built without the dogged determination of Alfred McKethan. And just recently, Alfred McKethan contributed $1 million to the school to provide 100 scholarships each academic year.

The best part about honoring Alfred McKethan today is knowing that his legacy is far from complete. As he has said many times, retirement doesn't mean he going to "fold up."

The people of Hernando County and all of Florida can rest assured that Alfred McKethan will keep working for them, making our State a better and more prosperous place to live, for years to come.

AFGHANISTAN: REMAINS OF THE COLD WAR

HON. STENY H. HOYER

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 22, 1994

Mr. HOYER. Mr. Speaker, 5 years after the last Soviet troops left Afghanistan there is still a war being waged and as we have seen in other parts of the world it is largely innocent civilians who are both the targets and the victims of aggression.

Yesterday, the New York Times published an article by Charles Norchi, executive director of the International League for Human Rights. Mr. Norchi's piece is a telling article that I commend to the attention of my colleagues. He describes a humanitarian catastrophe largely ignored by the international community. Mr. Norchi writes that horrific human rights abuses are being committed by every faction involved in the two decades old war.

The Afghans have been victims of indiscriminate bombing, torture, and mutilation. Restrictions on the rights of women and on freedom of association and expression are on the rise; so is religious intolerance. And nearly 15 million land mines scattered throughout the country continue to main and kill.

As as result of war, Afghans form the largest refugee group in the world, predominantly women and children. It is estimated that there are almost 1½ million Afghan refugees in Pakistan and 2 million in Iran. This is a country in its death throes. There is widespread destruction, a complete absence of any rule of law, the systematic and routine denial of justice, and a total disregard for civil and political rights that at times rise to the level of open contempt.

Mr. Speaker, the United States helped arm the forces of the radical mujahidin leader Hekmatyar in his war against the Soviet union during the 1980's. Today, although Soviet forces have since withdrawn, this conflict persists and now involves forces from Tajikistan and Uzbekistan as well as factions supported by Iran and others backed by Saudi Arabia. and as Mr. Norchi points out, it has become "fertile ground for the breeding and export of militant Islamic fundamentalism. It is the ideology of a desperate people, and the seeds of desperation are taking root. With the virtual breakdown of law and order, radical fundamentalist training camps have been flourishing."

The United States withdrew its embassy people from Kabul because of security reasons in 1989 and obviously those same security reasons have prevented us from returning. But it is those security reasons that lead Mr. Norchi to conclude that if something is not done to stop the slaughter, "Afghanistan will only produce refugees, radical fundamentalists, and terrorists. Then surely, some day, Afghanistan will again be our war." Mr. Speaker, the United States should actively back United Nations efforts to bring an end to the fighting and speak out forcefully against the horrific abuses that are being carried out daily.

Mr. Speaker, I respectfully request that Mr. Norchi's article be place in the RECORD.

[From the New York Times, Mar. 21, 1994]

WHOSE WAR IS IT NOW?

(By Charles Norchi)

Bombs are raining on Afghan civilians. Since January, heavy fighting has been spreading across Afghanistan as a militant fundamentalist Prime Minister and a former Communist general wage war with a fundamentalist President. This week, United Nations Secretary General Boutros Boutros-Ghali will dispatch a newly appointed personal envoy to meet with all the factions in an effort to end to the fighting.

The peace effort is long overdue. In Kabul, the Afghan capital, there are house searches, roundups and rapes, many of them by former mujahedeen—the "holy warriors" who fought the Soviet-backed Communist regime during the 1980's—who are now allied with one faction or another.

Militia fighters launch rockets behind a barricade of human corpses. A woman escapes her burning home, leaving behind the bodies of her husband and 4-year-old son. A man flees his devastated house where 15 family members died, victims of mortar shells. As they try in vain to reach the Pakistani border, his 8-month-old baby freezes to death. A fundamentalist commander throws 14 people from the roof of a mosque; they were praying incorrectly. Tens of thousands have fled Kabul for refugee camps in Pakistan.

But since January, Pakistan has turned away truckloads of desperate, hungry and shell-shocked Afghans at the border, and they are now camped outside the city of Jalalabad on a harsh, dry and windy plateau near the Khyber Pass. Afghans trained by the United Nations are still removing thousands of land mines and unexploded shells from this desolate place.

Five years after the last Russian troops left, there is still a war in Afghanistan.

Horrific human rights abuses are being committed by every faction. And unlike those in Sarajevo, they are not captured by television cameras. The Afghans have been victims of indiscriminate bombing, torture and mutilation. Restrictions of the rights of women and on freedom of association and expression are on the rise; so is religious intolerance. And nearly 15 million land mines scattered throughout the country continue to maim and kill.

Afghanistan's Prime Minister, Gulbaddin Hekmatyar, is an extremist and a dangerous opportunist who despises the West and for years has cracked the whip in the name of Allah. The United States, and other friends of Afghanistan, gave him that whip by arming him during the 1980's.

For the first time, Afghanistan is becoming fertile ground for the breeding and export of militant Islamic fundamentalism. It is the ideology of a desperate people, and the seeds of desperation are taking root. With the virtual breakdown of law and order, radical fundamentalist training camps have been flourishing.

As well as seeking a solution to the conflict, the U.N.'s new envoy, Ambassador Mahmoud Mestiri, must propose a long-term plan, including disarming irregular forces, creating a salaried Afghan army, stepping up operations to disarm the mines, building schools and hospitals and training Afghan human rights monitors. Eventually, the United Nations must also sponsor free elections.

Afghans are victims of the games superpowers once played: their war was once our war, and collectively we bear responsibility. If something is not done to stop the killing, Afghanistan will only produce refugees, radical fundamentalists and terrorists. Then surely, some day, Afghanistan will again be our war.

JULIE WILLIS OF GADSDEN IS ALABAMA WINNER OF VOICE OF DEMOCRACY CONTEST

HON. TOM BEVILL

OF ALABAMA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 22, 1994

Mr. BEVILL. Mr. Speaker, it is my pleasure to rise today to congratulate my constituent, Julie Willis of Gadsden. She was selected as the Alabama winner of the Voice of Democracy broadcast scriptwriting contest, sponsored by the Veterans of Foreign Wars of the United States and its Ladies Auxiliary.

Julie's script, entitled "My Commitment to America," is very patriotic and thought-provoking. She did an outstanding job and I am so pleased that her talents have been recognized.

Julie is the daughter of Rev. and Mrs. C. Richard Willis of Gadsden, and an honor student at Emma Sansom High School.

I respectfully submit her script to be printed here in the RECORD.

MY COMMITMENT TO AMERICA

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. What does that mean? Is it just something we say? Is it just a routine we go through? Is it just a bunch of meaningless words? Not to me! To me it is much more! It is my privilege, my duty, my way of life. It is my commitment to America!

I pledge allegiance to the flag. The flag that is a lasting symbol of freedom to all Americans. It has carried us through a Revolutionary War, a Civil War, two World Wars, and most recently the Gulf War. The flag is our banner of truth. It flies proudly over cities all across America and proclaims the stability and constancy of our nation. It displays the rich legacy that we have been given and represents all that our forefathers fought so desperately to preserve! I pledge my allegiance to that flag, the symbol of my freedom.

I pledge allegiance to the Republic. A Republic that is viewed, by many countries, as the greatest nation in the world. But, America is not a perfect nation. After all, perfection is something for which we strive. It is the ideal for which we seek. America is imperfect because people are imperfect. But its people are also what make America great! Brave people, loyal people, determined people, compassionate people. Americans! I pledge my allegiance to that Republic, the Republic of the people.

I pledge allegiance to one nation under God. The prosperity that America has experienced is not a common occurrence. I truly believe that America's fortune is an example of God's Providence. America was founded on the principles of freedom, specifically religious freedom. Our forefathers tried to follow the pathway that they believed had been set before them. I believe that God paved that pathway. I am confident that God's hand has been on this mighty nation for over 200 years, and that He will continue to bless

and lead us if we look to Him for guidance. We must remember that in God we trust.

I pledge allegiance to liberty and justice, for all. Liberty is the right or power to believe and act in the way one thinks. Justice, according to the dictionary, is the upholding of what is lawful.

These two virtues have become a way of life in America. When people think of America, they think of liberty and justice, for all. As Americans we maintain that all men are created equal—equal rights, equal opportunities, and equal justice under the Law. We are convinced that freedom is not a benefit that should be limited to the few. I pledge my allegiance to liberty and justice, for all!

My commitment to America is not just a speech I say every morning at school, it is a sincere feeling within my heart. I did nothing to merit the rich heritage of freedom, liberty and equality that I possess—but I vow to show my deep appreciation for this providential blessing and to preserve it for future generations. As Langston Hughes once said, "Oh let my land be a land where liberty be crowned with no false patriotic wreath but opportunity is real and life is free and equality is in the air we breathe."

THE SOCIAL SECURITY ACT AMENDMENTS OF 1994

HON. ANDREW JACOBS, JR.

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 22, 1994

Mr. JACOBS. Mr. Speaker, today Mrs. KENNELLY, Mr. BUNNING, Mr. HOUGHTON, Ms. MEEK, and I are introducing the Social Security Act Amendments of 1994. A section-by-section description of this proposal follows:

THE SOCIAL SECURITY ACT AMENDMENTS OF 1994

SECTION 1: SHORT TITLE

The bill is entitled the "Social Security Act Amendments of 1994."

SECTION 2: SIMPLIFICATION OF EMPLOYMENT TAXES ON DOMESTIC SERVICES

Present Law.—Individuals who hire domestic employees such as baby-sitters, housekeepers, and yard workers are required to withhold and pay employment taxes when the worker's wages exceed certain thresholds. (Individuals who hire independent contractors to provide domestic services are excluded from these requirements.) For Social Security, the wage threshold is $50 per quarter; for Federal unemployment insurance, it is $1,000 per quarter. The $50 threshold was enacted in 1950 and has not changed since that time.

When the $50 threshold is reached, the employer must file a quarterly report (form 942) with the Internal Revenue Service, submitting with it the required Social Security tax for both employer and employee. The employer must also provide the employee and the Social Security Administration with a Wage and Tax Statement (form W-2) at the end of the year. When the $1,000 unemployment insurance wage threshold is reached for any calendar quarter, the employer must file a report (form 940) with the IRS at the end of the year, submitting with it the required tax. (Employers who owe more than $100 in FUTA tax at the end of a calendar quarter must deposit the amount due by the end of the following month.)

Provision.—The provision would:

Raise the threshold for withholding and paying Social Security Taxes on domestic workers from $50 per quarter to $1,250 annually in 1995 and index it thereafter for increases in average wages in the economy;

Adjust the Social Security tax threshold retroactively to $1,150 in 1993 and $1,200 in 1994. No underpayment of taxes (or any penalty or interest with respect to such underpayment) which is covered by this provision shall be assessed (or if assessed, shall be collected), effective on or after the date of enactment. No tax refunds would be provided;

Require individuals who employ only domestic workers to report on a calendar-year basis any Social Security or Federal unemployment tax obligations for wages paid to these workers and authorize the Secretary of the Treasury to revise the Federal form 1040 to enable such employers to report both taxes on their own Federal income tax returns;

Include domestic employers' Social Security and Federal unemployment taxes in estimated tax provisions, thereby enabling these employers to satisfy their tax obligations through regular estimated tax payments or increased tax withholding from their own wages;

Authorize the Secretary of the Treasury to enter into agreements with States to collect State unemployment taxes in the manner described above; and

Require the Secretary of the Treasury to provide to domestic employers a comprehensive package of informational materials, including all requirements of Federal law and a notification that they may also be subject to State unemployment insurance and workers compensation laws.

Effective Date.—The provision would generally apply to remuneration paid in calendar years beginning after December 31, 1994.

SECTION 3: REALLOCATION OF A PORTION OF THE OLD-AGE AND SURVIVORS' INSURANCE PAYROLL TAX TO THE DISABILITY INSURANCE TRUST FUND

Present Law.—Employees and employers each pay a Social Security payroll tax of 7.65 percent on earnings up to a specified ceiling. Of the 7.65 percent, 1.45 percent is allocated to the Hospital Insurance Trust Fund, 5.6 percent is allocated to the Old-Age and Survivors Insurance Trust Fund, and 0.6 percent is allocated to the Disability Insurance Trust Fund. The 15.3 percent tax on net earnings from self-employment is similarly allocated to the HI Trust Fund (2.90 percent), the OASI Trust Fund (11.2 percent), and the DI Trust Fund (1.2 percent). As a result of the 1983 Social Security Amendments (P.L. 98-21), 0.71 percent will be allocated to the DI Trust Fund beginning in the year 2000.

In its 1993 report to Congress, the Social Security Board of Trustees determined that, under its intermediate economic assumptions, the DI Trust Fund will be depleted during 1995.

Provision.—The provision would allocate an additional 0.34 percent of the total the employer and employee Social Security payroll tax rate, each, and 0.68 percent of the self-employment tax rate from the OASI Trust Fund to the DI Trust Fund, effective for 1994 through 1999. As a result, the DI tax would equal 0.94 percent for employers and employees and 1.88 percent for self-employed individuals. The combined OASDHI tax rate of 7.65 percent would remain unchanged. Beginning in 2000, the DI tax rate would be reduced from 0.94 percent to 0.90 percent, with a commensurate increase in the OASI tax.

In addition, the Secretary of Health and Human Services would be required to conduct a comprehensive study of the reasons for rising costs in the DI program. The study would determine the relative importance of: (a) increased numbers of applications for benefits, (b) higher rates of benefit allowances, and (c) decreased rates of benefit terminations in increasing DI program costs. It would also identify, to the extent possible, underlying social, economic, demographic, programmatic, and other trends responsible for changes in DI applications, allowances, and terminations. No later than December 31, 1995, the Secretary would be required to issue a report to the House Committee on Ways and Means and the Senate Committee on Finance summarizing the results of the study and, if appropriate, making legislative recommendations.

Effective Date.—The provision would apply to wages paid after December 31, 1994, and to self-employment income for taxable years beginning after this date.

SECTION 4. LIMITATION ON PAYMENTS TO CRIMINALLY INSANE INDIVIDUALS CONFINED TO INSTITUTIONS BY COURT ORDER AT PUBLIC EXPENSE

Present Law.—Individuals who are confined to a prison, jail, or other penal institution or correctional facility as the result of a felony conviction are barred from receiving Social Security benefit payments. (Qualified family members of such individuals may continue to receive benefits). An exception is provided for imprisoned felons who are satisfactorily participating in a court-approved program of rehabilitation which the Secretary of Health and Human Services has determined is likely to result in the individual's return to work upon release from prison.

The Social Security Act provides no limitation on benefit payments to individuals who are confined to an institution by court order at public expense pursuant to a verdict that they are not guilty of an offense by reason of insanity.

Provision.—The current limitation on Social Security benefit payments to incarcerated felons would be modified to apply to all individuals sentenced to imprisonment for more than one year. The exception for inmates participating in court-approved rehabilitation would be repealed.

The limitation would also be extended to individuals who are confined to institutions by court order at public expense in connection with an offense punishable by imprisonment of more than one year. The court order must be issued in connection with a verdict of guilty but insane, a verdict of not guilty by reason of insanity, a finding of incompetence to stand trial, or a similar verdict or finding based on similar factors (such as mental disease, mental defect, or mental incompetence). A similar limitation on benefit payments would be imposed under the Medicare program.

To enforce the limitation, the Secretary of Health and Human Services would be authorized to require from institutions the names and Social Security numbers of individuals confined there under the conditions described above.

Effective Date.—The provision would apply to benefits for months commencing after 90 days after enactment and with respect to items and services provided after this 90-day period.

THE MACHTLEY AMENDMENT TO H.R. 6

HON. HERBERT H. BATEMAN

OF VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 22, 1994

Mr. BATEMAN. Mr. Speaker, I would like to take this opportunity to detail my reasons for supporting the Machtley amendment to H.R. 6 which was debated by this House on March 21, 1994. The Machtley amendment would have reinstated payments for civilian b students within the Impact Aid Program. These payments make impact aid more broad based and compensate localities more fairly for the taxes lost due to the presence of Federal facilities.

The Impact Aid Program compensates localities for four categories of tax loss: residential property taxes; employer property and other business taxes; sales taxes on items purchased tax-free at commissaries; and personal property taxes lost when military personnel keep their boats and vehicles registered in a State where there are no property taxes, rather than the State where they actually reside.

Under the current system, section a payments compensate for all these tax losses. Military b payments compensate for all these categories except loss of residential property tax. But civilian b payments are still necessary to compensate for loss of employer property and business tax losses. The Government does not pay these taxes, but private employers do.

An example of the impact of civilian a payments can be found in my district. On Virginia's Lower Peninsula, roughly the same number of residents work for the Government as work for the area's largest private employer. The private employer pays millions in local and State taxes every year. The Federal installations pay nothing. Clearly these localities should be compensated for those lost tax revenues.

While the Machtley amendment was withdrawn from consideration, I do hope that the final version of H.R. 6 that is enacted will contain civilian b payments under the Impact Aid Program.

TRIBUTE TO GREEN THUMB OF NEW ENGLAND

HON. DICK SWETT

OF NEW HAMPSHIRE

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 22, 1994

Mr. SWETT. Mr. Speaker, I rise today in recognition of Hire Older Worker Week and Green Thumb Inc., of New England. Green Thumb is a nonprofit organization which provides job training and employment programs for older Americans. It is part of the Senior Community Service Employment Program [SCSEP] and is authorized by title V of the Older Americans Act of 1965.

Founded in 1965, Green Thumb was a program originally designed to enlist the aid of older Americans in the maintenance and beautification of our Nation's parks and highways. Because of the success and subsequent expansion of the program, today Green Thumb has over 18,000 trained older Americans working in a variety of different fields, including local government and nonprofit organizations.

There are many benefits to hiring older workers. They represent all racial, religious, and educational backgrounds. They often bring a rich and varied employment history to their jobs, as well. Green Thumb helps these people—many of whom have recently changed careers and need to receive salaries and benefits—to learn new skills and to adapt to new or different types of jobs.

Green Thumb also provides services that are helpful for retirees who are not yet receiving Social Security benefits and require the financial security that comes with either full- or part-time employment. In addition, many older Americans are involved in the work force to pursue individual interests, develop new skills, or to use their time in a productive way. In short, Green Thumb of New England is an effective and extraordinary program.

The program benefits older Americans by placing them in employment and enhancing their general well-being, but it also provides a valuable resource to communities throughout New England. More specifically, Green Thumb has placed workers in many organizations in my district, including the Boys Club of Nashua, the Crotched Mountain Rehabilitation Center in Greenfield, the Harris Center for Conservation and Education, the Department of Health and Human Services, the Department of Employment Services, and numerous libraries.

Mr. Speaker, I urge my colleagues to join me in congratulating Green Thumb of New England and wishing them continued success in improving the lives of senior citizens across northern New England.

COMMISSION ON SECURITY AND COOPERATION IN EUROPE'S PRESENCE IN KOSOVO

HON. CHRISTOPHER H. SMITH

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 22, 1994

Mr. SMITH of New Jersey. Mr. Speaker, earlier today I met with the distinguished Prime Minister of the Republic of Kosova, Dr. Bujar Bukoski. The Prime Minister succinctly outlined the range of serious concerns faced by the two million Alabanians who make Kosovo their home. I want to highlight one point in particular.

Mr. Speaker, the United States must call for and support the return of the Commission on Security and Cooperation in Europe's long duration missions to Kosovo. Serbia expelled CSCE monitors in July 1993, and there has been a marked deterioration in the human rights situation in Kosovo. Several independent reports of human rights abuse are compelling evidence that an international presence is imperative and critical. I believe international monitors are needed to help counter the abuse perpetrated at the hands of Serbian police and security officers stationed in Kosovo, and they could help prevent the outbreak of further armed conflict in the Balkans.

For the benefit of my colleagues, I would ask that Dr. Bukoski's press statement made yesterday at the United Nations be printed in today's RECORD.

REMARKS PREPARED FOR UNITED NATIONS PRESS CONFERENCE, MARCH 21, 1994

(By Dr. Bujar Bukoshi, Prime Minister of the Republic of Kosova)

I would like to thank the United Nations Correspondents Association for giving me the opportunity to speak here today.

I have come to United States in the wake of some extraordinary diplomatic developments. A few days ago when the Bosnian and Croatian presidents signed their accord in Washington, the world was given hope that peace in the Balkans could possibly be achieved in the near future.

The two million Albanians of Kosova also hope that peace can be achieved. We applaud the efforts of the U.N., the United States, the E.U., and Russia which made these recent breakthroughs possible.

We are concerned however, that no true peace can occur until there is an end to the brutal Serbian repression which continues unabated in our Republic and our 90 percent majority retains basic rights and freedoms which have been stripped from us by the Belgrade regime.

In fact as the world witnesses hints of peace in Bosnia, the situation in Kosova grows worse. For example:

This month there have been renewed movements and deployments of Serbian army units in Kosova. Moreover, armed Serb police and paramilitary units are killing Albanian civilians in cold blood. Two innocent civilians died this month in what appears to be an orchestrated campaign of killings designed to terrorize the Albanian majority.

The raiding of Albanian homes by Serb police under the pretext of weapons searches has resulted in serious abuses including beatings, confiscation and destruction of property and illegal imprisonments.

Political activists are being harassed, beaten and imprisoned. Serbian extremists have called for the imprisonment of Kosova's President Ibrahim Rugova and other Albanian leaders who direct our peaceful resistance.

Belgrade has orchestrated an assault on the Albanian economy. Serbian confiscation of property and hard currency is alarming.

The Prishtina airport is closed, preventing desperately needed supplies from entering the Republic.

We are experiencing a new type wave of cultural genocide, as witnessed by the closing of the Institute of Albanian Studies which was forcibly taken by Serb paramilitary forces who beat Albanian professors and students out of its facilities.

In conclusion, Serbia has virtually completed the eradication of institutional life in Kosova.

Serbia continues to mock the international community by refusing to readmit neutral observers to Kosova. Belgrade wrongfully claims that Kosova is an internal matter. It is not. The United Nations charter guarantees protection against the sort of orchestrated aggression that Serbia directs at our entire population.

Despite the horrible situation which I have only briefly described, there is hope for peace in Kosova and peace in the Balkans if the international community acts immediately.

I am here today to urge the international community to undertake specific actions aimed at ending Serbian oppression in Kosova and preventing a wider war.

First, we call upon the United Nations, the U.S., the E.U., and Russia to fully include Kosova in the peace process. For without a settlement of the Kosova crisis, there will be no peace in the Balkans. The crisis in former Yugoslavia requires not only settlements for Bosnia and Croatia, but a global solution to an international crisis.

Serbs in Knin and Bosnia seem close to achieving their territorial aspirations through armed violence and aggression while Albanians in Kosova and Macedonia only suffer for their commitment to a non-violent solution. We believe that by not including Albanians in all negotiation the international community sends a dangerous message that aggression will be rewarded and non-violence punished.

Second, we ask for an international presence in Kosova to prevent Serb abuses from exploding into a wider conflict that would have ruinous consequences for regional peace. Last month in Prague, the CSCE called for the immediate return of a long-term monitoring mission. Without an international presence, the region completely lacks stability and can explode over the smallest incident.

Finally, we urge that international sanctions imposed against Serbia be conditioned on the successful resolution of the Kosova crisis. The international community cannot forfeit its leverage over the accused war criminals who dominate Kosova society.

The Kosova problem is truly an internationally problem. International precedents, international security and international peace hang in the balance. If these logical steps are not taken immediately, I fear that the progress toward peace that has been made in Bosnia will be in vain and the world will have missed an opportunity to prevent a wider war in the Balkans.

Our government's pacifist approach in Kosova is losing credibility within our population. Meanwhile, this non-violent attitude is viewed by Belgrade as an invitation to increase oppression, and seen by the international community as an excuse to ignore the situation in Kosova. These alarming trends severely threaten all progress toward peace in the Balkans.

Thank you. I will now take your questions.

TENTH ANNIVERSARY OF THE NATIONAL ENDOWMENT FOR DEMOCRACY

HON. LEE H. HAMILTON

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 22, 1994

Mr. HAMILTON. Mr. Speaker, Congressman BEN GILMAN joins me today in paying tribute to the National Endowment for Democracy [NED], which is celebrating its 10th anniversary.

NED's founders and many of its friends will gather in the Committee on Foreign Affairs on March 23 to recognize NED's decade of work on behalf of democratic institutions throughout the world. The March 23 event will also give the friends of NED an opportunity to talk to the chairman of the Endowment's board, John Brademas, a former colleague of ours from Indiana, and Carl Gershman, NED's president.

During NED's brief existence, its programs have reached over 80 countries, drawing upon the commitment and expertise of large numbers of Americans. NED programs have helped democracys around the world to develop free markets, defend worker rights, establish political parties, organize public policy forums, create independent media outlets, protect the rule of law, and promote interethnic understanding. NED, its core grantees representing labor, business, and the two major political parties, as well as scores of other grantees, have worked hard to build democracy from the grassroots.

NED's work in support of free institutions has earned the praise of the world's leading democrats, among them Vaclav Havel, Lech Walesa, Oscar Arias, Elena Bonner, Fang Lizhi, Frederick Chiluba, Vytautus Landsbergis, the Dalai Lama, Sali Berisha, and many others.

One of NED's most important qualities has been its bipartisanship, initially reflected in the politically diverse group of Americans who came together just over a decade ago to found the Endowment. Indeed, many distinguished Americans have been involved in this effort. Certainly no tribute to the National Endowment for Democracy would be complete without a recognition of the signal contribution of our former colleague, Dante Fascell, NED's "founding father" and first chairman. Dante can take pride that his vision of an organization working to promote America's highest ideals abroad has been more than fulfilled. We also want to commend John Brademas and Carl Gershman for the excellent leadership they are providing the Endowment.

Mr. Speaker, there are, unfortunately, some voices declaring that with the cold war over, we no longer need concern ourselves with the outcomes of struggles for freedom abroad. But one clear message of recent events in Russia, Bosnia, and elsewhere is that supporting democracy remains one of the most effective means of promoting America's national interests. As we salute the National Endowment for Democracy for its 10 years of service to our country, we should also resolve to continue to support NED and other organizations as they carry out their important mandate of promoting democracy, building democratic institutions, and improving respect for the rule of law and human rights.

TRIBUTE TO EUGENE J. LA COLLA

HON. EDOLPHUS TOWNS

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 22, 1994

Mr. TOWNS. Mr. Speaker, I want to bring to the attention of my colleagues the community achievements of Eugene J. La Colla. He graduated from St. John's University, College of Pharmacy. After serving in the military, and upon returning home in 1959, he and his brother, Tom, opened La Colla Bros. Pharmacy in Cypress Hills, Brooklyn, NY.

Mr. La Colla is a former member of the board of directors for the Highland Park/12 Towns YMCA. He is a past member of the board of directors for the Cypress Hills Local Development Corporation and secretary of the board of directors for the Cypress Hills/Fulton Street Senior Center. For 30 years, he has been a member of the Kiwanis Club of Highland Park where he served as both president and treasurer. He is a lifetime member of Kiwanis International and its Legion of Honor.

Eugene and his wife of 35 years, Carol, are the parents of two children: Lynn Barnsback of Vienna, VA and Eugene G. of Staten Island, NY.

I am honored to introduce Mr. La Colla to my colleagues, and to acknowledge his 35 years of community service.

CLINTON TEAM FUMBLES IN CHINA

HON. ROBERT K. DORNAN

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 22, 1994

Mr. DORNAN. Mr. Speaker, while the Nation's attention focuses on the raging Whitewaters of Arkansas, the world continues to turn and our Nation's foreign policy continues to crumble.

In this still very dangerous world, the Clinton administration's foreign policy missteps, misjudgments, and blunders threaten our credibility and our ability to influence world events. Unlike President George Bush, Bill Clinton and his foreign policy team seem to lack the most basic understanding of our role as a world leader. And the fumbles continue.

I urge my colleagues to read the following editorial from the March 16, 1994, edition of USA Today, which offers some sound advice for the President and his foreign policy advisers.

[From USA Today, Mar. 16, 1994]

CLINTON TEAM FUMBLES AGAIN, THIS TIME IN CHINA

Looks like it's back to George Bush basics for Clinton's foreign policy team.

Secretary of State Warren Christopher's embarrassing stumble this week in China—threatening trade sanctions, then backing down when the Chinese called his bluff—leaves little choice. His team is now 0 for 4 in the big leagues.

Strike 1 was Bosnia, where U.S. bumbling left Serbian aggression unchecked for months. Strike 2 was Haiti, where blustering Clinton policy had to be changed. The Somalia debacle made it a strikeout. So China had little trouble figuring out how to make Clinton whiff on the next pitch.

In each policy snarl, Clinton learned the hard way that Bush may have had it right. And Clinton the candidate had it wrong.

In the campaign, Clinton tried to out-Rambo Bush. Stop Serbian aggression. Don't send Haitian refugees home without a hearing. Don't coddle China.

Clinton retreated on each.

Fear of thousands of Haitians flooding Florida brought a retraction of broad Clinton promises. On Bosnia, European allies rebuked Christopher when he asked them ever so nicely to follow Clinton's lead.

Somalia brought an even more tragic turn on Clinton's learning curve. Eighteen U.S. soldiers died when the mission switched from famine relief to a wild-goose chase for a Somali warlord.

As American soldiers pull out of Somalia, Bush's mission stands accomplished. Clinton's was abandoned.

These snafus earned Clinton's policy team—Christopher, National Security Ad-

viser Anthony Lake and then-Secretary of Defense Les Aspin—a reputation as the gang that couldn't shoot straight. Christopher's China pratfall clinched the moniker.

The secretary went to China when he wasn't invited. He threatened to restrict trade unless human rights improved.

Bluntly and publicly, the Chinese told him to stuff it. And within 24 hours, Christopher wimped.

The result: China's sorry human rights practices may get worse instead of better.

What does all this matter? It matters in credibility.

If the world's big-time thugs like Saddam Hussein and little-league pests like Mohamed Aidid sniff weakness or indecision, they will try to exploit it.

Inexperience explains some of Clinton's problem, but after 14 months in office, it's time he got the message: Don't promise or threaten without accepting the consequences. Develop that so-called vision and get someone on the foreign policy team who can spell it to the rest of the world.

Remember, this ain't Little Rock, Bill.

DRUGS SHOULD BE FOREIGN POLICY CONCERN

HON. BENJAMIN A. GILMAN

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 22, 1994

Mr. GILMAN. Mr. Speaker, one of the most serious questions of this administration, more than 1 year into office, is its policy on illegal drugs. The administration's announced intention of focusing on treatment and rehabilitation of hardcore users means that resources will necessarily be diverted from other vital areas, such as interdiction.

I am particularly concerned over administration plans to cut back in the areas of international interdiction and eradication. Proposals such as turning the State Department's Bureau for International Narcotics Matters into an amalgam that includes crime and terrorism—each of which merit attention on their own—will be a clear signal abroad that narcotics is not longer a top foreign policy issue for the United States.

A few days ago, New York Mayor Rudolph Giuliani, spoke to the Washington Times about the importance of placing narcotics at the top of U.S. foreign policy concerns. If anyone, Mr. Guliani knows from direct experience as the U.S. attorney for New York what is needed to effectively prosecute the never-ending war on narcotics. He also knows, as mayor of the Nation's largest city, the impact of illicit drugs on crime, health care costs, and the very viability of our great cities.

In an article in the Times, Mayor Giuliani said that local government may have a bigger role to play in combating narcotics, but only the Federal Government can provide overall guidance, and to do so properly it has to make the drug problem a matter of foreign policy.

Mr. Speaker, I commend the article to my colleagues and ask that it be printed in the RECORD at this point.

[From the Washington Times, Mar. 16, 1994]

GIULIANI URGES DRUG-WAR PRIORITY

(By Ralph Z. Hallow)

The United States created the world's drug problem and could solve it by putting drugs at the top of America's foreign policy agenda, New York Mayor Rudolph Giuliani said yesterday.

"What the federal government can do to help New York and other cities is to get seriously engaged in the drug problem," Mr. Giuliani said at a luncheon with editors and reporters of The Washington Times.

Although a Republican, Mr. Giuliani did not single out President Clinton and his Democratic administration in Washington for what he called 25 years of national failure on the foreign policy-drug policy front.

Mr. Giuliani, who defeated incumbent Mayor David Dinkins last year, argued that only the federal government can see every aspect of the problem and therefore have influence over every aspect of illicit drugs.

"It might very well be local government has a bigger role to play, but only the federal government can guide the effort so that you get the benefit out of the various roles the local governments should play," he said.

To guide that effort, the federal government has to make the drug problem a matter of foreign policy. "New York, Los Angeles or Philadelphia can't," he said. "And if the federal government doesn't make that a major aspect of foreign policy, then it can't get done."

Asked why drugs, in his view, have not been a major thrust of foreign policy, he said: "This is something I've struggled with for 25 years. I don't know why."

The former federal prosecutor said: "The exercise of foreign policy is trying to advance the interest of your country, and we understand this in terms of peace and war and international trade. But domestically, one of our great problems is drugs.

He said President Nixon started moving in the right direction on drugs and foreign policy and President Reagan also "did for a while. . . . But it never really entered into the foreign-policy establishment."

Mr. Giuliani, who became the third-ranking member of the Reagan administration's Justice Department, said the State Department's foreign-policy establishment "doesn't consider drugs one of the very important things they're supposed to deal with."

"The only person who can change that is the president—by talking about it, getting it to enter into the minds of the State Department," said Mr. Giuliani, who began as a Democrat in Brooklyn and became a Republican in the mid-1970s.

He said that persuading other countries to stop harvesting poppies—and exporting opium and heroin—is not a questions of how much the United States can pay to replace the crops.

"It isn't a matter of cost," Mr. Giuliani said. "There's no solution to any problem that we have enough money for. The world's drug problem was created by the United States on the demand side. We spend so much money on drugs that we draw the drugs to us. . . .

"We have to show we're serious about reducing that," he said. "It's just as important that we convince foreign countries to cooperate with us. If we were more sophisticated, we could explain to the government of Colombia—independent of whether we give it a penny—why it's in its self-interest to do away with the poppy crop. The economy of Colombia is built on a false base."

Asked why Colombia could not figure that out on its own, Mr. Giuliani said, "They just need a push from us in that direction."

GOVERNOR WHITMAN'S BUDGET ADDRESS TO THE STATE OF NEW JERSEY

HON. JIM SAXTON

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 22, 1994

Mr. SAXTON. Mr. Speaker, I commend to my colleagues' attention the following address by Governor Christine Whitman to the State of New Jersey, given on March 15, 1994.

Good evening.

Two months ago, I took office promising a new beginning: A government that is committed to fundamental change. A government that is fiscally responsible. A government that uses common sense. And a governor who keeps her promises.

Budgets are more than just numbers. They are the balance sheet of our principles, the ultimate statement of our priorities. This is where government puts it money where its mouth is. Only it's not the government's money. It's your money. That's why I'm here tonight.

This is the first time in memory that a governor has delivered a budget message to a joint session of the Legislature in the evening—during "prime time" when it can be broadcast across the state to families in their homes.

Traditionally, this speech is given at 2 p.m., when few of you have an opportunity to listen. What you get are a few sound bites on the evening news and an article in your local paper. I asked to give this speech at this time because you deserve to hear directly how your tax dollars are being spent and why. I would like to thank the Legislature for agreeing to this change.

This is the beginning of three-and-a-half months of dialogue, debate and discussion between members of my administration, the Legislature, and the various interest groups that have traditionally driven the policy agenda in Trenton. And this time, you—as citizens—must be involved, too.

Fifty years ago, the first computer was built. It was a mammoth machine: One hundred feet long. Ten feet high. Three feet deep. Today, the computer world has changed.

Computers the size of that PC right there have the same capacity as the Supercomputer installed eight years ago that took up two rooms at Princeton's Forrestal Center. Microchips are in—main-frames are out. But not in government.

Government in New Jersey is an expensive-to-run, slow-to-respond, antiquated mainframe. It fills two rooms when it needs to take up a single desk.

With this budget, we begin the process of remaking government. Of making the machinery of government smaller. Smarter. Faster. More responsive to you. And less costly. We have no other choice.

Taxes in New Jersey—the cost of running the machinery of government—are too high. High taxes drive jobs out of New Jersey and discourage new businesses from coming in. They make it hard for young families to buy homes and for senior citizens to keep them. They force our children to look for jobs and opportunities far away from their home.

If we were to follow the pattern set by governors and legislatures over the past quarter-century, state spending would double over the next eight years. The state budget would be 32 billion dollars. Four thousand,

one hundred dollars for every man, woman and child in the state.

Income, sales or business taxes would have to go up $3 billion every 30 months just to keep up. That cannot happen. You cannot afford it. Our children cannot afford it. You elected me—to prevent this. I will not let it happen. This budget is going to go down! Not up.

There is only one way to cut government spending, and that is to cut the amount of tax dollars that we take out of your pocket. The more money you have to spend, the more the economy will grow. You elected me to cut taxes and government spending in order to create jobs and stimulate economic growth. And that's exactly what my tax cuts will do.

Your Legislature under Senate President Don DiFrancesco and Assembly Speaker Chuck Haytalan launched New Jersey on the road to economy recovery by rolling back the sales tax in 1992 and cutting business taxes last summer.

I am grateful to the Legislature for so quickly approving the 5 percent income tax cut and the corporate tax rollback I called for in my Inaugural Address.

The Senate finished the job today by approving the elimination of all income taxes for the 380,000 New Jerseyans earning less than $7,500 a year—mostly senior citizens, students and people working their way off welfare.

Those tax cuts are just the first step. I promised you an income tax cut ranging from 30 percent for low- and middle-income families to 20 percent for high-income families by 1997. With this budget, I am asking the Legislature to take the second step. I am calling for a second income tax cut effective January 1, 1995.

This tax cut would give more to the low- and middle-income taxpayers who need tax relief the most. My plan would triple the current income tax cut to 15 percent for families earning less than $80,000 and individuals making less than $40,000. The cut would be 7½ percent for families earning between $80,000 and $150,000 and individuals between $40,000 and $75,000. Those in the highest tax bracket would get a 6 percent cut.

And make no mistake: I will call for a third tax cut next year. For democracy to work, those who ask for your vote must keep their promises. I will keep mine.

Not everyone will be happy with this budget. You will hear complaints about particular cuts, questions about why I kept my promise to cut taxes. But tax cut or no tax cut, we would have had to cut spending this year.

We must cut spending to close a $2 billion structural deficit caused by a past overreliance on one-shot revenues and by a past failure to limit growth in government spending to the growth in tax revenues. With this budget, we stop spending more money than we take in. With this budget, we reduce our reliance on one-shot revenues by nearly one half.

We are changing the way we fund pensions and health benefits for retirees in a way that will save you more than $600 million this year and more than 3½ billion dollars over the next four years without affecting benefits for a single retired worker. We are not taking a penny out of the pension system. We will continue to pay for health benefits on an annual basis. We also address a fundamental inequity in our retiree benefits system by requiring teachers and state workers to pay the same amount toward their pensions that police and firefighters and non-government workers already pay.

I know that property taxes concern you. When I urged the Legislature to enact a retroactive income tax cut, I promised that we would not play the shell game of cutting one tax by raising another. I kept that promise.

This budget provides a net increase of more than $100 million in the resources available to local governments, which I urge them to use to hold down property taxes.

I am recommending the elimination of desegregation aid and a partial phaseout of density aid to municipalities.

I am also proposing a 33 percent reduction in the "transition aid" to 265 school districts that was supposed to expire completely this year under the 1990 law. This will enable us to shift $28 million more into the 30 poorest school districts. This is a good-faith effort toward complying with the Supreme Court order to close the funding gap between the richest and poorest school districts.

We will write a new school aid law over the next year that defines what a "thorough and efficient education" should mean for every child, no matter where he or she lives.

But you know—and I know—that more money is not the answer for a school system that already spends more per child than any other state. The answer—is accountability.

We must teach children to read in the early grades, so we do not have to spend tens of millions of dollars more on remedial education in high school and college. We need to inject competition into our schools by developing alternatives like magnet schools, charter schools and voucher systems. And we need to understand that salaries and benefits for school personnel are growing so rapidly that they eat up any increase in state aid long before the dollars reach the classroom.

School districts, like municipalities and counties, must find ways to cut costs. If I can find ways to balance my budget while cutting taxes by $589 million, your schools, counties and municipalities can find ways to balance their budgets without raising taxes!

In fact, I challenge those who are putting so much energy into criticizing my spending cuts to use that energy to find the cost savings in their own budgets that we all know are there. It is not impossible.

I said I would cut spending in the governor's office by 20 percent. And I did it.

Union Township, which I visited last month, spends 15 percent less than the statewide average to educate its children. That's because it pays teachers extra to handle administrative duties than other districts pay vice-principals higher salaries to perform. We all know that municipalities and schools can save money by regionalizing services.

My treasurer is willing to provide efficiency audit teams to help your local governments identify cost savings. But the best way to find savings is to do what we are doing: Set up broad-based citizens groups within your own town and school district to come up with creative ideas to save money that challenge the old ways of doing things.

Participatory democracy works. This budget proves it. Before my administration even took office, a citizens' budget committee co-chaired by Candy Straight and Andrew Chapman identified hundreds of millions of dollars in potential budget savings.

Valuable ideas come in from you—through town meetings, call-in shows and the thousands of letters you sent to the "Our Tax Dollars" program. Nicholas Gordon of Fort Lee, who is with us tonight, wrote in to ask why the state is spending money for a Basic Skills Assessment test for college freshmen that duplicates the test we give to 11th graders. Nicholas, you're right. That test is gone. You just saved the State $1.2 million a year.

Nancy Burwell of Belleville, who is also in the gallery, called 101.5 while I was on the air to suggest that we bring in a company to audit the state government's phone bills. Good idea, Nancy. We expect to save $1.5 million, maybe more.

Paul Porreca Jr. of Millville, who is also here, asked why the State of New Jersey was running marinas in competition with private enterprise. Good question. We're going to privatize those marinas in Leonardo and Forked River. Expected sale price? Seven million dollars.

Nobody wrote in to suggest that we can save money by continuing the "Our Tax Dollars" program. But I've managed to figure that one out for myself.

Write me with your ideas. The address is "Our Tax Dollars," CN096, Trenton, New Jersey 08625.

One of the most intriguing letters to come into "Our Tax Dollars" arrived in December from Frank P. Merlo, a graduate professor of education at Montclair State College. Professor Merlo can't be with us tonight because he's teaching a school finance course, but this is what he wrote: "The present autonomy of the state's public higher education institutions makes the Department (of Higher Education) somewhat obsolete and relegates it to a make-work function to justify its existence." Professor Merlo—you're right! As of July 1 the State Department of Higher Education will no longer exist.

I am proposing the creation of a Council of College Presidents to replace the needlessly duplicative oversight now provided by the chancellor's office and the Board of Higher Education. Taxpayers will save millions of dollars by cutting this excessive bureaucracy. But more important, we will put responsibility and accountability for our colleges where it belongs—with the individual college presidents and their boards of trustees.

The 1986 state college autonomy law gave colleges responsibility for greater self-governance and for developing their own unique missions. They have succeeded admirably. Rutgers, NJIT and UMDNY are stronger than ever. Montclair is about to become the first state college to earn university status. Trenton State is no longer one of the best kept secrets in higher education. Our community colleges are thriving. Our commitment to higher education is stronger than ever.

In fact, tuition increases will be limited to 3½ percent this year—the lowest increase in at least 10 years—because we recognize that education is the cornerstone of our future. We must provide quality education from preschool to graduate school if New Jersey is to compete in the 21st Century.

The Department of Higher Education isn't the only Cabinet agency that should be eliminated. The Department of the Public Advocate also has outlived its usefulness. We must continue to meet fully this state's constitutional responsibility to provide legal counsel to the poor and to patients involuntarily committed to mental hospitals. We can do so by transferring the Office of the Public Defender and all mental health screening services to the Department of State.

Federally funded programs for the legal protection of persons with disabilities would be privatized and would continue stronger than ever. But the Division of Rate Counsel would be abolished because it duplicates the role of the Board of Regulatory Commissioners.

And we would no longer use your tax dollars to finance lawsuits by one government

agency against another government agency, which then has to use more tax dollars to defend itself in a court system also financed by you. We can find better ways to spend our money.

It is also time to get government out of businesses it should not be running and to give private companies and non-profits the opportunity to compete to provide services at lower cost.

Speaking of better ways to spend our money, public television cannot truly be independent as long as it is funded by government dollars. With this budget, we begin a two-year transition to making New Jersey Network financially and politically independent, like its sister stations in New York and Philadelphia. Government ownership of the media went out with Pravda. I am cutting state aid to New Jersey Network by $2 million to start the transition from tax dollars to private contributions. I will lend my personal support to New Jersey Network's fund-raising drive.

Privatization makes sense in other areas too. In addition to the two marinas, I plan to turn over six state day care centers to non-profit agencies. I plan to close seven of the state's 39 armories. The Russians are not coming—except, hopefully, as tourists.

Perhaps the most exciting privatization initiative is a plan to establish a community-based drug treatment facility adjacent to the Hudson County Jail 400 medium-security state prisoners. Two-thirds of the 25,000 inmates in our state prison system have drug or alcohol problems, yet the Department of Corrections has just 250 substance-abuse treatment. If we keep releasing prisoners with drug or alcohol problems, we know they'll go right back to crime.

This new medium-security facility, coupled with an expansion of available beds in halfway houses, will give us the opportunity to sent prisoners with drug and alcohol problems to treatment program before they came up for parole. The message will be clear: If you don't get clean and sober, they have no chance of parole. It's as simple as that.

This is just one example of how government needs to get smart about spending a few dollars more now to avoid spending a fistful of dollars later.

Corrections spending has quadrupled since 1980, yet we have been doing very little to prevent youngsters from entering the criminal justice system in the first place and even less to prevent inmates for going back to a life of crime after they are paroled.

My Attorney General and Human Services Commissioner are heading an Advisory Council on Juvenile Justice that will develop boot camps and other alternatives to put first-time offenders back on the right track. I also want to require inmates to get their high school equivalency diploma or improve their reading by three grade levels as a condition for their parole. You can't get a very good job with a seventh-grade reading level, which is the average in our prisons. Those who already have high school diplomas can tutor those who need help.

We need to be smart about funding health care, too. We will save money by moving our Medicaid population to managed care. But more importantly, we can give our poorest families the opportunity to take their children to doctors for regular checkups, instead of having to wait for their children to get sick enough to take them to hospital emergency rooms.

Similarly, advocates for the mentally ill and the developmentally disabled have been pushing for years to expand community-based services, rather than continuing to pour hundreds of millions of tax dollars into expensive, outmoded institutions. It is time to consider closing some institutions and putting more money into the community to establish a continuum of care.

Throughout this budget, I have tried to invest money now in programs that will pay dividends in the future—money that will multiply and create opportunities in the private and non-profit sectors.

That's why I increased advertising for tourism by $1 million, knowing that every dollar spent promoting our second-largest industry generates 70 new dollars for New Jersey businesses.

That's why I put an extra half-million dollars into promoting our agricultural industry.

That's why I am devoting $250,000 to empower the business ombudsman to cut through red tape and prove that New Jersey is a business-friendly state.

That's why I doubled the State Planning Commission's budget to $1.4 million. And that's why I refused to cut our billion-dollar capital spending program, including the $565 million we will spend on transportation programs. Oh, yes—and there's $30 million for counties and municipalities.

I am proud of the work we have done in putting together a smart, forward-looking budget in just two months. I want to particularly thank my treasurer, Brian Clymer, my cabinet and their staffs.

In many ways, this is a transition budget—one put together to close the structural deficit we inherited with the least possible pain.

We did limit the pain: School and municipal aid levels remain virtually unchanged. Homestead rebates are preserved. State worker layoffs caused by program cuts are projected at 600, and the final number could be less.

But just as important, we are starting the process of bringing sanity to government spending here in the State House—and hopefully in your county courthouses, your town halls and in your schools.

Yes, we will have to make tough choices about our spending priorities. But that's what a budget is.

You make those choices every month when you pay your mortgage or rent, buy food, and pay your utility bills first—Then you see if you have enough money left over to go on vacation or out to the movies. I'm talking about common sense—a sense all too uncommon in government. You don't spend more money than you are taking in, Government shouldn't either.

I'm going to keep asking you for your ideas on what you want your government to do. My cabinet members will be reaching out to all New Jerseyans to ask fundamental questions about the programs and services they provide.

Together—working with the Legislature—we can turn this expensive-to-run, slow-to-respond, antiquated main-frame of a government into a smaller, smarter, faster, more responsive and less costly modern machine.

That's how I want us to remake government. Together. In public. In open debate with everyone at the table. That's what democracy is. That's how government should work. We're going to prove it here in New Jersey.

Thank you for listening. Thank you for participating.

God bless you. And good night.

INTRODUCTION OF H.R. 4095

HON. TILLIE K. FOWLER

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 22, 1994

Mrs. FOWLER. Mr. Speaker, yesterday I introduced, H.R. 4095, a bill to repeal a particularly onerous and unnecessary administrative burden on our Nation's employers. This bill would repeal section 13581 of the Omnibus Budget Reconciliation Act of 1993, which established the Medicare and Medicaid Data Bank.

As Congress considers how to increase access to health care, the last thing we need to do is discourage employers from providing health insurance for their employees. Yet that is exactly what is happening as employers realize they must deal with a new and intrusive employer mandate which was a last minute addition to the Omnibus Budget Reconciliation Act of 1993.

Section 13581 of the OBRA established the Medicare and Medicaid Data Bank, and requires all employers who offer health insurance to provide extensive information on current and past employees and their dependents. The rationale for the requirement—that employers can get this information easier than the Government and at little cost—is profoundly flawed. Most employers do not keep the required information on hand. In many cases, the information will have to be compiled manually, costing a great deal of time and money to employers who are already drowning in a sea of Federal regulation. Failure to comply with the requirement will result in up to a $1,000 fine per violation.

No funding was provided for either the employers or the Health Care Financing Administration, which is responsible for implementing the data bank. The lack of funding for HCFA especially makes it extremely unlikely that the law can be successfully implemented.

The creation of the data bank was intended to prevent the mistaken payment to physicians and hospitals by Medicare and Medicaid when a third party is the primary payer. However, much of the information obtained through the employer requirements is already accessible to HCFA and is not currently being used for that purpose. Further, the employer requirements are so broad that employers must provide information on tens of millions of additional persons who are neither Medicare nor Medicaid enrollees. A preliminary GAO report indicates that only about 2 percent of employees and their dependents are Medicare and Medicaid beneficiaries subject to secondary payer rules.

The current law requires an enormous outlay of time, money, and effort for a miniscule return, and it is one more unfunded mandate on the back of American business. I urge my colleagues to join me in repealing this impractical and intrusive law, by signing on as a cosponsor of H.R. 4095.

H.R. 4095

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

SECTION 1. REPEAL OF MEDICARE AND MEDICAID COVERAGE DATA BANK.

(a) REPEAL.—

(1) IN GENERAL.—Effective January 1, 1994, section 13581 of the Omnibus Budget Reconciliation Act of 1993 is hereby repealed and any provision of the law amended by such section is restored and shall be applied and administered as if such a section had not been enacted into law.

(b) STUDY AND REPORT.—

(1) STUDY.—The Secretary of Health and Human Services (hereafter in this subsection referred to as the 'Secretary') shall conduct a study on how to achieve the objectives of the data bank described in section 1144 of the Social Security Act (as in effect on the day before the date of the enactment of this Act) in the most cost-effective manner, taking into account—

(A) the administrative burden of such data bank on private sector entities and governments.

(B) the possible duplicative reporting requirements of the Health Care Financing Administration in effect on such date of enactment, and

(C) the legal ability of such entities and governments to acquire the required information.

(2) REPORT.—The Secretary shall report to the Congress on the results of the study described in paragraph (1) by not later than 180 days after the enactment of this Act.