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SENATE—Tuesday, July 18, 1995

(Legislative day of Monday, July 10, 1995)

The Senate met at 9 a.m., on the expiration of the recess, and was called to order by the President pro tempore [Mr. THURMOND].

PRAYER

The Chaplain, Dr. Lloyd John Ogilvie, offered the following prayer:

Almighty God, whose mercies are new every morning and whose presence sustains us through the day, we seek to glorify You in all we do and say. You provide us strength for the day, guidance in our decisions, vision for the way, courage in adversity, help from above, unfailing empathy, and unlimited love. You never leave us or forsake us; nor do You ask of us more than You will provide the resources to accomplish. Here are our minds, think Your thoughts in them; here are our hearts, express Your love and encouragement through them; here are our voices, speak Your truth through them.

We dedicate this day to discern and do Your will. We trust in You, dear God, and ask You to continue to bless America through the leadership of the women and men of this Senate. Help them as they grapple with the problems and grasp Your potential for the crucial issues before them today. Amen.

RECOGNITION OF THE ACTING MAJORITY LEADER

The PRESIDENT pro tempore. The able acting majority leader is recognized.

SCHEDULE

Mr. SMITH. Mr. President, on behalf of the majority leader, for the benefit of my colleagues, I would like to announce the Senate schedule.

Leader time is reserved. There will be a period of morning business until 10 a.m. this morning. At 10 a.m. the Senate will resume consideration of S. 343, the regulatory reform bill, with the Glenn substitute amendment pending.

The Senate will then stand in recess from 12:30 to 2:15 p.m., to accommodate the respective party luncheons. At 2:15 p.m., under a previous order, there will be two consecutive rollcall votes. The first will be a 15-minute vote on the Glenn substitute amendment, followed by a vote on the motion to invoke cloture on the Dole-Johnston substitute amendment, which will be 10 minutes in length.

The votes ordered for 2:15 p.m. are not necessarily the first votes of the day. Rollcall votes are expected throughout the day and a late night session is possible in order to make progress on the regulatory reform bill.

Finally, Senators are reminded that under rule XXII, second-degree amendments to the Dole-Johnston substitute must be filed by 12:30 p.m. today in order to qualify postcloture. Also, in connection with the third cloture motion, filed yesterday on the Dole-Johnston substitute, any further first-degree amendments must be filed by 12:30 p.m. today.

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

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

The legislative clerk proceeded to call the roll.

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

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

MORNING BUSINESS

The PRESIDING OFFICER. Under the previous order, there will now be a period for the transaction of morning business.

The Senator from South Carolina.

THE CRISIS IN BOSNIA

Mr. THURMOND. Mr. President, last week the Bosnian town of Srebrenica, a so-called U.N. protected area, fell to Bosnian Serbs. In scenes reminiscent of the genocide of World War II, Serb troops rounded up Bosnian Moslems and forcibly expelled thousands of women, children, and the elderly from their homes. Military-age men were held captive, and there are reports that some have been murdered. Rapes and other atrocities are reported as well.

This week Zepa, another U.N. protected area in eastern Bosnia, is about to fall to the Serbs. The U.N. protected area of Gorazde is under attack. Serbs inside the U.N. exclusion zone around Sarajevo are shelling the city and killing innocent civilians in that U.N. protected area. In the northeast, the U.N. safe haven of Bihac remains cut off and threatened.

Throughout Bosnia today, we see the triumph of Serbian aggression, aided and abetted by confusion and inaction on the part of the United Nations and the Western democracies.

Mr. President, what is the response of the Western democracies to the atrocities and brutal aggression of the Serbs? The response is another U.N. Security Council resolution, calling on the Secretary General to restore the safe haven of Srebrenica. In Bosnia, the United Nations spokesmen issue more empty threats, hollow denunciations, and vain demands. It would be better to say nothing at all than to engage in such futile bluster, which only invites the contempt of the world.

One definition of stupidity is to do the same thing over and over again and expect a different result. This certainly characterizes the policy of the administration and our Western allies. Its failure is apparent for anyone to see, and yet we persist in following the same discredited course.

UNPROFOR has been emasculated and cannot protect its own forces, much less the U.N. protected areas, which are becoming traps for desperate Bosnians who relied upon U.N. promises. Humanitarian aid is being blocked. It is clear that the Bosnian Serbs are in control of the situation, and the United Nations is allowed to carry out its mission only when the Bosnian Serbs allow it. In short, UNPROFOR cannot carry out the U.N.

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

AUTHENTICATED U.S. GOVERNMENT INFORMATION GPO

Security Council mandates that justify its presence. Despite good intentions and valiant efforts, UNPROFOR has failed—failed on its own terms. Now humiliation and disgrace are compounding the failure.

What does it take, Mr. President? When will the U.N., the United States, and our allies accept the reality that the Bosnian crisis has deteriorated beyond our ability to salvage it?

Britain, France, and Holland have pinned their hopes on the new rapid reaction force. They are sending in 12,000 more troops to support UNPROFOR. Out of solidarity with our allies, the United States is providing sealift, airlift, and military equipment. But in my view, the rapid reaction force is not going to prevent the situation from deteriorating further, or stop the Serbs from overrunning of the safe havens. The rapid reaction force has been rendered ineffective before it ever got off the ground. As long as it remains under U.N. operational control it will not be rapid, nor reactive, nor even a force.

I do not understand why the administration persists in supporting the status quo no matter how discredited the current policy becomes. Administration officials have testified numerous times that the United States does not have sufficient national interests at stake in Bosnia to justify sending American ground troops and becoming a combatant in the conflict. I agree completely, and so do the American people. Administration officials have also testified that the best way to serve the national interests of the United States is to keep UNPROFOR in Bosnia so that it can work to limit the suffering of the innocent, and to keep the conflict from spreading while the contact group seeks a diplomatic solution.

I wholeheartedly support the goals of relieving the suffering and containing the conflict. What I can no longer support is the proposition that the status quo, which relies upon an ineffectual U.N. peacekeeping mission and more diplomatic efforts, is the best way to achieve these goals. I am forced to ask: How many more diplomatic discussions have to take place? Intense diplomacy has been going on for years without any resolution.

The Administration appears to believe that the responsibility for any resulting disaster will fall on the United States if UNPROFOR withdraws. I do not agree. The world community placed the fate of Bosnia in the hands of the United Nations, but the United Nations has been unable to keep a nonexistent peace. That is no more the fault of the United States than of any other U.N. member. In any case, the world cannot be blamed for trying a collective approach. But there is plenty of blame to go around if the United States and our allies persist in following a course that has clearly failed. Increasing the number of U.N. peacekeepers or keeping UNPROFOR in Bosnia will only prolong the agony, complicate matters further, and block the possibility of other solutions.

Mr. President, the situation in Bosnia is terribly complex, and there are no easy answers. Any course of action has potential pitfalls. But there is also a penalty for doing nothing, or for remaining mired in the status quo.

In my view, the administration has failed to properly evaluate the damage to U.S. leadership and credibility, and to the Western alliance, from supporting the status quo. The credibility of NATO as well as of the United Nations have been severely undermined. It is a serious mistake to continue subordinating NATO to the United Nations out of a misguided desire to restore the United Nations lost credibility. The longer the present situation continues, the greater the damage to the health and solidarity of the Western alliance. We cannot afford to let NATO to become a casualty of the Bosnian tragedy.

The fall of Srebrenica and the imminent fall of Zepa make it quite clear—UNPROFOR has become impotent and must withdraw. There is no excuse for leaving U.N. troops in such a dangerous and untenable position any longer. There is no excuse for continuing to incur the huge expense of the failed U.N. mission. We can no longer tolerate a policy based on denial and avoidance of reality.

I believe it is past time for the Congress to focus its attention on getting the U.N. out of Bosnia. If the administration is reluctant to support a U.N. withdrawal because it fears a negative political reaction, then now is the time for Congress to show leadership, and to make it clear that the United States will assist in extricating our allies from the Bosnian quagmire. But we must work together—the executive branch and Congress—and reach a consensus as soon as possible. Further delays in getting ready to execute the NATO withdrawal plan will push the plan's execution into the winter months, making it far more difficult and dangerous for United States and NATO troops to carry out.

Mr. President, Congress needs to send a clear signal now to the President that we will support the participation of U.S. troops in a U.N. withdrawal operation. Of course, as the President has agreed, it must be totally under NATO command. Once our troops are committed, there can no longer be any dual-key arrangement between the United Nations and NATO. There must also be robust rules of engagement, allowing the use of overwhelming force for any attacks on NATO or on UNPROFOR. The scope and duration of the withdrawal mission must be limited. I do not advocate a date certain for ending it, but it must end promptly when all UNPROFOR and NATO troops are safely out. It must not be transformed at some point into a peace enforcement mission.

Mr. President, the United States cannot stand idly by while U.N. troops from allied nations are in mortal danger. The damage to U.S. leadership, honor, prestige, and credibility would be beyond calculation. These are not mere words. Credibility, prestige, and national honor are essential components of national security, as they have always been. They are especially important if we are to exercise the moral leadership expected of the world's only superpower.

If Americans want to remain secure in today's violent and chaotic world, we must never permit doubts to exist in the minds of friends or enemies that our word is good, or that we can be relied upon to stand with our allies, or that we will keep our commitments. The credibility that comes from demonstrated steadfastness of purpose is a key aspect of deterrence. It is an essential though intangible element of global power, and of the necessary relations between states. A great nation cannot remain great very long without it.

That is why we must end the charade of the U.N. presence in Bosnia, stand with our allies by assisting them to disengage, and then turn our attention to longer term solutions that will stop the agony in that troubled land.

I thank the Chair, and yield the floor.

The PRESIDING OFFICER. Under the previous order, the Senator from Georgia, Senator NUNN, is recognized to speak for up to 30 minutes.

INEFFECTUAL U.N. PROTECTION FORCES IN BOSNIA

Mr. NUNN. Mr. President, I too want to discuss the subject which the Senator from South Carolina has just addressed.

Mr. President, I believe that the continued presence of the ineffectual U.N. Protection Forces in Bosnia is eroding the credibility of the United Nations, of NATO, and of the United States.

I agree with the points that Senator THURMOND just made. In particular, I agree that the executive branch and the Congress must work together and reach a consensus as soon as possible. This situation is bad enough without the President and the Congress being in a big fight here. So we need to find a way to work together.

The second point that I agree with that Senator THURMOND made is that now is the time for the Congress to show leadership and to make it clear that the United States will assist in extracting our allies from Bosnia. Congress cannot duck this question.

The third point that he made that I specifically agree with: The withdrawal operation must be totally under NATO

command. There can be no "dual-key" arrangement. There must be robust rules of engagement. And the scope and the duration of the mission must be limited.

And, finally, I think the key point he made related to what the United States' role must be in the withdrawal; that is, the honor and credibility of our Nation are essential components, not only to our national security, not only to Bosnia, but to deterrence throughout the world. That is essential. Honor and credibility are essential parts of national security, and of deterrence. I completely agree with the Senator from South Carolina on that excellent point.

Mr. President, I will leave to another day the discussion of mistakes leading to the current human tragedy in Bosnia. The Bosnian-Serbs have overrun the U.N.-declared safe area of Srebenica, and they can take Zepa at any time of their choosing.

The United Nations Security Council has passed another meaningless resolution calling upon Secretary General Boutros Ghali to restore Srebrenica to its safe area status. Of course, none of the Security Council members has told the beleaguered Secretary General how to perform that task.

The French have declared their readiness to fight for Gorazde if the British will join them and if the Americans will supply tactical airlift. The French are clearly paving the way for their withdrawal from Bosnia unless there is a determined U.N. stand with British and American assistance.

The British have raised serious reservations about the French proposals and the French approach, both publicly and privately.

General Shalikashvili has met with his counterparts from Britain and France for the purpose of preparing immediate options for the national leaders to consider, and I assume that consideration will be made in the next few days.

Secretary Perry and Secretary Christopher will be meeting with their counterparts later this week.

The Clinton administration is urging our allies to remain in Bosnia, refusing to commit United States forces on the ground, continuing to distance itself from any "unjust settlement" and pledging to help extract our allies from Bosnia if they withdraw.

This week the Senate will plunge into this morass by legislating on Bosnia. I believe that Congress has an important role to play in foreign policy matters. I always have felt that. At the same time, I do not believe Congress as a rule should attempt to legislate the details of United States foreign policy. But if we do choose to legislate on Bosnia:

We must not remove the President's flexibility to react to unpredictable situations in which American lives are at stake;

We should not force our allies and our other U.N. forces to withdraw—advocating withdrawal is one thing, forcing it by legislation is another thing entirely. We need to distinguish between speeches and legislation; and

We should not and must not avoid the hard questions which will inevitably flow from congressional actions. There are hard questions that have not yet fully been considered by either the House or the Senate in my view.

Mr. President, many of our colleagues want to—I use these terms in shorthand—"lift and leave." By that I mean lift the embargo and leave the Bosnians to fend for themselves. The House of Representatives passed this type of legislation. We in the Senate debated this type legislation and passed it on one occasion last year.

This school of thought seems to believe that a simple repeal of the American export prohibition will automatically equalize the conflict. It glosses over the questions of who will pay for the weapons; who will deliver them; how will they be delivered; and who will help train the Bosnian troops.

To be fair, there are those, including the majority leader, Senator DOLE, Senator LIEBERMAN, Senator BIDEN, and others, who have advocated unilaterally lifting the arms embargo but who would also support the supply of United States equipment and United States training to Bosnian Government forces. But many of those whose votes are needed to pass the Dole-Lieberman bill are unwilling to make such a commitment, and the Dole-Lieberman approach leaves these questions unanswered. This is a large gap.

Mr. President, another view in the Senate which heretofore has been a minority view—and this has been a view that I have had—is that the embargo should be lifted but only after U.N. forces have left Bosnia.

There are also those in the Senate who have a third view, who agree with the administration that the U.N. forces should remain in Bosnia. In my view, this is a distinctly minority view.

Mr. President, the overwhelming majority of the Senate in my view support either the lift-and-leave approach or the leave-then-lift alternative approach. The Dole-Lieberman proposed legislation now seems to have moved substantially toward the leave-then-lift approach. That is important. They are moving in their resolution toward the position of leave first, then lift the embargo. That is a key distinction, and that is a distinction that has separated those of us on the two sides of this issue in the Senate for the last 12 months.

Mr. President, this is a very significant change in the Dole-Lieberman proposal that has been overlooked by most people in the press corps, many critics of the bill, and even many supporters of the bill.

The latest version of the Dole-Lieberman bill is a major improvement in my view in that it takes into account and into consideration some concerns of our NATO allies who have forces on the ground in Bosnia by delaying the implementation of the termination of the Bosnian embargo until the U.N. forces withdraw. That is a key difference from the approach that was taken in past resolutions. Additionally—and I think very importantly—the new Dole-Lieberman proposal puts the onus or responsibility on the Government of Bosnia and the troop contributing countries to decide if the U.N. forces should stay in Bosnia.

It does this by terminating the embargo based on either of two conditions:

Condition 1: a Bosnian Government request that the U.N. forces withdraw from Bosnia; or

Condition 2: a decision by the U.N. Security Council or the UNPROFOR troop-contributing countries to withdraw the U.N. forces.

As I understand the Dole-Lieberman proposal, if condition 1 is met, implementation of the termination of the embargo would be delayed until 12 weeks after the Bosnian Government requests that the United Nations be withdrawn. If, on the other hand, condition 2 is met—that is, the troops of the contributing countries decide to leave without a request from the Bosnian Government—termination of the embargo would be delayed until such time as the U.N. forces have been withdrawn from Bosnia.

This is in my view a much different proposal than what we have debated in the past. It is much different from what has passed the House of Representatives. It is a much more responsible approach than the original proposal which lifted the embargo unilaterally without regard for the continued U.N. troop presence in Bosnia.

Mr. President, I say all of that on the positive side of the Dole-Lieberman amendment. The key missing ingredient, however, of the new Dole-Lieberman amendment is any mention of what should be obvious to all and what must be obvious during the debate on this proposal to those of us in the Senate, and I hope to the country; namely, that the President of the United States has publicly pledged to deploy up to 25,000 United States troops on the ground, if necessary, in Bosnia to help extract the U.N. forces.

Mr. President, Congress cannot responsibly legislate on Bosnia and ignore this fact. If Congress wants to prevent United States ground forces from assisting our allies in withdrawing from Bosnia, we should make that clear. If Congress wants the allies and the United Nations to withdraw from Bosnia and is willing to support President Clinton's commitment, Congress should make that clear. Congress cannot responsibly advocate a course of

action and pretend to ignore the inevitable and certain consequences of that action.

If the United Nations withdraws from Bosnia, United States participation to assist our allies to withdraw from Bosnia would be required and has been publicly committed by the President of the United States. The Dole-Lieberman bill, at this time, is silent on this crucial point. If this legislation is passed as written, in my view, it will send a loud signal by its silence. It will send a loud signal that Congress is prepared to advocate a course of action but is not prepared to back it up.

Over the last 3 years, we have witnessed a lowest common denominator approach in the United Nations, in NATO, among our allies, and in United States policymaking regarding Bosnia. Every policy decision on Bosnia seems to be reduced to what Winston Churchill, if he were with us today, would certainly describe as "mush, gush, and slush." We see this in the so-called mandates of the U.N. Security Council. We see this in the U.N.-NATO dual key command structure. We see this in the statements of the members of the U.N. Security Council who have voted for every Security Council resolution for the last 4 years but who act as though the United Nations is some outer space alien of which they never heard.

Mr. President, we see this in the position of many in this administration, in this Congress, and in the news media who for the last 2 years have decried any "unjust solution" but who have been unwilling to commit American resources for a just solution, and unwilling to admit that there never will be a just solution in Bosnia unless the United Nations and NATO are willing to impose it by force.

Mr. President, that is reality. There will never be a just solution in Bosnia unless the United Nations and NATO are willing to impose it by force.

I hope, as the Senate debates the Dole-Lieberman bill this week, that we will not continue and even add to the lowest-common-denominator approach that has been so evident in all the Bosnia decisions by international and by other bodies.

There is no good solution to the Bosnian tragedy. There is no easy solution. There is no solution that anyone can guarantee is going to work. Some approaches, in my view, are worse than others, but all have unwelcome consequences. The American people are entitled to understand the possible consequences as we debate this issue.

What would be the consequences if the U.N. forces withdraw? NATO has been putting together a plan to withdraw the U.N. forces. This plan calls for deployment of up to 82,000 troops, some 25,000 of whom would be American military personnel based on the commitment of the President of the United States pursuant to his pledge to our NATO allies. This is a sizable force but, in my view, it is a necessary force, given the topography of Bosnia and the history of that conflict and the history of that region.

This large force may be deemed by some to be a worst-case force, but it makes a worst case much less likely to occur. Our military leaders have been candid in telling us, both in testimony and in private discussions, that this withdrawal operation could be very dangerous. I think they are right. There is also a possibility, however, that the withdrawal could be relatively unimpeded by both sides. It could proceed rapidly; it could proceed effectively. No one knows or pretends to know how dangerous this will be, but prudence and careful planning are absolutely essential.

Mr. President, we should note that the NATO plan makes no provision for the withdrawal of refugees. Everyone should understand that. There is no provision in that NATO plan for withdrawal of refugees. Our military commanders, in fact, concede that one of the most difficult aspects of a withdrawal operation will be dealing with Bosnian civilians. They may attempt to keep the U.N. forces and the NATO forces from leaving Bosnia out of fear that they will be prey to the attacking Serbs once the restraining presence of UNPROFOR is removed. They may do this regardless of what their Government may say publicly or privately.

We also must consider what will happen to the civilian population once the extensive humanitarian relief effort is no longer functioning there. A humanitarian tragedy is likely, and we should understand that as we debate this serious issue.

Both the Government of Bosnia and the Bosnian Serb leaders have publicly stated that they would assist the U.N. forces in withdrawing if the United Nations makes a decision to withdraw. But NATO military commanders, understandably, express concern about the following possibilities:

First, the sincerity and durability of these statements by leaders whose word in the past has been questioned; second, whether the warring parties will try to gain control of the tons of U.N. military equipment and supplies presently located in Bosnia; third, whether the Bosnian Serbs will be cooperative as they realize that the completion of the U.N. withdrawal will likely result in the lifting of the arms embargo on the Government of Bosnia; and fourth, the narrow and winding roads that make up much of Bosnia's transportation system. It will take little effort by a determined foe to destroy the numerous bridges and tunnels that are often the only ingress and egress to the numerous Bosnian towns and to Bosnia itself where the U.N. personnel are located. The Bosnian Serbs control much of the high ground around these roads and these towns.

From those who continue to advocate immediate and unilateral lift of the embargo, an intellectually honest approach requires facing up to the arming and training of the Bosnian Government forces. This course will likely require air support, assuming the Bosnian Serbs move in for the kill before the arming of the Bosnian forces is complete, which will, at best, take several weeks or months. It also requires recognition that our allies will pull out of Bosnia and hold the United States responsible for the Bosnian tragedy which may unfold if we unilaterally lift the embargo before the U.N. forces are out.

From those who advocate either immediate and unilateral lift of the embargo or, on the other hand, U.N. withdrawal followed by a lift of the arms embargo, in either event, under either course of action, intellectual honesty requires a congressional authorization or at least a congressional acknowledgment that U.S. forces will be used to help evacuate our NATO allies and the other U.N. forces.

Mr. President, from those who advocate keeping the U.N. forces in Bosnia, intellectual honesty requires the acknowledgment that these forces must be beefed up, probably with considerable United States help; that clear authority for military decisions must be delegated by the United Nations to NATO and the dual-key approach must be ended; and that exposed U.N. personnel all over Bosnia must be brought to more defensible positions so they are not simply hostages for one side. Each of these actions moves further and further away from the humanitarian mission, and each of these actions moves closer toward direct involvement in the conflict, and all should recognize that is what staying the course means.

If the embargo is lifted multilaterally after UNPROFOR departs, allied air support will be demanded by the Government of Bosnia. We already know that, those of us who have listened to them when they have been here or heard their public statements. They are going to demand that we owe them air support. That is going to be their demand.

If the embargo is lifted unilaterally before or after the date the U.N. forces depart, Congress and the American people must recognize that this burden will fall primarily on the United States because our allies, if we lift the embargo unilaterally, are not going to be anxious to participate. In either case, there is no assurance that the Bosnian Government will be able to defend their territory, even with air support.

Mr. President, as I have stated, there are no good solutions in Bosnia. I have my own views as to the approach the United Nations and the United States and our allies should follow in Bosnia.

First, there should be a final intense diplomatic effort to negotiate an end of

the conflict in Bosnia. I am under no illusion that a diplomatic effort will be successful. It is not likely to be successful, but at least it should be tried, because all the other alternatives have tremendous downside consequences.

Second, the United Nations should serve notice on all parties that if a negotiated settlement is not reached within a specified period of time, the U.N. forces will be withdrawn from Bosnia. Both the Bush and Clinton administrations have urged our allies to commit their forces and to remain on the ground in Bosnia. When these forces are withdrawn, I believe the United States has a moral obligation to assist in their withdrawal. In our effort to save Bosnia, we must not destroy NATO.

Third, once the U.N. forces have been withdrawn, the Bosnian arms embargo should be lifted multilaterally, if possible, unilaterally if that is the only course. The United States and our allies should assist in arming and training the Bosnian Government forces, and that is going to cost some money and it is going to take some time. We all need to understand that.

Fourth, the allies and the contact group must devise a "containment policy" and make it clear to the government in Belgrade that it will be held fully responsible if this conflict spreads across other borders.

Mr. President, to sum up, legislating on Bosnia is fraught with danger. But if we are to legislate—and it appears that we are—we must understand the full consequences of our legislation. We must be willing to go on record as supporting or disapproving the commitment that President Clinton has made to our allies to help them withdraw from Bosnia. To do otherwise would be adding more "mush, gush, and slush."

I thank the Chair.

Mr. THURMOND. Will the Senator allow me about a minute and a half?

The PRESIDING OFFICER. The Senator from Georgia has 7½ minutes remaining.

Mr. NUNN. I yield 1½ minutes to the Senator from South Carolina.

The PRESIDING OFFICER. The Senator from South Carolina is recognized.

Mr. THURMOND. I thank the able Senator from Georgia, the ranking member of the Armed Services Committee, for his appropriate and pertinent remarks on the situation in Bosnia. I strongly support the Dole-Lieberman bill and am pleased to be an original cosponsor of it.

As the Senate begins consideration of S. 21, the Dole-Lieberman bill, this week, I ask that Members consider and discuss the very important issue of U.S. support for a United Nations withdrawal. This support, with the aid of NATO, requires a very close and careful consideration and discussion by the Members of the Senate.

I yield the floor.

Mr. NUNN. Mr. President, I am not trying to control time here, but I have a little time left, and I will be glad to yield to the Senator from Nebraska 3 minutes.

Mr. EXON. Mr. President, I wish to associate myself completely with the remarks made by my learned and distinguished colleague from Georgia. I will oppose the Dole-Lieberman proposition, as I understand it, basically for the reasons brought forth in the carefully worded and well-thought-out statement made by the Senator from Georgia.

We have to look to the future. As bad as the situation is over there now—and I think no one feels that they have all of the right answers—we have to look to the future. I am afraid, Mr. President, that despite the good intentions of the Dole-Lieberman amendment, it clearly sows the seeds, which are ripe for harvest, for the beginning of the end of NATO.

The situation in Bosnia today is very bad, and the pictures that are coming through very loud and clear on television are horrifying, portraying the atrocities that are being taken in that most unfortunate war in Europe. However, I happen to feel that we should always try and walk in others' shoes. I simply say that if we take action today, or this week, we might regret it in the future, because it sows the seeds for the end of NATO, which has been a force for peace since World War II. And then we might look back on that action and say we probably acted in haste, we probably acted in compassion, but we probably acted in a way that would not be in the long-term best interest of peace in Europe and probably would go a long way to disrupting the NATO alliance and our friends and allies in Europe that have been a part of that.

This is a grave situation. I wish that our allies would agree to remove the peacekeeping forces because, seemingly, that is what both sides of the combatants there want. I happen to feel that the U.N. mission is doomed to failure under the circumstances that are present.

Nevertheless, unless and until our allies in NATO can be convinced of that, I say let us proceed with caution. I have grave concerns about the way we are going. I do not know the answers. I simply say that caution is a better part of valor at this particular juncture. I thank my friend from Georgia, and I yield the floor.

Mr. NUNN. I will yield whatever I have left to the Senator from Texas.

The PRESIDING OFFICER. The Senator has 3 minutes remaining.

Mr. NUNN. I will yield that to the Senator from Texas, and whatever she does not use, I will yield back.

Mrs. HUTCHISON. I ask unanimous consent to add 2 minutes onto the 3 minutes I have been yielded.

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

Mrs. HUTCHISON. Mr. President, I appreciate the fact that several of my colleagues on the Armed Services Committee are talking today about the situation in Bosnia. It is clear that we cannot sit by and do nothing. We have talked about this issue for months.

Six weeks ago, I stood right on the border of Macedonia looking into Serbia. I was visiting our U.S. troops who were there on an outpost under the auspices of the United Nations. I saw the terrain; I talked to our troops, both in Croatia and Macedonia; I talked to the people who are running the operation there; I talked to the head of the U.N. delegation there, Mr. Akashi.

I think I have a feel for the situation that is there. Mr. President, I think we must learn from our experiences. The United Nations has a very valid role to play when there is a peace to keep. But, Mr. President, we have the best of intentions in the United Nations, but we have the worst of results. In fact, the United Nations is becoming an obstacle to solving this situation—not that they mean to be. They are trying. We give them the fact that they are trying.

But, Mr. President, they cannot function. And because they are there, we have the effect of one side being unarmed, basically, and the other side being aggressive with arms. We had the Prime Minister of Bosnia here, and he said,

> I keep hearing people say there are two sides here. Yes, one side is shooting, the other side is dying.

Mr. President, he is right. We cannot sit by and let it happen by saying that we have U.N. peacekeepers sitting there on the ground and, therefore, one side should remain unarmed. They are being ravaged, Mr. President, and we must do something about it. We cannot continue to talk on the floor of the U.S. Senate while they are being ravaged across the ocean.

So, Mr. President, I hope that our leader, Senator DOLE, will bring up his resolution at the earliest possible moment to tell the President how strongly we feel that we should not get involved with this mission beyond what the President has said he will do to help extricate the U.N. peacekeepers under the auspices of NATO.

Mr. President, we have to define that mission very carefully. That mission must be extraction. I do not like all the talk of, well, extraction also means containment of troops, it also means emergencies anywhere that they might occur in Bosnia. And now we are talking about sending helicopters there—American helicopters. Will they have American troops running the helicopters, flying those helicopters?

Mr. President, there are a lot of questions, and I do not think we can afford to just say all of those things are acceptable for our American troops. I do

not want American troops flying helicopters into Bosnia. I do not want American troops to be put forth for any emergency in Bosnia. That is ground combat. We are talking about potential ground combat.

Mr. President, I am representing American troops and I am going to do everything I can to make sure that they are as safe as they can be, and that they are not involved in a mission which does not have the United States' security interest.

Mr. President, that is the question here. We have gotten ourselves involved in Somalia through mission creep. We just let it evolve, and we lost Rangers—our own U.S. Army Rangers. Mr. President, we are looking at a potential for mission creep here if we are not very careful.

So I am going to appeal to the President of the United States to watch for mission creep. Helicopters with American troops is mission creep. Contraction of our forces, our U.S. peacekeepers, is mission creep. Emergencies anywhere in Bosnia is mission creep.

Mr. President, I hope that Senator DOLE brings his resolution to the floor so that the President of the United States can hear: The time has come to lift the arms embargo and let these people have a fair fight.

The PRESIDING OFFICER (Mr. CAMPBELL). Under the previous order, the Senator from South Dakota, [Mr. PRESSLER], is recognized to speak for up to 10 minutes.

AIRLINE SAFETY STANDARDS

Mr. PRESSLER. Mr. President, yesterday morning at 6 a.m. I had the pleasure of riding on the first flight between Rapid City and Sioux Falls that provides new air service in our State.

As a member of the Commerce, Science, and Transportation Committee, I have long been a champion of air service in our smaller cities, the safety of smaller aircraft, and the provision of air services to citizens living in nonhub airport areas.

I have also been very concerned about air fares for travel to and from our Nation's smaller cities. For example, can someone living in Humboldt, SD, get a supersaver ticket if they have to fly first into a hub airport? So often the best deal, so to speak, on airline tickets, go to those people who live in bigger cities with hub airports such as New York, Minneapolis, Denver, Los Angeles, et cetera. Frequently, we find that flying into that hub airport from the smaller city is the expensive part of the trip. Citizens living in nonhub cities should not be overlooked.

Mr. President, our air transportation system is based on the hub and spoke system. Even in New York, a State with substantial air service, citizens living in upstate New York must fly on a small carrier into a hub to be connected to their next destination. The same is true in Fresno, CA, where my sister lives. This also is the case in my home State of South Dakota.

The question is, Do the smaller planes ensure the same level of travel safety? On the Commerce, Science, and Transportation Committee, I have been a champion of small aircraft safety. We will continue working to promote safe air travel on all sizes of aircraft.

I certainly do not advocate Government regulation, but I am constantly jawboning the big airlines where there is a coded relationship with the smaller airline to treat the smaller airlines fairly. After all, the smaller carriers are the lifeline of many smaller communities and provide the larger carriers with many of their passengers.

Yesterday, as I mentioned, I took part in the inaugural flight providing air service between South Dakota's two larger cities, Rapid City and Sioux Falls. I am glad to say that Great Lakes Aviation, which code-shares with United Airlines, initiated that service. It will help our State a great deal.

I shall continue to be a champion of airlines in smaller cities, working to ensure we have good air service into the hubs so that citizens living in smaller communities remain linked to the Nation's air transportation system. From air safety to reasonable air fares to air service availability, our nonhub cities deserve equal attention from the airline industry.

Mr. President, I would also like to briefly discuss the important issue of international aviation. I, along with a number of my colleagues, am working on a resolution intended to aid our air carriers serving Japan.

Currently, Japan is violating the United States-Japan bilateral aviation agreement by denying our passenger and cargo carriers the right to serve cities throughout the Pacific rim from Japan. Cargo and passenger traffic beyond Japan into Malaysia and China and so forth is very lucrative. The Japanese are attempting to prevent our carriers from serving this traffic since they want to protect these markets for their own carriers which are very inefficient.

Federal Express has a new Pacific rim cargo hub they are ready to open at Subic Bay in the Philippines. They cannot open it. The Japanese will not permit Federal Express to serve routes from Japan which are necessary to make this hub operational. The Japanese are violating the bilateral aviation treaty and this is costing the shareholders of Federal Express tens of millions of dollar. Each day that passes causes these substantial damages to increase.

We must not tolerate this flagrant violation of an international agreement. The world is watching and we should not set a dangerous precedent for international aviation relations.

Our air carriers also have a problem obtaining sufficient access to both Heathrow and Gatwick airports in the United Kingdom. Access to Heathrow is of particular concern since Heathrow is the most important international gateway airport serving points throughout the world. We must continue to work to open these markets for our carriers.

The only reason that the Japanese or the British have more traffic on particular routes where they "compete" with United States carriers is due to restrictions which distort the market and protect foreign carriers from true head-to-head competition with our more efficient carriers. For example, they use restrictive bilateral agreements, impose so-called "doing business" problems on our carriers such as putting them in terminals that are intolerable to passengers, and, in the case of the Japanese, they outright refuse to respect the clear terms of our aviation agreement.

I have been working on international aviation issues because international opportunities are critical to the long-term profitability of our carriers. Also, consumers benefit greatly by increased competition in international markets.

There is an important relationship between the issues of service to small communities and international aviation policy. I tie the two issues together because increased international opportunities will strengthen the economic health of our airline industry. In turn, this financial strength should translate into better service to all domestic markets, particularly smaller nonhub markets.

By working to strengthen our carriers abroad, it is my hope I am improving service for consumers in underserved markets. Therefore, I am urging our major airlines to give fair treatment here at home to people who live in smaller cities and rural areas. The administration, the Congress, and the airline industry should all work together to accomplish these domestic and international aviation goals.

For example, I just came from the Senate Finance Committee, on which I serve, where we were considering fuel taxes on various modes of transportation. One issue that was discussed which is of particular concern to me is the aviation fuel tax that is scheduled to go into effect later this year.

I am concerned the jet fuel tax will make the problem of air service in small communities much worse. I am also concerned this tax will adversely affect the competitiveness of our carriers in international markets.

Mr. President, we must never lose sight of the many difficult challenges facing our air carriers. Importantly, we must never forget that it is consumers and communities who have the largest stake of all.

TRIBUTE TO JIM HARDER

Mr. PRESSLER. Mr. President, today I pay tribute to a dedicated, brave South Dakotan who has made us all proud. Maj. Jim Harder, a native of South Dakota, is an Air Force pilot and a member of the Air Force Thunderbirds—a select group of accomplished aviators who entertain audiences with their aerial performances.

Jim is yet another living symbol of the hard working South Dakotan. He graduated from Huron High School and South Dakota State University. After college, Jim decided to use his talents in the service of his country by joining the Air Force. He first sought to become a navigator on an EC–135, but he so excelled in his duties that he was assigned to flying an F–16C, the most advanced fighter/bomber in the Air Force. As a member of the elite Thunderbirds, Jim performs a variety of roles: pilot, operations officer, show evaluator, and safety observer.

For years, I as well as other Americans have enjoyed and marveled at the Thunderbirds. These exceptional aviators do more than just entertain a crowd. They serve to demonstrate individual talents, and collective skills that are second to none. It is no wonder that our Air Force pilots are considered the world's best. I am delighted that Jim is a part of this legacy of excellence.

Every summer, Ellsworth Air Force Base holds an annual air show which attracts thousands of spectators. Many South Dakotans come to enjoy an assortment of exhibits and historical information.

In addition, the base displays a fantastic array of aircraft on the ground and in the air. At this year's show held on July 9, the Thunderbirds were the featured attraction. So it was a homecoming for Jim Harder, a homecoming that he was able to share with his father, Elwood. I am sure no South Dakotan was more proud of Jim Harder and his fellow Thunderbirds than Elwood Harder.

Mr. President, I take great pride in sharing with my colleagues, the visitors in the gallery, and C–SPAN viewers at home the extraordinary achievements of my fellow South Dakotans.

Jim Harder is yet another standout South Dakotan who has excelled in his field. His versatile role in the Air Force Thunderbirds is a job that requires dedication and diligent persistence. Most important, Jim's skills and expertise elevates the level of performance of his fellow fliers.

Teamwork and individual dedication are why the Thunderbirds are respected throughout the world. And individuals like Jim Harder—a man who chose to devote his talents to the service of his country—are the reasons why our Nation's defense remains strong.. Again, on behalf of all South Dakotans, I commend Jim Harder for his extraordinary accomplishments. I wish him continued success with the Air Force Thunderbirds.

IN HONOR OF RUSS HANSEN

Mr. PRESSLER. Mr. President, we all know that life on a farm is not always easy. Few people know that farming is one of this country's most hazardous industries. Unforeseen accidents often occur, and try as we might to avoid them, they seem to strike when we least expect it.

In 1993, one tragic incident took place on a farm in my home State. Russ Hansen, a 39-year-old farmer from Spink County, was killed in a farming accident, leaving behind his wife, Mary, and three children, Joshua, Jeff, and Jill.

Words cannot fully console the mind when tragedies such as these happen. We try to pay homage to those who have passed away, but nothing will ever replace loved ones we have lost. Tributes remind us of the person we once knew so well—and in their own special way help ease the pain.

It was made known recently that the Hansen family will have a living memorial in honor of their father and husband. Russ was a true steward of the land—a farmer who through his knowledge of the earth sought to make the most of it and for it. Before he died, Russ donated some of his farmland to South Dakota State University [SDSU]. The school used the land to test varieties of wheat. Because of Russ' love of the land and devotion to the SDSU research, the school announced this spring that the tests on his land have yielded a new hard red spring wheat. It is a wheat that is proving to be resistant to disease, pests, and shattering. And in a fitting tribute, the wheat will be called "Russ." It is expected to be on the general market by 1997.

Mr. President, no single person in this country has consistently been the source of more innovation than the American farmer. The ritual of farming is not just planting, growing, and harvesting. It is a quest to innovate and challenge the land to produce something it has never produced before. Russ Hansen was that kind of American farmer. I am sure Mary, Joshua, Jeff, and Jill Hansen are proud that Russ' legacy will live on in the hearty new brand of wheat that will bear his name. I am proud of Russ' lifetime of devotion to the land, and the innovators at South Dakota State University who worked with Russ to achieve this new high-quality wheat. It is a great achievement for SDSU and an ever-lasting tribute to Russ Hansen.

I ask unanimous consent to have a related article printed in the RECORD.

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

NEW WHEAT NAMED AFTER FARMER

(By Jennifer DeAnn Olson)

FRANKFORT.—Memorials come in unexpected ways.

Mary Hansen received a phone call this spring saying that scientists at South Dakota State University in Brookings had developed a new variety of hard red spring wheat. They had named the variety Russ after Hansen's husband, a 39-year-old Spink County farmer and feedlot operator who died in a 1993 farm accident.

"Finding out about it, we were totally surprised," Hansen said from her Frankfort farm. "We were very proud and pleased."

Russ Hansen had worked closely with the people from SDSU during his years of farming, donating land to be used as test plots.

"You had to know Russ. He could talk to anybody," Hansen said, "I think it was more than a working relationship (with SDSU), it was a friendship."

This friendship was obviously worth remembering. It yielded a high-yield wheat, resistant to disease, pests and shattering, once known as SD8073, now named Russ. The variety, now being tested by certified seed growers, should be ready for the general market by 1997.

Mary Hansen still lives on the farm. She has sold the cattle and rented out her property. And the wheat variety has been especially important to the Hansen's three children—Joshua, 13; Jeff, 12; and Jill, 9.

"It really says a lot about Russ," Hansen said.

"Russ has been gone almost two years now, but he'll always be around," she added.

THE 1995 SIOUX FALLS CANARIES

Mr. PRESSLER. Mr. President, when I was growing up in Humboldt, SD, professional baseball flourished throughout my State. I remember many games from the now-defunct Basin League. Those contests of skill and team play stirred within me a love and appreciation for America's favorite pastime.

During the recent Fourth of July holiday, I was given the honor of throwing out the first pitch for the Sioux Falls Canaries in its game against the Timber Bay Whiskey Jacks. Despite many wonderful plays and an enthusiastic crowd, the Canaries lost. Nevertheless, the evening was entertaining and exciting. It was baseball the way it should be played. The players demonstrated superb individual skills, team dedication, and enjoyment of the game itself.

Mr. President, South Dakota professional baseball has a long and colorful history as old as the State itself. It was in Sioux Falls in 1889, the year South Dakota was granted statehood, when a pro baseball team wearing bright yellow uniforms was formed in the city. The team was named the "Yellow Kids," after a comic strip that appeared in the Sioux Falls Press. Upon viewing the team, Guy LaFollette, a local sportswriter for the Press, suggested the nickname "Canaries." LaFollette continued to refer to the team as the Canaries in his sports articles. The label stuck. Eventually, the Canaries became the official name of the team.

Despite having a reputation of hiring away the best players from the other teams, the original Sioux Falls Canaries lasted until 1903, when their class D league, the Iowa and South Dakota League, folded.

Sioux Falls would be without a pro team until 1920 when the Sioux Falls Soos [Sues] began play in the South Dakota League. The team's manager, Fred Carisch, was a veteran of the 1902 Canaries team. In 1924, the Sioux Falls team changed its name back to the Canaries because the Sioux City Cardinals joined the Canaries as part of a new, expanded, Tri-State League. Apparently, the thought was the two birds—the Canaries and the Cardinals—sounded better when they played. Unfortunately, the league and the teams were disbanded after only one season.

Professional baseball returned again to Sioux Falls in 1930, when Rex Stucker organized a new version of the Canaries, which played in an independent circuit for three seasons. The team joined the Nebraska State League in 1933, which was renamed the "Western League" in 1938, when teams from Colorado, Wyoming, Minnesota, and Iowa joined.

In 1942, Rex Stucker upgraded the Sioux Falls Canaries from the Class C Western League to the Class D Northern League. However, World War II stopped league play after the 1942 season, and it would not resume until 1946. At that point, the Canaries was an independent team not affiliated with a major league baseball franchise. That would change in 1947, when Stucker sold the Canaries to Mory Levinger, owner of the Happy Hour bar in Sioux Falls. Soon afterward, Levinger struck an agreement with the Chicago Cubs to make the Canaries one of its farm teams. However, in 1953, Levinger sold the team to Winnipeg and Sioux Falls again was without professional baseball.

In 1966, Sioux Falls became the home of a new team, which moved from the semiprofessional Basin League to the Northern League. This team was known as the Packers, however, not the Canaries, and was owned by a group of Sioux Falls businessmen. This team was a farm club for the Cincinnati Reds. In fact, several Packers would become standouts in the big leagues, most notably Ken Griffey, Sr. The Packers stayed in the Northern League until the league folded after the 1971 season. Sioux Falls would be without a pro baseball team for more than 20 years.

In the early 1990's, Miles Wolff spent 2 years traveling the Upper Midwest meeting with interested baseball people and examining existing facilities. By this time, the Upper Midwest had been the only area of the Nation without minor league baseball. Mr. Wolff rightly saw it as an area ripe for minor league baseball expansion.

In June 1993, the fourth version of the Northern League began with six organizations, including one in Sioux Falls. The organization was honored to bring back the name of the first Sioux Falls pro team, the Canaries.

Mr. President, I am proud the Sioux Falls community has given such great support to the Canaries. In the inaugural 1993 season, the Canaries drew 86,187 in attendance. Last year, attendance grew to just shy of 100,000. This season promises to be no less of a banner year for Sioux Falls Canaries' fan support. Currently, each home game is averaging 2,704 fans in attendance. This high level of fan support is prevalent throughout the entire Northern League. All six of the Northern League teams are ranked nationally in the top 11 for average attendance per game for independent baseball leagues.

As with any quality sports team, the key to success begins with an effective management team and great support staff. In my opinion, the Canaries has one of the best organizations of any independent league team. I salute team president Harry Stavernos and vice presidents Mark Wilson, Buzz Hardy, and Rick Tracy for their leadership in guiding the Canaries to success. Field leadership of the team is in the capable hands of manager Dick Dietz, hitting instructor Frank Verdi, coach Hiro Shirahata and player-coach Mike Burton.

The Sioux Falls Canaries' commitment to winning is not only exemplified by its management but also by the hard work and dedication of the players. The Canaries have amassed a won-loss record of 98–88 over its three seasons. The team holds the Northern League record for most consecutive wins, nine in a row. The high quality of the players is evidenced by the 11 former Canaries now playing for major league affiliates.

Mr. President, I ask unanimous consent to have printed in the RECORD the team roster of the 1995 Sioux Falls Canaries at the conclusion of my remarks. Presently, the Canaries are only three games out of first. I have every reason to expect the team will finish on top by the end of the season.

Mr. President, Sioux Falls baseball has had a great tradition of exceptional all-around play. I want to congratulate the Sioux Falls Canaries organization on more than living up to this high standard on the field and giving the Sioux Falls community something to cheer about. I wish the team the very best of success in the future.

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

1995 SIOUX FALLS CANARIES

No.	Name	Position	Hometown
50	Dick Dietz	Manager	Pawley's Island, SC
38	Hiro Shirahata	Coach	Tokyo, Japan
26	Frank Verdi	Pitching coach	Port Richey, FL

1995 SIOUX FALLS CANARIES—Continued

No.	Name	Position	Hometown
24	Mike Burton	First base	Port Charlotte, FL
36	Aaron Cannaday	Catcher	Monroeville, NJ
14	Benny Castillo	Centerfield	Cooper City, FL
8	Beau Champoux	Shortshop	San Diego, CA
21	Tony Coscia	Pitcher	San Jose, CA
25	Rob Croxall	Pitcher	El Segundo, CA
34	Adell Davenport	Leftfield	Greenville, MS
6	Matt Davis	Second base	Chico, CA
29	Nic Frank	Outfield	Camarillo, CA
40	Kevin Garner	First Base/DH	Austin, TX
28	Joel Gilmore	Pitcher	Conroe, TX
22	Rod Huffman	Pitcher	Tyler, TX
33	Eduardo Lantigua	Rightfield	Moca, DR
18	Glenn Meyers	Pitcher	Wilder, KY
31	Jason Mickel	Pitcher	Portland, OR
27	Bobby Post	Pitcher	Reno, NV
23	Jon Saylor	Pitcher	Dallas, TX
9	Mike Tarter	Catcher	Marietta, GA
7	Frank Valdez	Third base	Miami, FL
20	Max Valencia	Pitcher	San Francisco, CA
19	Andy Wise	Pitcher	Fountain Valley, CA

NAVY SECRETARY JOHN H. DALTON'S SPEECH AT CHANGE OF COMMAND OF COMMANDANT OF THE MARINE CORPS

Mr. HEFLIN. Mr. President, I attended the change of command of the Commandant of the U.S. Marine Corps where Gen. Charles Krulak relieved Gen. Carl Mundy and became the 31st Commandant of the Marine Corps.

The Honorable John H. Dalton, Secretary of the Navy, made a truly outstanding speech. Therefore, I would like to share the contents of this speech with my colleagues, so I ask unanimous consent that a copy of his speech entitled, "The Marine Corps' Change of Command" be printed in the CONGRESSIONAL RECORD following my remarks.

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

THE MARINE CORPS' CHANGE OF COMMAND

(By Hon. John Dalton)

Secretary White, distinguished members of Congress, General Shalikashvili and the members of the Joint Chiefs of Staff, Marines, ladies and gentleman.

I am proud to serve as the Secretary of the United States Marine Corps. And, I am deeply honored to participate in the change of command of an institution that sets the standard for military leadership around the world.

Today is an important day in the lives of these two great men, General Carl Mundy and General Chuck Krulak. But, they would be the first to tell you that today belongs not to them, but to the Corps.

Their selfless attitude is seen clearly in Carl Mundy's insistence that he not be recognized with any personal decorations at this ceremony.

However, I think you all should know that on behalf of the Department, I have awarded the Navy Distinguished Service Medal to General Mundy. Similarly the Secretary of Defense and each one of our sister services have awarded him their Distinguished Service Medal.

General Mundy, you have served with honor, courage and commitment in a manner befitting the Commandant of the Corps. Our allies thank you, America thanks you and above all your Marines thank you for a lifetime dedicated to the defense of freedom.

Carl's many accomplishments and honors would not have been possible without the

love and support of his family, especially his devoted wife, Linda. For nearly four decades Linda has served as a Marine wife and mother. During the past four years she has endeared herself to everyone she has touched and has established a special place in history for herself as the First Lady of the Marine Corps. It was an honor for me to recognize her achievements with the Department of the Navy's Distinguished Public Service Award.

The past four years have been challenging ones for the Navy and Marine Corps team. Amidst the drawdown in force structure, shrinking defense budgets and expanding global commitments, General Mundy has led the Corps to new levels of excellence, efficiency and effectiveness. By encouraging closer integration with the Navy, you have created a Marine Corps with enhanced capabilities that is prepared for every eventuality.

It is this spirit of closer integration between the Navy and Marine Corps that will be a legacy of Carl Mundy to our Naval Service. Such integration and interoperability ensure that the Navy and Marine Corps team will be prepared for the challenges and battlefields of the next millennium.

General Mundy's inspiring leadership, bold courage, and extraordinary vision have perpetuated a dynamic and innovative Corps and have put in place the mechanism to ensure that the Corps will continue to flourish.

Today is another step in the continuing evolution of the Corps—one of America's true national treasures. Today we witness the change of command, the passing of responsibility and acceptance of accountability for the United States Marine Corps.

General Krulak, you now take up the standard for the most elite fighting force in the world. May you command our Corps with strength, vision and the same commitment to core values that marked the leadership of the Commandants who precede you. The Corps will be blessed with the unfailing support of your delightful wife Zandi. On Tuesday of this week the 31st Commandant and his lady celebrated their 31st wedding anniversary.

Today is important not only for Marines, but also for every American, and especially those who have worn a military uniform. It is a special day for us to remember the Corps' heroic past and to celebrate its bright future.

The fundamental military values of honor, courage and commitment are as much a part of the Marine Corps today as they were at its birth in 1775. Marines today understand that these values represent an ideal . . . an ideal worth fighting for.

Fighting for ideals is what the Corps is all about. And, the strength of today's Corps rests on a foundation of extraordinary heroism rising up from the bedrock of America's military history.

It is on that foundation of past heroism that the future of the Corps will be built. It will be a future filled with innovation, flexibility, resourcefulness and above all spirit. It is a spirit which comes from being the best. Marines know that when American interests are threatened or our friends need help . . . America calls the Corps.

Throughout the past four years, Marines have been called very often and, as throughout their history, they have responded with the utmost professionalism. Whether it was Haiti, Somalia, Bosnia or the Arabian Gulf, the Marines were always ready to get the job done . . . and to get it done right.

Whether as warfighters, peacekeepers, or rescuers; the Marines have proven time and time again that America can count on the Corps when there is a threat to our national security.

The Marine Corps of today is just the adaptable, flexible, and resourceful force America needs. In this unsettled and often confusing post Cold War world, the military mission is no longer as clearly defined. For this reason our military forces must adapt in order to succeed.

Adapting is what Marines do best. The Marines have been fighting America's wars for two centuries and continue to be the force of choice for either keeping the peace; or storming the beach.

In the past, Marines have done more beach storming than peacekeeping, but in the future it is clear that both missions will need to be performed. In my mind there is no force in the world more capable of handling the complicated military missions of the future than the United States Marine Corps.

The Corps has had many great Commandants, but none who has led through such a tumultuous period of internal change. Today the Corps has never been better trained, better led, or more ready. Only in this state would Carl Mundy even consider relinquishing command of the Corps.

That is your legacy, "a RELEVANT, READY and CAPABLE Corps of Marines" who embody the traditions of the past and who are ready to meet the challenges of the future. RELEVANT to meet the defense needs of the Nation tomorrow; READY to respond instantly as America's 911 Force to prevent and contain crises or fight today; and CAPABLE of meeting the requirements of our National Military Strategy.

Carl, your days in uniform may soon be over, but your service to the Corps will remain timeless. Your total devotion to the Corps has nurtured America's undying love for Marines. Your determination efforts have ensured that Marines will always be the first to fight in America's defense.

Yesterday afternoon, in the oval office, our Commander in Chief promoted Chuck Krulak to General. In that ceremony President Clinton pointed to Carl Mundy and said emphatically, "Of all the General Officers I have worked with, you were the one I knew was always telling me exactly what you believed. I want you to know how much I appreciate that." The President of the United States could not have offered higher praise.

For fifty years Iwo Jima has been a special place for the Marine Corps, and it was there atop Mount Suribachi that I had the privilege to announce the President's nomination for our 31st Commandant.

So as we consider the significance of this ceremony, a change of command of the Corps that these two Marines have devoted their lives to, I think it appropriate to recall the words of Chaplain Roland Gittelsohn when he dedicated the Fifth Marine Division Cemetery on Iwo Jima fifty years ago. This February, Rabbi Gittelsohn recalled his words at the ceremony commemorating that battle at the Iwo Jima War Memorial beside Arlington National Cemetery. He said:

"Here lie officers and men of all colors, rich men and poor men together. Here are Protestants, Catholics and Jews together. Here no man prefers another because of his faith or despises him because of his color. Here there are no quotas of how many from each group are admitted or allowed. Among these men there is no discrimination. No prejudice. No hatred. Theirs is the highest and purest democracy.

"Any man among us, the living, who failed to understand that, will thereby betray those who lie here . . . whoever lifts his hand in hate against a brother, or thinks himself superior to those who happen to be in a minority, makes of . . . their sacrifice an empty, hollow mockery.

"Thus do we consecrate ourselves, the living, to carry on the struggle they began. Too much blood has gone into this soil for us to let it lie barren."

Those words spoken in honor of fallen Marines and Sailors hold a living truth. The truth is that we, the living, must carry on their struggle for liberty and freedom everyday, and in everything we do.

God bless you, and God bless the United States Marine Corps. Semper Fidelis.

H.R. 956 (PRODUCTS LIABILITY BILL) AND PRICE-ANDERSON ACT

Mr. HEFLIN. Mr. President, during the course of debate on the products liability bill, I mentioned nuclear power plants and the possible effect that the proposed legislation might have on two issues dealing with a nuclear power plant problem—one being the issue of pain and suffering and the other being the statute of repose.

Then on May 9, 1995, I spoke on this issue in the U.S. Senate. I concluded my remarks by saying that I wanted to do further research pertaining to these issues.

I asked the Congressional Research Service of the Library of Congress to look into this and they have prepared a memorandum. I ask unanimous consent that the attached memorandum from the Congressional Research Service be printed in the CONGRESSIONAL RECORD following my remarks.

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

CONGRESSIONAL RESEARCH SERVICE,
LIBRARY OF CONGRESS,
Washington, DC, May 23, 1995.

To: Sen. Howell Heflin; Attention: Jim Whiddon.

From: American Law Division.

Subject: Causes of Action under the Price-Anderson Act.

This is in response to your request for a memorandum addressing whether state causes of action based on public liability exist under the Price-Anderson Act.[1] In particular, your inquiry asks that we address survival of state tort action, statutes of limitation and repose, and the impact of the recently passed products liability legislation (the House-passed and Senate-passed versions of H.R. 956, 104th Congress).

In Parts I and II, we analyze the Act's language, legislative history and relevant case law, concluding that the 1988 Amendments Act created a federal cause of action. Whereas state causes of action based upon public liability existed under Price-Anderson prior to the 1988 amendments, such is no longer the case. The only state tort actions that may continue to survive are those completely outside the Price-Anderson public liability scheme. Under the 1988 Amendments Act, federal courts, which have original jurisdiction over public liability actions arising out of nuclear incidents, are directed to apply state law substantive rules. With the

[1] Footnotes at the end of the article.

exception of waiver of defenses provisions regarding extraordinary nuclear occurrences, the Price-Anderson Act, as amended, lacks a specific statute of limitations for public liability actions arising out of nuclear incidents. As such, courts will apply the statute of limitations in effect in the state in which the nuclear incident occurred. In Part III, we analyze the possible impact of the statutes of limitation and repose as contained in the recently passed products liability legislation in light of the Price-Anderson scheme.

I. BACKGROUND

In 1957, the Price-Anderson Act was enacted as an amendment to the Atomic Energy Act in order to remove the deterrent of potentially catastrophic liability to those in the private sector who were interested in participating in the nuclear power industry but reluctant to risk significant financial resources and liability.[2] In 1966, the Act was extended for another ten year period and a key provision—a waiver of defenses provision[3]—was added. Under this provision, the defendant in any action involving public liability[4] arising from an "extraordinary nuclear occurrence"[5] can be required to waive certain legal defenses (e.g., defenses based on conduct, immunity, and state statutes of limitation).[6] It is clear that the Act, as originally enacted and as amended in 1966, was intended to have minimal inference with State law.[7] Also in 1966, the Act was amended to include a provision authorizing the consolidation in one U.S. District Court of all law suits arising from an "ENO"—conferring original jurisdiction upon the Federal courts in such cases.[8] The Act was amended again in 1975.

A long line of cases under the Act as amended through 1975 had held that federal courts did not have subject matter jurisdiction for claims arising out of non-ENO nuclear incidents and that state tort remedies were *not* preempted by the Act.[9]

II. 1988 AMENDMENTS

Under the Price-Anderson Amendments Act of 1988, original federal jurisdiction was significantly broadened to cover not only those actions arising from ENOs but those arising from any "nuclear incident."[10] A definition of the term "public liability action"[11] was added with provision made for the substantive rules for decision to be derived from State law.[12] As the Act now reads, the applicable section—§170(n)(2)[13]—states:

"With respect to any *public liability action* arising out of or resulting from a *nuclear incident*, the United States district court in the district where the nuclear incident takes place . . . shall have original jurisdiction without regard to the citizenship of any party or the amount in controversy. . . . [emphasis added]."

Section 170(n)(2) continues with provision that public liability actions pending in state court shall be removed or transferred to the appropriate federal district court "upon motion of the defendant or of the Commission [NRC] or the Secretary [of HHS]."

The legislative history makes it clear that these changes were intended to confer original jurisdiction in the federal district courts and that Congress chose this option rather than designing a new body of substantive law to govern such cases.[14]

CASE LAW UNDER THE 1988 AMENDMENTS

A recent Third Circuit Court of Appeals decision, *In Re TMI Litigation Case Consol. II*[15] stated:

"Under the terms of the Amendments Act, the "public liability action" encompass "any legal liability" of any "person who may be liable" on account of a nuclear incident. . . . Given the breadth of this definition, the consequence of a determination that a particular plaintiff has failed to state a public liability claim potentially compensable under the Price Anderson Act is that he has no such claim at all. After the Amendments Act, no state cause of action based upon public liability exists. A claim growing out of any nuclear incident is compensable under the terms of the Amendments Act or it is not compensable at all. Any conceivable state tort action which might remain available to a plaintiff following the determination that his claim could not qualify as a public liability action, could not be one based on "any legal liability" or "any person who may be liable on account of a nuclear incident." It would be some other species of tort altogether, and the fact that the state courts might recognize such a tort has no relevance to the Price-Anderson scheme. At the threshold of any action asserting liability growing out of a nuclear incident, then, there is a federal definitional matter to be resolved: Is this a public liability action? If the answer to that question is "yes," the provisions of the Price-Anderson Act apply; there can be no action for injuries caused by the release of radiation from federally licensed nuclear power plants separate and apart from the federal public liability action created by the Amendments Act.[16]"

The court went on to state:

"The Amendments Act creates a federal cause of action which did not exist prior to the Act, establishes federal jurisdiction for that cause of action, and channels all legal liability to the federal courts through that cause of action. . . . Thus, Congress clearly intended to supplant all possible state causes of action when the factual prerequisite of the statute are met.[17]"

Another recent Court of Appeals decision, *O'Conner* v. *Commonwealth Edison Co.*,[18] held that the Amendments Act embodies substantive federal policies and, rather than merely create federal jurisdiction for a state claim, created a new federal cause of action that supplanted the prior state cause of action.[19] With regard to the interpretation of the phrase "law of the State" as it appears in the definition of "public liability action."[20] a recent case of first impression reasoned that the phrase was intended to be broadly defined—to include the whole law of the state (state substantive law and choice of law provisions).[21] Another recent federal court decision noted that because Price-Anderson provides no statute of limitations, the limitations period must be borrowed from State law.[22]

FEDERAL CAUSE OF ACTION BASED ON STATE SUBSTANTIVE LAW

The Price-Anderson Act, as originally drafted, did not create a federal cause of action. However, it is clear that the Amendments Act of 1988—although relying up on state law elements—does. The 1988 Amendments Act broadened the scope of the Price-Anderson Act and provides for retroactive subject matter jurisdiction in the federal courts over claims involving nuclear incidents and Specifically, federal courts have original jurisdiction over any "public liability action" arising out of a "nuclear incident."[23]

The new definition of "public liability action" created a federal cause of action (while directing the federal courts to apply state law) by stipulating that any such suit be deemed to be an action arising under the Price-Anderson Act—meeting Constitutional requirements.[24] In the Amendment Act, Congress created a federal tort which has its origins in state law. The basis of the action no longer stems from state law but now arises from federal law.[25] State law rules shall apply unless inconsistent.[26]

If the public liability action results from an ENO, the federal statute of limitations provided in §170(n)(1) may apply. If the indemnity agreement required under the Act incorporated a waiver of defenses based on a statute of limitations, state statutes of limitations that are more restrictive than that prescribed in §170(n)(1) (3-years-from discovery) will be superseded while those that are less restrictive (e.g., longer than the prescribed period) will remain in effect. The Act contains no other federal statute of limitations[27] other than that provided in the case of waiver of defenses with respect to ENOs. Therefore, to the extent that a state provides for a specific statute of limitations (not otherwise inconsistent with §170 of the Act), the federal court (or state court if such action is not removed or transferred) appears to be required to apply such state law provision.[28]

III. EFFECTS OF PRODUCTS LIABILITY BILL[29]

Products liability suits are subject in every state to a statute of limitations, which is a period of time after an injury or illness occurs, or after its symptoms or their cause is discovered, within which an action must be brought. A minority of states have also enacted a statute of repose, which bars products liability suits where the injury-causing products exceeds a specified age. The House-passed version of H.R. 956 contains no statute of limitations, whereas the Senate-passed version contains a two-year statute of limitations. Both bills contain statutes of repose, but they are significantly different.

STATUTE OF LIMITATIONS

Because the House-passed version of H.R. 956 contains no statute of limitations, it would not affect the Price-Anderson Act, which, as noted, also has none and therefore applies the applicable state statute of limitations. Section 109(a) of the Senate-passed version of H.R. 956 has a two-year statute of limitations, but section 102(c)(2) of the bill provides that nothing in it "may be construed to . . . supersede or alter any Federal Law." However, section 102(b)(1) provides that the bill supersedes state law "to the extent that State law applies to an issue covered under [the bill]."

As noted, the Price-Anderson Act, as amended in 1988, creates a federal cause of action and does not permit state causes of action within its public liability scheme. Because the Senate-passed version of H.R. 956 would not supersede or alter any federal law, it appears that it would not alter the Price-Anderson's Act scheme of using state statutes of limitations. One could argue that, because the Price-Anderson Act uses state statutes of limitations, and the Senate-passed bill supersedes state law, the Price-Anderson Act therefore would use the Senate-passed bill's statute of limitations. Although this interpretation does not seem out of the question, it appears that the better view would be that to use the Senate-passed bill's statute of limitations in Price-Anderson Act cases would be to supersede a federal law, which would be contrary to the bill's expressed intent. Nevertheless, as this seems uncertain, it might be advisable for Congress to make its intention explicit.

STATUTES OF REPOSE

Section 109(b) of the Senate-passed version of H.R. 956 contains a 20-year statute of repose applicable to any product that is a

"durable good." The definition of this term, in section 101(6), apparently is confused in its incorporation of the Internal Revenue Code, but essentially includes products used in a trade or business but not consumer goods. Therefore, we will assume that the term would include nuclear power plants and their component parts.

The Senate bill's statute of repose would not apply, even to durable goods, in four situations: (1) cases of toxic harm; (2) where the product is "[a] motor vehicle, vessel, aircraft, or train that is used primarily to transport passengers for hire"; (3) where the defendant made an express written warranty as to the safety of the product that was longer than 20 years, but, at its expiration, the statute of repose would apply; and (4) small aircraft covered by the 18-year statute of repose prescribed by the General Aviation Revitalization Act of 1995, Public Law 103-298, 49 U.S.C. §40101 note.

Section 106 of the House-passed version of H.R. 956 contains a 15-year statute of repose applicable to all products, including consumer goods, except small aircraft, covered by the 18-year statute of repose prescribed by the General Aviation Revitalization Act of 1995. There are only two other exceptions to the House bill's 15-year statute of repose: (1) if the defendant made an express written warranty as to the safety of the product that was longer than 15 years, the warranty would apply, but, at its expiration, the statute of repose would apply; and (2) the 15-year statute of repose would "not apply to a physical illness the evidence of which does not ordinarily appear less than 15 years after the first exposure to the product."

With respect to the preemption of other laws, the House- and the Senate-passed bills are the same with respect to federal laws but different as to state laws. With respect to federal laws, section 102(c)(2) of the Senate-passed bill provides, as noted above, that nothing in it "may be construed to . . . supersede or alter any Federal law." Similarly, section 402(2) of the House-passed bill provides that nothing in it "shall be construed to . . . supersede any Federal law." (The Senate-passed bill's not using the word "alter" would not appear to be of any consequence.)

With respect to state laws, section 101(b) of the House-passed bill, like section 102(b)(1) of the Senate-passed bill, provides that the bill supersedes state law "to the extent that State law applies to an issue covered under [the bill]." However, the Senate-passed bill, but not the House-passed bill, contains an exception applicable to its statute of repose. It provides that, if a state law prescribes a shorter statute of repose, such state law would apply. All state statutes or repose are shorter than 20 years, but fewer than half the states have statutes of repose. Therefore, the effect of the Senate-passed bill would be to impose a 20-year statute of repose on the majority of states without statutes of repose, but to leave the other state's statutes of repose as they are.

How would these provisions affect the Price-Anderson Act? This depends upon whether the Price-Anderson Act incorporates state statutes of repose, as it does state statutes of limitations. We have found no authority on point, but it appears unlikely that it would incorporate state statutes of repose. This is because such statutes can preclude suits from being filed even before an injury occurs, and, as the Price-Anderson Act creates a federal cause of action, it seems unlikely that a court would construe it, in the absence of some expression of congressional intent, to allow a state to preclude use of a federal cause of action. If the Price-Anderson Act does not incorporate state statutes of repose, then neither the House- nor Senate-passed statutes of repose would apply, as both bills state that they would not supersede federal law.

If, however, the Price-Anderson Act does incorporate state statutes of repose, then we may apply the same analysis we did with respect to the Senate-passed bill's statute of limitations. We repeat what we wrote there, substituting "statute of repose" for "statute of limitations," and referring to both versions of H.R. 956 instead of only the Senate-passed version: Because neither version of H.R. 956 would supersede any federal law, it appears that neither would alter the Price-Anderson's Act scheme of using state statutes of repose. One could argue that, because the Price-Anderson Act uses state statutes of repose, and both the House- and Senate-passed versions of H.R. 956 would supersede state law, the Price-Anderson Act would use the House- or Senate-passed bill's statute of repose. Although this interpretation does not seem out of the question, it appears that the better view would be that to use either bill's statute of repose in Price-Anderson Act cases would be to supersede a federal law, which would be contrary to either bill's expressed intent.

Suppose, however (continuing to assume that the Price-Anderson Act incorporates state statutes of repose, which appears more likely not to be the case), that the Price-Anderson Act would use the House- or Senate-passed bill's statute of repose. Then the effect of the bills would differ. The House-passed bill's 15-year statute of repose would apply in every case, but the Senate-passed 20-year statute of repose would apply only in those states that do not have a shorter statute of repose. In those states that do have a shorter statute of repose, it would apply.

As noted, however, it seems more likely that state statutes of repose do not apply now and that no statute of repose would apply under either the House- or Senate-passed bills. Again, though, it might be advisable for Congress to make its intentions explicit.

HENRY COHEN,
Legislative Attorney.
ELLEN M. LAZARUS,
Legislative Attorney.

FOOTNOTES

[1] Act Sept. 2, 1957, Pub. L. 85-256, 71 Stat. 576, as codified at 42 U.S.C. 2210; amending the Atomic Energy Act of 1954 (Act of Aug. 30, 1954, as codified at 42 U.S.C. §§2011 et seq.). The Act was amended in 1966 (Pub. L. 89-645, 80 Stat. 891); 1975 (Pub. L. 94-197, 89 Stat. 1111); 1988 (Pub. L. 100-408, 102 Stat. 1066; hereinafter referred to as the 1988 Amendments Act or the Amendments Act of 1988).

[2] S. Rep. No. 218, 100th Cong., 1st Sess. 2 (1987), reprinted in 1988 U.S.C.C.A.N. 1476-77.

[3] §170n(1); 42 U.S.C. §2210(n)(1). The waiver of defenses provision was seen as a preferable alternative to enactment of a new body of Federal tort law. See S. Rep. No. 1605, 89th Cong., 2d Sess. 10 (1966), reprinted in 1966 U.S.C.C.A.N. 3209.

[4] Section 11 of the Atomic Energy Act, 42 U.S.C. §2014(w) defines the term "public liability" as "any legal liability arising out of or resulting from a nuclear incident or precautionary evacuation . . . except: (i) claims under State or Federal workmen's compensation acts . . . (ii) claims arising out of an act of war; and (iii) whenever used in subsections a., c., and k. of §170 [42 U.S.C. §§2210(a), (c), (k)], claims for loss of, or damage to, or loss of use of property which is located at the site of and used in connection with the licensed activity where the nuclear incident occurs. . . ."

[5] See §11 Atomic Energy Act, 42 U.S.C. §2014(j) for definition of an extraordinary nuclear occurrence (hereinafter referred to as ENO and generally considered a serious nuclear accident). No nuclear incidents to date have been classified as ENOs.

[6] 42 U.S.C. §2210(n)(1). The Act also provides certain exceptions to the applicability of waivers.

The 1966 Amendments provided that defenses based on statutes of limitations were waived if the suit is instituted within 3 years from when the claimant first knew or reasonably could have known of his injury or damage but in no event more than 10 years after the date of the nuclear incident). Per the legislative history, the stipulated statute of limitations period was not "a maximum period for assertion of Price-Anderson covered claims, since the waiver authorized by the bill serves only to avoid the application of more restrictive State statutes of limitations. Such waiver leaves undisturbed the laws of those States which have enacted—or in the future may enact—longer periods of limitation."

See S. Rep. No. 1605, supra n.3 at 21, reprinted at 1966 U.S.C.C.A.N. 3221. The minimum statute of limitations for the filing of claims after an accident supersedes more restrictive State statutes of limitations, but does not affect less restrictive State laws. See S. Rep. No. 70 100th Cong., 2d Sess. 15 (1988), reprinted at 1988 U.S.C.C.A.N. 1427.

In 1975, the Act was again amended; among the amendments was an extension of the statute of limitations from 10 to 20 years. The 1988 Amendments to the Act eliminated the 20 year "years-from-occurrence" limitation; the legislative history makes it clear that ". . . a damage suit could be filed at any time after an ENO, provided the suit is instituted within 3 years from the time that the claimant first know, or reasonable could have known, of his injury or damages caused by the ENO. This new standard would supersede any more restrict State tort law standards in existing law with respect to statutes of limitations."

See S. Rep. No. 70, id. at 21, reprinted at 1988 U.S.C.C.A.N. 1434. The new standard is considered a Federal standard. Id. at 33, reprinted at 1988 U.S.C.C.A.N. at 1455. See also H. Rep. No. 104, Part 1, 100th Cong., 1st Sess. 17 (1987) referring to the existing (pre-1988) standard as "more restrictive than the majority of state statutes . . . [and] ineffective to prevent restrictive state statutes from barring legitimate claims."

As presently stated, the Federal standard is absent any years-from occurrence limitation but includes a 3 year-from-discovery period. When incorporated into an indemnity agreement, "such waivers shall be judicially enforceable in accordance with their terms by the claimant against the person indemnified." 42 U.S.C. §2210(n)(1).

[7] See S. Rep. No. 1605, supra n. 3 at 6-10 (1966), reprinted at 1966 U.S.C.C.A.N. 3206-3210. Under the Price-Anderson system, the claimant's right to recover from the fund established by the act is left to the tort law of the various States; the only interference with State law is a potential one, in that the limitation of liability features . . . would come into play in the exceedingly remote contingency of a nuclear incident giving rise to damages in excess of the amount of financial responsibility required together with the amount of the governmental indemnity.

Id. at 6.

In Duke Power v. Carolina Env. Study Group, 438 U.S. 59, 65-66 (1978), the High Court referred to the 1966 waiver of defenses provision as based on a congressional concern that state tort law dealing with liability for nuclear incidents was generally unsettled and that some way of insuring a common standard of responsibility for all jurisdictions—strict liability—was needed. A waiver of defenses was thought to be the preferable approach since it entailed less interference with state tort law than would the enactment of a federal statute prescribing strict liability.

[8] §170(n)(2); 42 U.S.C. §2210(n)(2).

[9] See Commonwealth of Pennsylvania v. General Pub. Util. Corp., 710 F.2d 117 (3d Cir. 1983); Stibitz v. GPU, 746 F.2d 993 (3d Cir. 1984); Kiick v. Metropolitan Edison Co, 784 F.2d 490 (3d Cir. 1986); Silkwood v. Kerr-McGee Corp., 464 U.S. 238 (1984).

[10] §11(a); 42 U.S.C. 2210(n)(2). Section 11 of the Atomic Energy Act, 42 U.S.C. §2014(q), defines a "nuclear incident" as: ". . . any occurrence, including an extraordinary nuclear occurrence, within the United States, causing, within or outside the United States, bodily injury, sickness, disease, or death, or loss of or damage to property, or loss of use of property, arising out of or resulting from the radioactive, toxic, explosive, or other hazardous properties of source, special nuclear, or byproduct material. . . ."

With regard to the change from consolidating only ENOs in federal court to consolidating claims arising out of any nuclear incident, the legislative history states: ". . . [T]he bill provides the federal district court in which the nuclear incident occurred with subject matter jurisdiction over claims arising from the nuclear incident. Any suit asserting public liability shall be deemed to be an action arising under the Price-Anderson Act, and the substantive law of decision shall be derived from the law of the State in which the incident occurred, in order to satisfy the Article III requirement that federal courts have jurisdiction over cases arising under the Constitution or under the laws of the United States."

See S. Rep. No. 218, supra n. 2 at 13, reprinted at 1988 U.S.C.C.A.N. 1488.

On a related matter, see reference in legislative history to the effect of extending the waiver of defenses provision to include radioactive waste activities: The effect of this provision would be to trigger strict liability, and to preempt lesser State tort law standards in any lawsuit involving an accident with radioactive waste that DOE determines to be an "extraordinary nuclear occurrence."

S. Rep. No. 70, supra n. 6 at 26, reprinted at 1988 U.S.C.C.A.N. 1439.

[11] Section 11 of the Atomic Energy Act, 42 U.S.C. §2014(hh) defined "public liability action" as used in §170 as: ". . . any suit asserting liability. A public liability action shall be deemed to be an action arising under §170 [42 U.S.C. §2210], and the substantive rules for decision in such action shall be derived from the law of the State in which the nuclear incident involved occurs, unless such law is inconsistent with the provisions of such section."

[12] See H. Rep. No. 104, Part 1, supra n. 6 at 18 (1987), at which the Committee on Interior and Insular Affairs states: "Rather than designing a new body of substantive law to govern such cases, however, the bill provides that the substantive rules for decision in such actions shall be derived from the law of the State in which the nuclear incident involved occurs, unless such law is inconsistent with the Price-Anderson Act. The Committee believes that conferring on the Federal courts jurisdiction over claims arising out of all nuclear incidents in this manner is within the constitutional authority of Congress. . . ."

As stated in Re TMI Litigation Cases Consol. II, 940 F.2d 832 (2d Cir. 1991): ". . . Congress expressed its intention that state law provides the content of and operates as federal law."

Id. at 855.

[13] 42 U.S.C. §2210(n)(2).

[14] See S. Rep. No. 218 supra note 2 at 13; see also H. Rep. No. 104, Part 1, 100th Cong., supra n. 6 at 18 (1987).

[15] 940 F.2d 832 (3d Cir. 1991), cert. denied, 503 U.S. 906 (1992).

[16] Id. at 854–55.

[17] Id.at 856–57.

[18] 13 F.3d 1090 (7th Cir. 1994), cert. denied, 1994 U.S. Lexis 4722.

[19] Id. at 1096, 1099.

[20] See definition supra, at n. 11.

[21] In Re Hanford Nuclear Reservation Litigation, 780 F. Supp. 1551 (E.D. Wash. 1991), relying on Richards v. United States, 369 U.S. 1 (1962) (interpretation of similar phrase in Federal Tort Claims Act); Chevron Oil Co. v. Huson, 404 U.S. 97 (1971) (interpretation of Outer Continental Shelf Lands Act (OCSLA) provision). See also reference in legislative history to Article III jurisdiction approach that Congress used in the OCSLA; H. Rep. No. 104, Part 1, supra note 6 at 18.

[22] See Day v. NLO, 3 F.3d 153, 154 n. 1 (6th Cir. 1993). See also the trial court decision in Cook v. Rockwell Intl' Corp., 755 F. Supp. 1468, 1482 (D. Colo. 1991) motion denied, 1995 U.S. Dist. Lexis 4986 (D. Colo. 1995) (In response to claim that Price-Anderson was "silent" on what limitations should apply, party contended that a state statute establishing a specific limitation period for "all actions upon liability created by a federal statute where no period of limitations is provided in said federal statute" should apply. The court held that such state statutory period did not apply because Price-Anderson provided for a limitations period by mandating the application of state substantive law and that statutes of limitations are substantive).

[23] Although federal courts have original jurisdiction over such actions, states have concurrent jurisdiction. See §2210(n)(2). Subject to removal upon motion, public liability actions may be filed in state courts; in a case in which such action proceeds in state court, §2014(hh) requires that the law of the State in which the nuclear incident occurred determine the rules for decision.

[24] See Article III, §2, cl. 1, U.S. Constitution: "The Judicial Power shall extend to all Cases, in Law and Equity, arising under this Constitution. . . ."

The issue of whether Congress exceeded its authority under Article III in creasing "arising under" jurisdiction even where stipulating that such actions were to be derived from state law has been addressed in a number of opinions issued under the Amendments Act. In vacating and remanding a district court holding that the Amendments Act was unconstitutional, the Circuit Court of Appeals in Re TMI Litigation Cases Consol. II, 940 F.2d 832, 845 (3d Cir. 1991) stated: "It could not be clearer that Congress intended that there be federal jurisdiction over claims removed pursuant to the Amendments Act; the statutory language is explicit." The court, in analyzing subject matter jurisdiction, noted that the Amendments Act "contains both federal and state elements. While the public liability cause of action itself and certain elements of the recovery scheme are federal, the underlying rules of decision are to be derived from state law."

Id. at 854.

[25] See In Re TMI Litigation Cases Consol. II, supra n. 15 at 857–58.

[26] Note, for example, that under §170(s); 42 U.S.C. §2210(s) "No court may award punitive damages in any action with respect to a nuclear incident . . . against a person on behalf of whom the United States is obligated to make payments under an agreement of indemnification covering such incident. . . ."

[27] See, however, §167 of the Atomic Energy Act, 42 U.S.C. §2207, authorizing the Commission to pay "any claim for money damage of $5,000 or less against the United States for bodily injury, death, or damage . . . where such claim is presented to the Commission in writing within one year after the accident or incident out of which the claim arises. . . ."

[28] If a federally created right of action has a specific statute of limitations, such a right is enforced free from any state limitation period. In such a case, the provision is regarded as one of substantive right setting a limit to the existence of the statutory obligation. Where a federal right has been created without providing a limitation of actions to enforce such a right, since there is no federal statute of limitations of general application, the courts generally apply the forum state's statute of limitations. As such, federal courts will borrow the periods of limitation prescribed by the state where Congress has created a federal right but has not prescribed a period for its enforcement. See 51 am jur 2d limitation of actions §74; 53 C.J.S. limitations of actions §33.

[29] Henry Cohen wrote Part III of the memorandum; Ellen Lazarus wrote Parts I and II.

ATF'S PURCHASE OF 22 OV–10D AIRCRAFT

Mr. GRASSLEY. Mr. President, a news article in this morning's Washington Times says the Bureau of Alcohol, Tobacco and Firearms recently purchased 22 OV–10D aircraft from the Defense Department.

These aircraft were used by the Marine Corps in the Vietnam war for close air support in combat. They were also used in Operation Desert Storm for night observation.

The aircraft are heavily weapons-capable, especially from a law-enforcement perspective. ATF says the planes have been stripped of their weapons. Their purpose, according to ATF, is for surveillance. The planes can locate people on the ground by detecting their body heat.

It's no secret that the ATF is undergoing intense public scrutiny. It has done some real bone-headed things. It has been criticized for enforcing the law while crossing the line of civil rights protections.

ATF's credibility will be even further tested the next 2 weeks when joint committee hearings are held in the other body on the Waco matter. And the Senate Judiciary Committee also will hold hearings on Waco in September.

I raise this issue today, Mr. President, because the purchase of these aircraft in the current climate might continue to feed the public's skepticism, and erode the pubic's confidence in our law enforcement agencies.

For that reason, it is incumbent upon ATF to fully disclose and fully inform the public as to the purchase of these aircraft.

First, what, specifically, will they be used for?

Second, where will they be located?

Third, what assurances are there that the planes will remain unarmed?

The sooner these questions are answered by ATF—openly and candidly—the less chance there is that the public's skepticism will grow.

Mr. President, the continued credibility of the ATF is on the line, in my judgment. At times such as these, when scrutiny is at its highest, the best strategy is to go on the offense. Spare no expense in disclosing fully and swiftly. Because full and swift disclosure is the first step in restoring credibility.

The ATF's credibility is important not just for itself, but for law enforcement in general. There is much work to do to restore the public's trust and confidence. I hope that ATF will step up to the challenge and provide the necessary assurances.

Mr. President, I ask unanimous consent that the Washington Times article, written by Jerry Seper, be printed in the RECORD.

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

[From the Washington Times, July 18, 1995]

ATF GETS 22 PLANES TO AID SURVEILLANCE

WEAPONS-CAPABLE AIRCRAFT REPAINTED

(By Jerry Seper)

The Bureau of Alcohol, Tobacco and Firearms has obtained 22 counterinsurgency, heavy-weapons-capable military aircraft.

The 300-mph OV–10D planes—one of several designations used by the Marine Corps during the Vietnam War for gunfire and missile support of ground troops, and by the Air Force during Operation Desert Storm for night observation—have been transferred from the Defense Department to ATF.

The turboprop aircraft, which will be used for day and night surveillance support, were designed to locate people on the ground through their body heat.

When used by the military services, the planes were equipped with infrared tracking systems, ground-mapping radar, laser rangefinders, gun sights and 20mm cannons.

ATF spokeswoman Susan McCarron confirmed yesterday that the agency had obtained the aircraft but noted they had been stripped of their armament. She said that nine of the OV–10Ds were operational and that the remaining 13 were being used for spare parts.

"We have nine OV-10Ds that are unarmed; they have no weapons on them," Ms. McCarron said. "They are being used for surveillance and photography purposes. The remainder are being used for spare parts."

Ms. McCarron said the aircraft were obtained by ATF from the Defense Department "when DOD was getting rid of them," and that other agencies also had received some of the airplanes.

General Service Administration records show that some of the unarmed aircraft also were transferred to the Bureau of Land Management for use in survey work, while others went to the California Forestry Department for use in spotting fires and in directing ground and aerial crews in combating them.

Other models of the OV-10 also are being used by officials in Washington state for nighttime surveillance of fishing vessels suspected of overfishing the coastal waters.

The transfer of the aircraft to ATF comes at a time of heightened public skepticism and congressional scrutiny of the agency's ability to enforce the law without trampling on the rights of citizens.

The ATF's image suffered mightily in the aftermath of its 1993 raid and subsequent shootout at the Branch Davidian compound in Waco, Texas, during which four agents and six Davidians were killed. It sustained another public-relations blow after it was revealed that ATF agents helped organize a whites-only "Good O' Boys Roundup" in the Tennessee hills.

Hearings of the Waco matter begin tomorrow in the House. A Senate Judiciary Committee hearing on the racist trappings of the roundup is scheduled for Friday.

One Senate staffer yesterday said there was "some real interest" in the ATF's acquisition of the aircraft, and that questions "probably will be asked very soon of the agency" about the specifics of their use and locations where they have been assigned.

According to federal law enforcement sources and others, including two airline pilots who have seen and photographed the ATF planes, two of the combat-capable aircraft—known as "Broncos"—have been routed to Shawnee, Okla., where they were painted dark blue over the past month at an aircraft maintenance firm known as Business Jet Designs Inc.

Michael Pruitt, foreman at Business Jet Designs, confirmed yesterday that two of the ATF aircraft had been painted at the Shawnee site and that at least one more of the OV-10Ds "was on the way." Mr. Pruitt said the aircraft were painted dark blue with red and white trim. The sources said the paint jobs cost the ATF about $20,000 each.

The firm's owner, Johnny Patterson, told associates last month he expected to be painting at least 12 of the ATF aircraft but was unsure whether he could move all of them fast enough through his shop. Mr. Patterson was out of town yesterday and not available for comment.

According to the sources, the ATF's OV-10Ds, recently were overhauled under the government's Service Life Extension Program and were equipped with a state-of-the-art forward-looking infrared system that allows the pilot to locate and identify targets at nights—similar to the tracking system used on the Apache advanced attack helicopter.

Designed by Rockwell International, the OV-10D originally was outfitted with two 7.62mm M-60C machine guns, each with 500 rounds of ammunition. It also was modified to carry one Sidewinder missile under each wing, Snakeye bombs, fire bombs, rocket packages and cluster bombs.

The OV-10D can carry a 20mm gun turret with 1,500 rounds of ammunition.

During the Vietnam War, two OV-10Ds were used for a variety of missions during a six-week period and flew more than 200 missions in which they were credited with killing 300 enemy troops and saving beleaguered outposts from being overrun by the communists.

TRIBUTE TO BEULAH G. VARNELL

Mr. HEFLIN. Mr. President, I want to commend and congratulate an outstanding employee of the Department of Agriculture in Alabama, Beulah G. Varnell. She has been working in various capacities for the Department there for over 50 consecutive years.

Prior to joining the Department of Agriculture's Consolidated Farm Service Agency [CFSA], Mrs. Varnell worked at the Red Stone Arsenal in Huntsville, AL, for a short period of time. In 1945, she began work as Assistant Clerk of Conservation Materials and the next year became Principal Conservation Material Clerk. She progressed steadily over the next few years to Senior Clerk in 1949.

Beulah Varnell has demonstrated exceptional ability to assuming and carrying out many programs, with primary responsibilities for administrative, price support, conservation, wool and mohair, and feed grain. She became Chief Program Assistant in 1966 and is known across the State for her knowledge of CFSA programs and her extraordinary ability to get the job done and done well. This is reflected by her willingness to help out with all other programs in the county office.

She has worked for four different CEO's during her 50 years with the agency. She has always donated annual leave to the leave transfer recipients and maintains 240 hours of annual leave at the end of each year as indicated by all available records. She currently has accumulated 4,103 hours of sick leave, and has never been off work for any extended period of time. There is a familiar anecdote that Beulah once had a wreck while on her way to work and asked that her typewriter be brought to her home so that she could continue her duties uninterrupted. That is dedication.

Beulah married Royce Varnell, who is retired from the Tennessee Valley Authority, in 1950. She is very close to her family, including her brother, 3 sisters, nieces, and nephews. The Varnell's have two farms in Rogersville, AL, one planted with soybeans, the other maintaining several head of cattle. Beulah has lived on a farm in Rogersville all her life and has been associated with all aspects of farming through personal experiences and her job with CFSA.

She is an active member of the Rogersville Church of Christ where she teaches a class. Beulah and Royce have a garden every year and also maintain a numerous assortment of flowers around their home. In her spare time, she enjoys crocheting and quilting. She also enjoys spending time at the camphouse on the Tennessee River, visiting with friends and family.

In short, Beulah Varnell enjoys life to its fullest, and is happiest when helping others. She is a great asset to CFSA and the Department of Agriculture, having always remained totally dedicated to the needs of county producers. I congratulate her and salute her as one of the best examples of public service our Nation has to offer.

IS CONGRESS IRRESPONSIBLE? LOOK AT THE ARITHMETIC

Mr. HELMS. Mr. President, the impression will not go away: The $4.9 trillion Federal debt stands today as a sort of grotesque parallel to television's Energizer bunny that appears and appears and appears in much this same way that the Federal debt keeps going and going and going—up, of course.

A lot of politicians talk a good game—and talk is the operative word—about reducing the Federal deficit and bringing the Federal debt under control.

Control, Mr. President? As of yesterday, Monday, July 17, at the close of business, the total Federal debt stood at exactly $4,927,653,309,340.54, or $18,705.46 per man, woman, and child on a per capita basis. Res ipsa loquitur. Some control.

CONCLUSION OF MORNING BUSINESS

The PRESIDING OFFICER. Under the previous order, morning business is closed.

COMPREHENSIVE REGULATORY REFORM ACT

The PRESIDING OFFICER. The Senate will now resume consideration of S. 343, which the clerk will report.

The legislative clerk read as follows:

A bill (S. 343) to reform the regulatory process and for other purposes.

The Senate resumed consideration of the bill.

Pending:

Dole amendment No. 1487, in the nature of a substitute.

Levin (for Glenn) amendment No. 1581 (to amendment No. 1487), in the nature of a substitute.

Ashcroft amendment No. 1786 (to amendment No. 1487), to provide for the designation of distressed areas within qualifying cities as Regulatory Relief Zones and for the selective waiver of Federal regulations within such zones.

The PRESIDING OFFICER. The Senator from Missouri [Mr. Ashcroft].

AMENDMENT NO. 1786

Mr. ASHCROFT. Mr. President, throughout the current debate on S.

343, regulatory reform, little has been said about the devastating effects of regulations on America's urban core inner-city centers. Yet it is precisely our Nation's most distressed urban areas which are really threatened as a result of the onerous implications of some of the regulations on the city center. I believe it is time for us to look at those regulations as they relate to the cities and the potential for job growth and development in those cities. And it is time for us to have a look at whether or not we can mitigate the impacts of regulation against some of the areas where job development and growth are most challenging.

So I have submitted an amendment which is called the Urban Regulatory Relief Zone Act of 1995, an amendment to Senate bill 343, which is designed to try to provide that kind of relief. I believe it is in the best interests of our urban centers to be able to develop waivers so when we really find the regulations are hurting the health, the safety, the well-being, the security of our citizens, that, in fact, those regulatory provisions can be waived in cooperation with the Federal Government to provide an opportunity for jobs.

Mrs. HUTCHISON addressed the Chair.

The PRESIDING OFFICER. The Senator from Texas.

Mrs. HUTCHISON. Mr. President, will the Senator yield?

The PRESIDING OFFICER. The Senator from Texas [Mrs. HUTCHISON] is recognized.

AMENDMENT NO. 1789 TO AMENDMENT NO. 1786

(Purpose: To provide for the designation of distressed areas within qualifying cities as regulatory relief zones and for the selective waiver of Federal regulations within such zones)

Mrs. HUTCHISON. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Texas [Mrs. HUTCHISON], for herself and Mr. ASHCROFT, proposes an amendment numbered 1789 to amendment No. 1786.

Mrs. HUTCHISON. 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:

In lieu of the matter proposed to be added, add the following:

"TITLE II—URBAN REGULATORY RELIEF ZONES

SECTION 201. SHORT TITLE.

This Act may be cited as the "Urban Regulatory Relief Zone Act of 1995".

SEC. 202. FINDINGS.

The Congress finds that—

(1) the likelihood that a proposed business site will comply with many government regulations is inversely related to the length of time over which a site has been utilized for commercial and/or industrial purposes in the past, thus rendering older sites in urban areas the sites most unlikely to be chosen for new development and thereby forcing new development away from the areas most in need of economic growth and job creation; and

(2) broad Federal regulations often have unintended social and economic consequences in urban areas where such regulations, among other things—

(A) offend basic notions of common sense, particularly when applied to individual sites;

(B) adversely impact economic stability;

(C) result in the unnecessary loss of existing jobs and businesses;

(D) undermine new economic development, especially in previously used sites;

(E) create undue economic hardships while failing significantly to protect human health, particularly in areas where economic development is urgently needed in order to improve the health and welfare of residents over the long term; and

(F) contribute to social deterioration to a such degree that high unemployment, crime, and other economic and social problems create the greatest risk to the health and well-being of urban residents.

SEC. 203. PURPOSES.

The purposes of this title are to—

(1) enable qualifying cites to provide for the general well-being, health, safety and security for their residents living in distressed areas by empowering such cities to obtain selective relief from Federal regulations that undermine economic stability and development in distressed areas within the city; and

(2) authorize Federal agencies to waive the application of specific Federal regulations in distressed urban areas designated as Urban Regulatory Relief Zones by an Economic Development Commission—

(A) upon application through the Office of Management and Budget by an Economic Development Commission established by a qualifying city pursuant to section 205; and

(B) upon a determination by the appropriate Federal agency that granting such a waiver will not substantially endanger health or safety.

SEC. 204. ELIGIBILITY FOR WAIVERS.

(a) ELIGIBLE CITIES.—The mayor or chief executive officer of a city may establish an Economic Development Commission to carry out the purposes of section 205 if the city has a population greater than 200,000 according to:

(1) the U.S. Census Bureau's 1992 estimate for city populations; or

(2) beginning six months after the enactment of this title, the U.S. Census Bureau's latest estimate for city populations.

(b) DISTRESSED AREA.—Any census tract within a city shall qualify as distressed area if—

(1) 33 percent or more of the resident population in the census tract is below the poverty line; or

(2) 45 percent or more of out-of-school males aged 16 and over in the census tract worked less than 26 weeks in the preceding year; or

(3) 36 percent or more families with children under age 18 in the census tract have an unmarried parent as head of the household; or

(4) 17 percent or more of the resident families in the census tract received public assistance income in the preceding year.

SEC. 205. ECONOMIC DEVELOPMENT COMMISSIONS.

(a) PURPOSE.—The mayor or chief executive officer of a qualifying city under section 204 may appoint an Economic Development Commission for the purpose of—

(1) designating distressed areas, or a combination of distressed areas with one another or with adjacent industrial or commercial areas, within the city as Urban Regulatory Relief Zones; and

(2) making application through the Office of Management and Budget to waive the application of specific Federal regulations within such Urban Regulatory Relief Zones.

(b) COMPOSITION.—To the greatest extent practicable, an Economic Development Commission shall include—

(1) residents representing a demographic cross section of the city population; and

(2) members of the business community, private civic organizations, employers, employees, elected officials, and State and local regulatory authorities.

(c) LIMITATION.—No more than one Economic Development Commission shall be established or designated within a qualifying city.

SEC. 206. LOCAL PARTICIPATION.

(a) PUBLIC HEARINGS.—Before designating an area as an Urban Regulatory Relief Zone, an Economic Development Commission established pursuant to section 205 shall hold a public hearing, after giving adequate public notice, for the purpose of soliciting the opinions and suggestions of those persons who will be affected by such designation.

(b) INDIVIDUAL REQUESTS.—The Economic Development Commission shall establish a process by which individuals may submit requests to the Economic Development Commission to include specific Federal regulations in the Commission's application to the Office of Management and Budget seeking waivers of Federal regulations.

(c) AVAILABILITY OF COMMISSION DECISIONS.—After holding a hearing under paragraph (a) and before submitting any waiver applications to the Office of Management and Budget pursuant to section 207, the Economic Development Commission shall make publicly available—

(1) a list of all areas within the city to be designated as Urban Regulatory Relief Zones, if any;

(2) a list of all regulations for which the Economic Development Commission will request a waiver from a Federal agency; and

(3) the basis for the city's findings that the waiver of a regulation would improve the health and safety and economic well-being of the city's residents and the data supporting such a determination.

SEC. 207. WAIVER OF FEDERAL REGULATIONS.

(a) SELECTION OF REGULATIONS.—An Economic Development Commission may select for waiver, within an Urban Regulatory Relief Zone, Federal regulations that—

(1)(A) are unduly burdensome to business concerns located within an area designated as an Urban Regulatory Relief Zone; or

(B) discourages new economic development within the zone; or

(C) creates undue economic hardships in the zone; or

(D) contributes to the social deterioration of the zone; and

(2) if waived, will not substantially endanger health or safety.

(b) REQUEST FOR WAIVER.—(1) An Economic Development Commission shall submit a request for the waiver of Federal regulations to the Office of Management and Budget.

(2) Such request shall—

(A) identify the area designated as an Urban Regulatory Relief Zone by the Economic Development Commission;

(B) identify all regulations for which the Economic Development Commission seeks a waiver; and

(C) explain the reasons that waiver of the regulations would economically benefit the Urban Regulatory Relief Zone and the data supporting such determination.

(c) REVIEW OF WAIVER REQUEST.—No later than 60 days after receiving the request for waiver, the Office of Management and Budget shall—

(1) review the request for waiver;

(2) determine whether the request for waiver is complete and in compliance with this title, using the most recent census data available at the time each applicant is submitted; and

(3) after making a determination under paragraph (2)—

(A) submit the request for waiver to the Federal agency that promulgated the regulation and notify the requesting Economic Development Commission of the date on which the request was submitted to such agency; or

(B) notify the requesting Economic Development Commission that the request is not in compliance with this Act with an explanation of the basis for such determination.

(d) MODIFICATION OF WAIVER REQUESTS.—An Economic Development Commission may submit modifications to a waiver request. The provisions of subsection (c) shall apply to a modified waiver as of the date such modification is received by the Office of Management and Budget.

(e) WAIVER DETERMINATION.—(1) No later than 120 days after receiving a request for waiver under subsection (c) from the Office of Management and Budget, a Federal agency shall—

(A) make a determination of whether to waiver a regulation in whole or in part; and

(B) provide written notice to the requesting Economic Development Commission of such determination.

(2) Subject to subsection (g), a Federal agency shall deny a request for a waiver only if the waiver substantially endangers health or safety.

(3) If a Federal agency grants a waiver under this subsection, the agency shall provide a written statement to the requesting Economic Development Commission that—

(A) describes the extent of the waiver in whole or in part; and

(B) explains the application of the waiver, including guidance for the use of the waiver by business concerns, within the Urban Regulatory Relief Zone.

(4) If a Federal agency denies a waiver under this subsection, the agency shall provide a written statement to the requesting Economic Development Commission that—

(A) explains the reasons that the waiver substantially endangers health or safety; and

(B) provides a scientific basis in writing for such determination.

(f) AUTOMATIC WAIVER.—If a Federal agency does not provide the written notice required under subsection (e) within the 120-day period as required under such subsection, the waiver shall be deemed to be granted by the Federal agency.

(g) LIMITATION.—No provision of this Act shall be construed to authorize any Federal agency to waive any regulation or Executive order that prohibits, or the purpose of which is to protect persons against, discrimination on the basis of race, color, religion, gender, or national origin.

(h) APPLICABLE PROCEDURES.—A waiver of a regulation under subsection (e) shall not be considered to be a rule, rulemaking, or regulation under chapter 5 of title 5, United States Code. The Federal agency shall publish a notice in the Federal Register stating any waiver of a regulation under this section.

(i) EFFECT OF SUBSEQUENT ADMINISTRATION OF REGULATIONS.—If a Federal agency amends a regulation for which a waiver under this section is in effect, the agency shall not change the waiver to impose additional requirements.

(j) EXPIRATION OF WAIVERS.—No waiver of a regulation under this section shall expire unless the Federal agency determines that a continuation of the waiver substantially endangers health or safety.

SEC. 208. DEFINITIONS.

For purposes of this Act, the term—

(1) "regulation" means—

(A) any rule as defined under section 551(4) of title 5, United States Code; or

(B) any rulemaking conducted on the record after opportunity for an agency hearing under sections 556 and 557 of such title;

(2) "Urban Regulatory Relief Zone" means an area designated under section 205;

(3) "qualifying city" means a city which is eligible to establish an Economic Development Commission under section 204;

(4) "industrial or commercial area" means any part of a census tract zoned for industrial or commercial use which is adjacent to a census tract which is a distressed area pursuant to section 205(b); and

(5) "poverty line" has the same meaning as such term is defined under section 673(2) of the Community Services Block Grant Act (42 U.S.C. 9902(2)).

SEC. 209. EFFECTIVE DATE.

The provisions of this title shall become effective one day after the date of enactment.".

The PRESIDING OFFICER. The Senator from Texas is recognized.

Mrs. HUTCHISON. Mr. President, I sent an amendment to the amendment to the desk because I think Senator ASHCROFT is doing a very important thing for the urban areas of our country. It is clear that we need to do everything we can to create jobs in our urban areas, and particularly in the distressed parts of our urban areas.

I did make a minor amendment in the change of the effective date, but I support Senator ASHCROFT's amendment wholeheartedly and appreciate his yielding the floor to me for this short time.

Several Senators addressed the Chair.

The PRESIDING OFFICER. The Senator from Michigan [Mr. LEVIN], is recognized.

AMENDMENT NO. 1581

Mr. LEVIN. Mr. President, we all want significant and meaningful regulatory reform. No one wants rules that do not make sense. Nobody wants regulatory requirements that exceed real needs. We want Government to be smart, effective, reasonable, and practical.

There are plenty of regulatory horror stories. Some are accurate and some are not. There is more than enough evidence for us to be convinced of the fact that the regulatory process is broken and needs fixing. We spent several months in Governmental Affairs earlier this year considering a bill introduced by Senators ROTH and GLENN which, with a few important amendments, we reported to the full Senate for its consideration. It was passed by a unanimous, bipartisan vote of 15 to 0. It has cost-benefit analysis, risk assessment, legislative review, and a procedure for the review of existing rulings. With a few modifications this is the Glenn-Chafee substitute that is now before us. It is tough medicine that is designed to cure and not to kill the regulatory process.

The Glenn-Chafee substitute is tough because it would require, by law, that every major rule be subject to a cost-benefit analysis and, for key agencies, a risk assessment. It would require that each agency assess whether the benefits of the rule that it is proposing or promulgating will justify the costs of implementing it; and whether the rule is the most cost-effective rule among the various alternative proposals.

These two elements are key to rational rulemaking. It is tough because, by statute, it resolves once and for all the role of the President in overseeing the regulatory process. The bill gives the President the authority to oversee the cost-benefit analysis and risk assessment requirements, and recognizes the significant contribution that the President can make to rational rulemaking.

It gives Congress the right to stop a rule before it takes effect. It is tough because it allows for judicial review of an agency's determination as to whether or not a rule meets the $100 million economic impact test, and because a rule can be remanded to an agency for the failure of the agency to do the cost-benefit analysis or risk assessment.

It is tough because it requires rules scheduled for review to be subject to repeal, should the agency fail to review them in 10 years, according to the schedule and requirements of this legislation.

The Glenn-Chafee substitute also reflects some common sense, because it recognizes that decisions about benefits and costs are, by necessity, not an exact science but an exercise of judgment. It reflects common sense because it does not subject all rules to congressional review, but only the major rules. It reflects common sense because it uses information as a tool for assessing agency performance and makes that information available for everyone to judge and to challenge.

The Dole-Johnston amendment goes too far. In its zeal for reform, it overreaches and damages the very process that it sets out to repair.

It is not reform. It is overload. It is like throwing a bucket of water to a drowning person. It is as if a doctor is tripling the prescribed dosage in order to get a better effect. It ends up actually harming the patient instead of helping.

While the Dole-Johnston substitute is an improvement over S. 334, as introduced, and has been improved in some

way, it still falls far short of the goal that we need for regulatory reform, which is to improve the regulatory process so that it works better, results in rules that make sense, and at the same time we maintain the important health, safety and environmental protections that Americans expect and deserve. The Dole-Johnston substitute would bog down—rather than clean up—the regulatory process, and would put important health, safety, and environmental protections needlessly at risk.

The Cabinet officials of this administration have issued a statement of policy stating that they would recommend that the President veto S. 343 in its present form, as of July 10, 1995, when the policy statement was written. The summary states that the cumulative effect of S. 343 would burden the regulatory system with additional paperwork, unnecessary cost, significant delay, and excessive litigation, and then states in a very unusual document that the Secretaries of Labor, Agriculture, Health and Human Services, Housing and Urban Development, Transportation, Treasury, Interior, EPA, and the Director of OMB all would make that recommendation for a veto.

This document has been put in the RECORD. It sets forth paragraph by paragraph, issue by issue, and item by item why the Dole-Johnston approach represents overload, why it would drown the system instead of repairing it.

The Glenn-Chafee substitute would fundamentally change, as we should, the way that Federal regulatory agencies do business. At the same time, it would keep a system that would allow us to preserve critically needed health, safety, and environmental approaches. The Glenn-Chafee substitute would help prevent regulatory agencies from issuing rules that are not based on good common sense or on good science, or that would impose costs that are not justified by the benefits of the rule. But it would not inhibit or prevent agencies from taking the necessary steps that the American public wants to take to protect their health and their environment and their safety.

The question here is the balance that we are going to set. That is really the issue. And it is an incredibly detailed and arcane bunch of issues that we must deal with. But if we make a big mistake and go way too far and bog down a system in a whole series of new approaches subject to litigation, we will end up doing a tremendous disfavor, not just to the American people but to the business community itself, which also needs the regulatory system to work.

Glenn-Chafee strikes a good balance in a number of ways. First, all Federal agencies would be required to perform and publish cost-benefit analyses before issuing major rules. The agencies would be required to compare the costs and benefits of not only the proposed rule but of reasonable alternatives as well, including non-regulatory, market-based approaches. The agencies would be required to explain whether the expected benefits of the rule justify the cost and whether the rule will achieve the benefits in a more cost-effective manner than the alternatives. The cost-benefit analysis would be reviewed by a panel of independent experts, and the agencies would be required to respond to peer reviewers' concerns.

Under Glenn-Chafee, the major regulatory agencies would be required to perform and publish risk assessment before issuing major rules regulating risks to the environment, health, and safety. The risk assessments would be required to be based on reliable scientific data, and would disclose and explain any assumptions and value judgments. The risk assessment would have to be reviewed by a panel of independent experts, and agencies would have to respond to peer reviewers' concerns. Federal agencies would be required to review important regulations, eliminate unnecessary regulations, and reform any that do not meet the new standards that this bill would create. If an agency fails to conduct a review within the time required by the schedule, it would be required to issue a notice of proposed rulemaking to repeal the rule rather than to have the rule automatically sunset. That rulemaking would have to be completed in 2 years. That is one of the key differences between the two approaches that we will be deciding a little later on today.

Congress would have under Glenn-Chafee 45 days before issuance of any major rule to review the rule, to prevent it from taking effect by passing expedited procedures in a joint resolution of disapproval. That finally would put elected representatives in a position to assure that agencies' rules are consistent with Congress' intent. And this is the power that I have fought to create as long as I have been in this body.

Under Glenn-Chafee, covered agencies would be required to set regulatory priorities, to address the risks that are most serious and can be addressed in a cost-effective manner. Agencies would be required to explain and reflect these priorities in their budget requests.

Every 2 years the President would be required to report to Congress the cost and the benefits of all regulatory programs and recommendations for reform. The OMB would be required by law to oversee compliance with the bill, and would be required to review all major rules before issuance. This would strengthen Presidential control over regulatory agencies, particularly the independent agencies.

The Glenn-Chafee substitute includes all of the provisions that we need to produce lasting and meaningful regulatory reform. In a number of respects Glenn-Chafee goes farther than the regulatory reform bill passed by the House of Representatives, H.R. 9, which does not provide for the review of existing regulations or congressional review, or the integration of comparative risk analysis into agency priority setting and budget.

Glenn-Chafee goes past S. 1080, the Omnibus Regulatory Reform bill that passed the Senate overwhelmingly in the 1980's. And no one can seriously dispute the fact that the GLENN-CHAFEE substitute is a strong regulatory reform bill. Again, it passed the Governmental Affairs Committee with statements of just how strong it was just a few months ago by a unanimous bipartisan vote.

How does that compare to Dole-Johnston? Dole-Johnston would impose new and sometimes conflicting decisional criteria, essentially displacing standards in existing laws by forbidding issuance of any rule unless the criteria are met. This is one of the most troubling features of the proposal. And one of my concerns about Dole-Johnston is that it would so encumber agencies that it would swamp the regulatory process rather than reform it, making it a greater burden rather than a lesser one.

No one can disagree—I do not think anyone is arguing against this—that we should only have rules where the benefits justify the cost. The GLENN-CHAFEE substitute has that standard. It requires every agency to certify that the benefits justify the costs, and if it cannot so certify, to explain why.

The way that the Glenn-Chafee bill works is that since all major rules are presented to Congress 45 days before they take effect, if there is a rule which the agency head says is appropriate for whatever reasons but that the benefits do not justify the cost, we in Congress will then have an opportunity to decide whether or not such a regulation whose benefits do not justify its costs should take effect. There will be times where we will decide it should, for whatever reason. It may be that the underlying law requires it. But where an agency head, as part of the cost-benefit analysis, tells us that the benefits do not justify the cost, we then are in the position to decide whether or not it is still our intention that the rule go into effect. That is the real power of the legislative review process.

An agency may also not be able to certify that the benefits justify the cost because the underlying statute may have required that the agency regulate without regard to the cost effect.

Congress may have decided that an agency should issue a rule establishing the safe level of a toxic element in the

air and that we want that level achieved regardless of what the cost implications might be. So assessing the cost and the benefits may simply not be an option for that agency. Well, we want the agency to tell us that so that we, elected officials, accountable to the people, can decide: Do we really want to impose a rule that has costs which cannot be justified by the benefits? We may pass laws that say that, but when it comes to the rulemaking, we should have an opportunity and be forced to consider the actual costs that we are imposing on this society. We have that in the Glenn-Chafee substitute.

Now, the Dole-Johnston substitute has a different approach. It says specifically that an agency cannot regulate unless it finds that the benefits justify the costs, or if the rule cannot satisfy that criteria, the rule must meet three other tests including that it adopts the least cost alternative and that it results in a significant reduction in risk.

Last week, we adopted an amendment that reaffirmed what the sponsors of the bill had been saying in this Chamber, that the decisional criteria of their bill do not override any existing statute—and that was an important issue to clarify—that where there is a conflict between an underlying health, safety or environmental law and the decisional criteria of Dole-Johnston, it is intended that the underlying statute govern. But the problem is that probably in most cases there will not be a direct conflict. And in those cases the Dole-Johnston decisional criteria could be interpreted as governing. So now let us look at the criteria.

Least cost of the Dole-Johnston decisional criteria would require that an agency pick the least cost alternative in choosing how to regulate. Now, on the surface that may sound right, going with the least expensive, but once the surface is scratched, this approach not only fails the commonsense test, it is inconsistent with the cost-benefit test.

Why would we want to restrict Federal agencies to picking the cheapest way to regulate when in many cases it will not be the best way to regulate and will not be the most cost effective way to regulate? Why would we want to deny agencies from getting the biggest bang for the buck out of the regulatory scheme? If going with the cheapest were always the best approach, we would all be driving Yugos.

Now, if, for $100 million in costs, we can save 1,000 lives, but for $110 million in costs, we can save 2,000 lives, ought we not be able to go with the slightly more expensive approach for double the savings in lives even though the lower cost-smaller savings in lives approach might meet the minimal statutory criteria?

Statutes usually have a range. They usually describe things in terms of minimal safety and allow discretion for the agency. Do we want to tell an agency that you cannot spend that extra 10 percent to double the savings in lives? Is that really what we want to do? Then why do the cost-benefit analysis? There is an inconsistency.

Mr. JOHNSTON. Mr. President, will the Senator yield?

Mr. LEVIN. I will be happy to yield for a question. But before I do yield, let me say this. I am going to get to the issue which the Senator and I have discussed over the last few days, which is whether or not there is an exception then to the least-cost approach. I am going to address that issue immediately and then perhaps he could ask a question after I address the exception which the Senator from Louisiana has pointed to as to why we are not driven always to least cost. I know that is the Senator's position. However, the language is quite clear. And I will be addressing what he calls an exception to show that it is not an exception. But I would be happy to get into that issue.

Mr. JOHNSTON. Is the Senator seriously saying that if you can save, what was it, 10,000 lives for $1 million, that for an extra $100,000 you could not save another 1,000 lives—is the Senator really saying that he believes that about our bill?

Mr. LEVIN. I do, because that is clearly quantifiable. I just quantified it. And that is the way the agencies read the Dole-Johnston bill, and that is why the agencies have written a statement, and that is why the bill should be amended, and that is why we have discussed an amendment, one of a number of amendments to the Senator's bill. Since I have just quantified it, it is not eligible for the exception. The exception only applies where it is not quantifiable, and I have just given a quantified exception.

I have just said for $100 million you can save 1,000 lives, but for $110 million you can save 2,000 lives. Now, the Senator is going to say and has said, well, that is nonquantifiable and therefore it is subject to this exception, to the least cost approach because the value of a life cannot be quantified.

First of all, agencies do quantify it, but, second, in my hypothetical I have quantified it precisely and that is the way the agencies read this language. So we can sit here all day and debate as to whether or not, when you have 1,000 lives as a quantified benefit, that is quantified or nonquantified since for many of us the value of a life cannot be quantified.

Mr. ASHCROFT. Will the Senator yield?

Mr. LEVIN. But the agencies read it this way, and I think it should be clarified.

I will be happy to yield for a question.

Mr. ASHCROFT. Will the Senator say that the benefit is the same benefit if 100,000 lives are saved or if 200,000 lives are saved?

Mr. LEVIN. No.

Mr. ASHCROFT. It is a different benefit.

Mr. LEVIN. I would say a different benefit, both quantified but they are different.

Mr. ASHCROFT. Both quantified. And the cheapest 200,000 lives would be a separate calculation.

It seems to me, if those are different benefits, the agency would not be required then to employ the so-called cheapest but could employ, it could employ the benefit for the greater savings because it is a different benefit and the calculation would be the cheapest for that different benefit.

Mr. LEVIN. I would think the agency should be able to do it, but under this language the only exception, certain exception to the requirement is to take the least costly approach. And you can only do it where it is a nonquantifiable benefit, and I think the Senator would agree with me this is a quantifiable benefit.

Mr. ASHCROFT. That is right. But since it is a different benefit, it is a different calculation. It seems to me that if the benefit is different, that if the extra lives mean it is a different benefit——

Mr. LEVIN. It is the same rule.

Mr. ASHCROFT. It is the same rule. But if it is a different benefit, then it is a different cost-benefit ratio and the cheapest for the different benefit is the superior one for which the Senator has argued.

Mr. LEVIN. You would think that the agency in applying that rule ought to be able to spend the extra 10 percent to double the number of lives.

Mr. ASHCROFT. My view is and my question was——

Mr. LEVIN. Would the Senator agree with that?

Mr. ASHCROFT. I would agree that for a nickel more you can go first class is the old way of saying that, and if first class means that you get more lives saved per value committed, I think we would want to be able to do that.

Mr. LEVIN. I think so, too.

Mr. ASHCROFT. My sense is that if it is a different benefit——

Mr. LEVIN. The number is different. If the Senator says a different benefit, the number is different. It is twice as large.

Mr. ASHCROFT. That is correct. And it seems to me that means this bill should be driving that—that if the number is different, it is a different benefit, and we should get to that number the cheapest way possible. In getting to any other number, the cheapest way possible should be our objective. If we decide to save 120,000 lives, there is a cheapest way to get there. And if we want to save 100,000 lives, there is a cheapest way to get there. And it

seems to me, since those are different benefits, the Dole-Johnston proposal would allow us to get to those benefits by the cheapest strategy.

Mr. LEVIN. I think I would agree with the Senator that we ought to try to have a cost-benefit in what we do. The problem is that when we legislate, we do not say save 1,000 lives or we do not say save 2,000 lives. What we say is that the agency should regulate emission of a certain element going into the air in order to achieve a safe level. And then we give to the agencies typically, because we do not know here precisely what that safe level is frequently, some discretion. And then the agency is told to do a cost-benefit analysis.

That is our requirement in this bill, to do a cost-benefit analysis. Now the agency says—and this is my hypothetical—the agency cost-benefit analysis says, for 100 million bucks, you are going to save 1,000 lives. If you want to spend $110 million, you are going to save 2,000 lives.

Mr. ASHCROFT. You are doing something else; you are doing something different.

Mr. LEVIN. If the Senator will yield, that is what the cost-benefit analysis describes to the agency doing that analysis. The point is, will you allow the agency, using that cost-benefit analysis, to go to the $110 million instead of $100 million, even though the $100 million may meet the minimum threshold, since there is a range allowed by definition, or else you would not be doing the cost-benefit analysis? You would not need to. It would not be as relevant as it otherwise should be. You are doing a cost-benefit analysis most of the time because a range is permitted, and if a range is permitted under the statute, the question is then, will you allow the agency discretion to implement something more expensive than the least costly, if you can, for a small incremental amount to significantly increase the benefit?

I think the intention of the sponsors is to allow the agency to do so. However, we have pointed out over and over again that the language of the bill does not permit the agency to do it, because it says that unless the benefit is nonquantifiable—nonquantifiable—you cannot go to anything but the least costly.

Mr. JOHNSTON. Will the Senator yield on that point?

Mr. LEVIN. So we have urged the sponsors to strike the word "nonquantifiable" before "benefit." When the word "benefit" is defined earlier in the statute, it says "quantifiable or nonquantifiable." But in this exception to the requirement for least cost, the limitation of nonquantifiable is before the word "benefit." In my hypothetical, I have given a quantifiable benefit, 1,000 versus 2,000 and $100 million versus $110 million. Then the agencies read this and I read this as being a quantifiable benefit, thereby not subject to the exception.

The Senator from Louisiana has argued that that is a nonquantifiable benefit because you cannot quantify the value of a human life. Even if that were conceded, the problem is that the benefit that we are quantifying here is the number of human lives, and agencies read that as a quantifiable benefit. I happen to think the intention of the sponsors is that you are or should be allowed to go to something more expensive than the least costly. That is what they keep telling us. But the language remains restricted in that way, and that is what I am addressing.

Mr. JOHNSTON. Will the Senator yield?

Mr. LEVIN. I will be happy to.

Mr. JOHNSTON. If we struck that word "nonquantifiable," I take it, it would solve the Senator's problem?

Mr. LEVIN. It would solve that particular problem in the criteria. That is one of three problems, and it would solve that problem.

Mr. JOHNSTON. If the Senator will yield the floor, I am prepared to offer such an amendment.

Mr. LEVIN. I am not prepared to yield the floor. I will yield in about 10 minutes.

Mr. JOHNSTON. All right. I have an amendment prepared to that effect.

Mr. LEVIN. I would like to finish my statement, and then I will be happy to yield. I want to commend the Senator for that change which has been the subject of about a day's debate here.

There is another criterion, so-called decisional criterion, in Dole-Johnston which is that the regulation must result in a significant reduction in risk. That is another hurdle that the agency has to go through before an agency is allowed to regulate. This one does not make sense either.

What if an agency can reduce the risk for very little money but cannot prove that it is a significant reduction in the risk? Should an agency be able to regulate if there is a reduction in the risk to our safety or our food or the environment which may be not a significant reduction but is a reduction and is worth doing on a cost-benefit basis because the cost is so slight that even though the benefit is not major, nonetheless it is justified?

Dole-Johnston would establish a whole new standard and would require the agencies to show that the reduction in risk is significant, even though the cost might be minimal.

The Department of Transportation has informed us that if they had to meet this test when regulating for shoulder belts or for lap belts for the back seat, that they may not have been able to have met that test. The shoulder belt lessens the risk by 10 percent over the reduction in the risk for the lap belt, and they are not confident that would meet the test for significant. But the cost may be so nominal that they may decide it is worth doing anyway, although the benefit is not a major benefit.

So there is another problem with the decisional criteria which can be addressed by striking that word so that the cost-benefit analysis will be driving this, even if the benefit is modest, where the cost is far more modest.

Another problem with Dole-Johnston is that each of the decisional criteria that they set forth—and we have discussed two of them here—establishes another basis for legal challenge. Each of these criteria forms the basis for judicial review and judicial second-guessing of the agency's rulemaking decision.

For instance, if the agency decides benefits justify the cost, did the agency pick a rule that provides for market-based and performance-based standards? Did the agency pick a rule that was least costly? Were there any other alternatives slightly less costly? Does the rule provide for significant reduction in risk? What is significant? Was the agency right in valuing the risk reduction as significant?

The litigation that is possible with these decisional criteria is almost endless. The whole judicial review problem with Dole-Johnston is another major issue of concern, and we have spent some time discussing this with the sponsors, both on and off the floor.

We believe, based on what agencies tell us, that courts would be asked to interpret over 100 different issues. One massive golden opportunity for litigation is the requirement in the bill that an agency consider and do a cost-benefit analysis on every reasonable alternative presented to them. This is not limited to a significant number of reasonable alternatives. The agency is required to respond and do a cost-benefit analysis for every reasonable alternative for regulation, and this is all subject to judicial review.

What does that mean? Say an agency is issuing a rule to establish a health or safety standard for a toxic substance in drinking water. They are looking at—I am making up a substance, a number here—the agency is looking in the range of 12 parts per billion of a certain substance. What happens if somebody suggests 11½ parts per billion; someone else suggests 12½ parts per billion; someone else suggests 11 parts per billion; someone else 13 parts per billion? Each of these, let us assume, the agency considers to be a reasonable alternative. Under Dole-Johnston, that requires the agency to consider and do a cost-benefit analysis on each of these possibilities. That analysis would then be subject to judicial review to see why the agency did not pick one of those other reasonable alternatives. It is endless.

Another aspect, a judicial review problem of Dole-Johnston is the fact

that the bill allows for interlocutory appeals of an agency's determination as to whether or not a rule is major, whether or not it should be subject to a risk assessment, whether or not it should be subject to a regulatory flexibility analysis.

This is unprecedented in 50 years of the Administrative Procedure Act. We have not had interlocutory appeals under the Administrative Procedure Act. This is the opportunity to go to the court and have judicial review of an agency action before the action is taken, before it is finalized.

In this case, that means that after an agency has issued a notice of proposed rulemaking, a party—it is not clear what level of standing would be required by a party in order to bring an interlocutory appeal—but a party to the notice of rulemaking may take the agency to court within 60 days to challenge the agency's preliminary decision that a rule is not major, does not need a risk assessment, does not need a regulatory flexibility analysis.

When a rulemaking is at its early stages, the public is expected to make comments to the agency about the impact of the rule. It may be that during the rulemaking process, the agency is presented with new and sufficient evidence for the agency to decide that indeed the rule is a major rule, or is one that does require a risk assessment, or one that does require regulatory flexibility analysis. But with the interlocutory appeal, if a party did not challenge the agency at the beginning of a rulemaking, it is foreclosed from raising a challenge at the end of the rulemaking, regardless of what is learned during the actual rulemaking process. And that is why, when we were considering the Nunn-Coverdell amendment, I noticed that I thought this was going to hurt small businesses and small governments because they are going to lose the opportunity of learning about the impact of a rule from rulemaking so that they can challenge those critical issues after the final rule is adopted.

They are given an opportunity to challenge it early when there is a preliminary notice, but unless they take that interlocutory approach, they are then foreclosed from appealing at the end of the process, after they know the facts upon which they can make the appeal. We are not doing a favor to small businesses when we are doing that.

On the other hand, if we allow them both at the beginning and the end, then you are going to have excessive litigation and two bites at the apple. So the alternative that the Administrative Procedure Act used all these years is to say you can appeal these decisions at the end of the rulemaking process. But what this bill does for the first time is creates this interlocutory appeal early in the rulemaking process, thinking we are doing a favor for small businesses and small governments and, in fact, we are not doing so at all.

Now, another consideration is the strong concern by the Justice Department that the court will entertain requests by a party bringing an interlocutory appeal to suspend the rulemaking during the court's consideration of the appeal. That is a logical request; we are making an interlocutory appeal early in the rulemaking and suspending the rulemaking pending the appeal. Although it is not expressly permitted by the legislation, it is not expressly prohibited either. Should the courts begin granting these delays, months, and perhaps years, would be added to the rulemaking process.

The Glenn-Chafee substitute permits judicial review of an agency's determination as to whether or not a rule is major, but that occurs after the final rule is issued. The knowledge that a rule can be challenged at the end on that basis will make an agency proceed with its determination very carefully. It is an important deterrent, knowing that its decision on that issue and a number of other issues are subject to appeal at the end of the process.

Another problem with the judicial review in the Dole-Johnston substitute is the change that it makes to section 706 of the Administrative Procedure Act. That is another big difference in these two pieces of legislation. The Dole-Johnston bill not only establishes requirements for cost-benefit analysis, risk assessment, and for major rulemaking, but it also rewrites the Administrative Procedure Act, which applies to all rulemaking, and, in doing so, rewrites almost 50 years of case law.

With respect to judicial review, the Dole-Johnston substitute adds a new standard for judicial review of an agency's rulemaking. For 50 years, the standard has been arbitrary and capricious for informal rulemaking and substantial evidence for formal rulemaking. The Dole-Johnston substitute adds a third—substantial support in the rulemaking file for the factual basis of an informal rulemaking.

Now, I do not know the difference between substantial support and substantial evidence. But I do know it will be a greatly litigated issue. It may make great business for the legal community, but otherwise, it is going to be doing nothing but producing mischief.

I have been advised that some judges have stated there is very little difference between the substantial evidence and the arbitrary and capricious test. Other courts have articulated a difference, concluding that the arbitrary and capricious test is more deferential to agency decisionmaking.

Now, the Dole-Johnston substitute would add a whole new test, and briefs will be filed and cases developed, splitting the hairs between substantial support and substantial evidence. Of course, the difference between both is arbitrary and capricious. We should not do it. There is no reason given here to do it. We are adding a new test without any clarity. It is the difference between that test and the one currently applied in the Administrative Procedure Act. We are not doing anybody who has to live in that regulatory process a favor by doing that.

Now, another serious problem with the Dole-Johnston substitute is the provision on how existing rules are to be reviewed, or lookback, as many of us call it. Now, lookback is important. It is important because we want rules that have been in existence for years and which have gone unchallenged, but which may be causing serious problems, to be reviewed under the new standards and the requirements of regulatory reform. But how we do that is very important.

The Dole-Johnston substitute establishes a process by which, every 5 years, each agency reissues a schedule for the review of rules. A rule, once put on the schedule, is to be reviewed within 10 years. However, Dole-Johnston permits a private party to petition to have a major rule added to the schedule for review, and if it is, then that major rule must be reviewed within 3 years. The 10-year review cycle for these added rules is telescoped to within the next 3 years.

S. 343, as originally introduced, was severely criticized because, through the use of multiple petitions—that is, request the agencies to take certain actions—outside parties would be able to control the priorities of a Federal agency and divert and direct Federal resources. While an attempt has been made to address that problem, it still remains.

By allowing persons to petition to get major rules added to the schedule and then reviewed within 3 years, we are right back where we were when the original S. 343 was introduced, by having agency priorities dictated by outside parties. Moreover, the bill allows an outside party to petition to place a major rule on the schedule of rules to be reviewed, even if the agency is already included in the schedule. So even though the agency has included a rule on the schedule to be reviewed, an outside party could petition the agency to include it on the schedule to be reviewed. Why? Because that way it gets an earlier review. The agency may have said we are going to review it in the fourth, fifth, or seventh year, and a party not satisfied with that, even though the rule it is worried about is already on the petition, is nonetheless going to ask that it be put it on the schedule anyway, because when it wins—and it will win because, by definition, the agency would concur with it—this time the party will get its rule reviewed within 3 years.

Now, what that means is hundreds of people in each agency, having an interest in rules, every 5 years is going to be jockeying for where on a schedule of review its rule is going to be, and that is judicially reviewable.

Now, mind you, it can take up to 10 years to review the rules on that schedule. But every 5 years every agency—many of them with hundreds of rules and thousands of petitioners—is going to have to adopt a schedule, and the schedule is judicially reviewable. It probably would take 5 years just to review the petition and the judicial appeals of people jockeying for support for where on a schedule their rule is going to be reviewed.

Finally, we get through all the appeals, if the courts can figure all this out. Hundreds of petitioners, hundreds of rules, each agency, the 5 years comes and what happens? Presumably, you would think the agency would have 10 years in which to find and implement the schedule. No, every 5 years they have to issue a new schedule. Right in the middle of a 10-year review period they have to issue a new schedule which is subject to judicial review.

This is a prescription for regulatory hash. This is going to be nothing but a litigious mess with this kind of a system.

We are not doing people a favor who are now bedeviled by a regulatory process, who are now wasting a fortune in complying with rules that we should not have adopted; that now we are in court all the time challenging agencies, by adopting a system which says that we will review rules, where on the schedule they go. It is all subject to litigation. Anybody can challenge it. If it is not on the schedule, that is subject to litigation.

Every agency has its own schedule. There could be hundreds of rules that an agency is implementing. That is not an unusual number. There could be thousands of people who are interested in those rules who would have standing to challenge that schedule.

Finally, if you can get through that, if you can get through that whole bunch of roadblocks and hurdles, when you are ready to start to implement the schedule, a new 5-year trigger begins. You have to start all over again.

This is one of the reasons why we say that this approach is too cumbersome and that we will swamp the regulatory process instead of simplify it, and instead of eliminating the pieces of it which are driving folks nuts.

There is broad agreement in this body that we have overregulated, that too often we have imposed costs without adequate benefits, that we ought to require cost-benefit analysis and risk assessment, that we ought to look back at existing rules. I do not think there are two Members of this body that do not agree with those principles.

The problem is whether or not we can implement this in a way which will allow agencies to breathe, so they can carry on their functions of preserving the health, safety and welfare of this Nation, where we want them to do it. Can we strip away from them the excess, without dumping on them such impossible tasks that we are going to tangle up the process so that nothing can get done, and benefit nobody.

We have businesses that want these rules to be reviewed. I think most Members in this body want to review existing rules according to new standards, but we have to do it in a way that works; otherwise we can vote aye and think we are doing something good for our society, and end up creating a monster.

Every denial of a petition to be on the schedule is subject to judicial review. Then we have 60 days after publication of a final schedule to sue, to have the court review the appropriateness of the schedules as a whole, or the denial of an individual petition to place a major rule on the schedule.

All of these cases, in all of these agencies, are supposed to be heard in a circuit court of appeals for the District of Columbia, and they all have to be filed in the same timeframe. The court of appeals will have to review all these schedules and all these petition denials in about the same time.

Now, additionally, Mr. President—and I am almost done—there are serious problems with the multiple petitions that are permitted by this legislation. The Dole-Johnston bill adds several new things that you can ask an agency to do within a certain time period and have a denial subject to judicial review. Current law allows petitions to an agency at any time for the issuance, amendment, or repeal of a rule. That is under current law.

So if you ask an agency to issue a rule, amend a rule or repeal a rule, you can file a petition, but there is no deadline in current law by which an agency has to respond. If an agency does not respond to that request, a petitioner can go to court and force the agency to respond to the petition, if the agency fails to do so.

Now, that is current law. So there is an opportunity to go to court in that narrow area where an agency fails to respond to a petition for the issuance, amendment, or repeal of a rule.

The Dole-Johnston substitute expands current law on petitions by adding to the Administrative Procedure Act two additional purposes for which an interested person can petition an agency. You can ask for the amendment or repeal of an interpretive rule, or the amendment or repeal of a general statement of policy or guidance. You can ask for the interpretation regarding the meaning of a rule or the meaning of an interpretive rule or general statement of policy or guidance.

Whereas, under current law if you ask for the issuance, amendment, or repeal of a rule, and the failure to respond is subject to a court intervention, under the Dole-Johnston substitute, if you ask an agency to amend or repeal or interpret an interpretive rule, general statement of policy or guidance, that also, now, becomes subject to judicial review.

Agencies do a lot more than issue rules. They issue guidance all the time, interpretations all the time, statements of policy all the time, probably by the thousands, in order to help people understand and work through a complicated regulatory system.

Under Dole-Johnston all of that—I do not know and no one knows how many thousands, tens of thousands, or hundreds of thousands of requests there are for interpretation and guidance that are filed with these agencies each year; we do not know—will now be subject to deadlines and to judicial review. That is the block that we are superimposing on this regulatory process.

The agency can either deny or grant those requests for all of that material within 18 months. Judicial review is immediate upon a denial. This, again, is going to dramatically change an agency's control over its priorities and its resources. Agencies can just simply be overwhelmed—and I emphasize, this is new. The ability to submit a request is not new. They have been asked for a decade. What is new is that now all these requests for guidance and interpretation are now going to be subject to deadlines and court review. That is what is new, massively new, overwhelmingly new.

We should be trying to downsize Government, not swamp it. We should not let the agencies become total victims of random and multiple tugs and pulls from either individuals or interests that have special axes to grind.

Agencies also have a national purpose to be achieved. They have not done an adequate job of responding to individuals. Everyone in our office spends too much time trying to force agencies to respond to our constituents—sometimes just to respond, much less to respond fairly or in an appropriate way.

They have to do a much better job. This will overwhelm an agency by providing court appeals, following deadlines, even where there is a response, because the response is subject to judicial review.

Now, there are two additional opportunities, in addition to what I have just said, that Dole-Johnston makes available to people who are making requests of rulemaking agencies.

Any interested person can petition an agency under Dole-Johnston to review a risk assessment, other than a risk assessment that is used for a major rule. The agency must act within 180 days under that petition and the agency denial of the petition would be judicially reviewable as a final agency action.

Also, any person subject to a major rule can petition an agency to modify or waive specific requirements of the major rule and authorize such person to demonstrate compliance through alternative means not otherwise permitted by the major rule. The agency must act on that petition within 180 days.

Now, while there appears to be no judicial review of any agency action with respect to this latter petition process, nonetheless, given the number of people who are subject to major rules, an agency could be flooded with petitions for alternative means of compliance, each of which would have to be responded to within 180 days.

A big part of the legislation which all of us are working on, and some of us are struggling with, is to get agencies to prioritize their regulatory activity so that we are putting Government resources on the most important risks, the most important dangers, and not spending excessive time and effort with less significant matters. Opening each and every agency to their responsibility to not only respond but to defend against hundreds, probably thousands of new kinds of petitions for specific regulatory actions, takes us in the opposite direction. The Dole-Johnston substitute tries to address it by providing for a consolidation of some of the petitions that are permitted in the bill, and for the judicial review of those petitions. But that is only for petitions relating to major rules. Petitions related to nonmajor rules are treated the same as the original Dole bill and can be made at any time and as often as people like.

Dole-Johnston provides a procedure for the review of existing rules. Each agency would be required to issue a proposed schedule for the review of rules which can contain major and nonmajor rules. Those schedules would be subject to public notice and comment. Private persons can also petition an agency to add a major rule to the schedule. A petitioner has to show that the rule is major and that there is a substantial likelihood that it does not meet the decisional criteria in the bill. All the petitions must be filed within a limited time period while the schedule for the review of rules is being considered. The schedule is issued every 5 years, and rules on the schedule are to be reviewed within 10 years, as we have said, with the possibility of a couple of years' extension.

However, if a petitioner is successful, the Dole-Johnston substitute provides that the review of the petitioned rule gets bumped up to the first 3 years of the 10-year period. So any rule that is added to the schedule by petition must be reviewed, not within 10 years, but within 3 years. And, if it succeeds, it then bumps a rule that was already within that 3-year period, presumably, since there are a finite number of rules that can be reviewed within a 3-year period.

So you are going to have all the jockeying and all the petitions filed in the court in order to try to get a position on the schedule which is high up. And if one fails, then there is a petition to get on the schedule so that you can get a higher position. Once the final schedule for each agency is published, again, parties will have 60 days to file suit and suit can be brought to challenge the denial of being on the schedule. Or even in the event that you are on the schedule, again, you can bring a suit in order to improve your position.

Mr. President, let me conclude by saying this. The Dole-Johnston substitute simply goes too far. In its effort to reform it will swamp the very process that it sets out to repair. It is not reform, it is bureaucratic overload. It is like throwing a bucket of water to a drowning person instead of a rope. The Glenn-Chafee proposal, that we will be considering later on today and voting on, embodies the bill passed by the Governmental Affairs Committee. It is reform, it is not overload. We simply must do two things and can do two things. We can have reform of the regulatory process, but we can do it in a way that does not jeopardize important health, safety, and environmental protections which have improved our lives in America.

We want to be able to trust the water we drink and the food that we eat and the air that we breathe and the planes that we fly and the bridges that we cross. And we can have that. We can avoid regulatory excess. And the way to do that is to adopt the Glenn-Chafee substitute.

Mr. President, I yield the floor.

The PRESIDING OFFICER (Mr. INHOFE). The Senator from Rhode Island.

Mr. CHAFEE. Mr. President, the amendment I am offering with Senator GLENN and many of our other colleagues is a solid proposal for regulatory reform. The purpose of regulatory reform legislation is to improve the quality of the regulations that are issued by the Federal agencies. That is what we are trying for. What we want to do is to weed out the bad rules, the rules that do not make sense. We want the science and the economics used to design rules to be of the best quality. And we want rules with flexibility built in, to make the compliance burden as small as possible.

I believe the Glenn-Chafee substitute accomplishes many reforms. Let us tick a few off. It requires a cost-benefit analysis for every major rule. It requires agencies to select the most cost effective option that achieves the goals establish by the law. It requires agencies to select regulatory options that provide the greatest flexibility for compliance and recognize the compliance difficulties faced by small businesses and towns, small towns. It requires rules with costs that are greater than the benefits to be identified before they are promulgated. It requires OMB to review the cost-benefit studies in an open process that gives access to all those with an interest. It establishes expedited procedures for Congress to review major rules before they become effective, so that poorly drawn rules with unjustified costs can be stopped. That is the 60-day review process that we have. It includes clear principles for risk assessment. It requires each agency to establish a peer review process, ensuring that the science used to make important determinations is the best available. It requires agencies to develop an agenda to review existing rules and to repeal rules that are no longer needed or that cost too much.

It gives courts authority to enforce the review requirements of the Regulatory Flexibility Act, ensuring that rules affecting small businesses and small towns recognize their compliance problems. And it requires agencies to reexamine budgetary and enforcement priorities and to modify programs to maximize the reduction in risks to health and to the environment.

OK, it does all of those things. These are important steps that will improve the quality and reduce the compliance burden of Federal regulations. Some people have said, "Oh, the Glenn-Chafee bill is just status quo. It just repeats what we have now." That is absolutely not so, as he have delineated in the prior points. Now, these are important steps that will improve the quality and reduce the compliance burden of Federal regulations. I am confident that these steps can be taken without undermining our environmental or health laws.

But there are several other things, so-called reforms, that this bill does not have. And they are not reforms at all, they are steps backward.

It does not include extensive special interest petitions to force endless rounds of review for every new and existing rule, risk assessment, and enforcement action taken by an agency. That is what Senator LEVIN was talking about.

It does not direct agencies to pick the least costly action a statute allows. Under the least cost approach an agency can not go for a slightly more expensive approach that will produce many more benefits. You are locked in at the lowest cost, and that is not good.

It does not allow Federal judges to second-guess the complex data, assumptions, and calculations that are developed through risk assessment to support a rule. The judges cannot go fishing back into all of that.

It does not automatically sunset existing rules because an agency did not have the resources to carry out a review ordered by a court.

It does not waste millions and millions of taxpayers' dollars on studies and assessments and lawsuits for minor rules.

And it does not delay for months, even years, needed and justifiable rules to protect health and safety and the environment while endless rounds of review are conducted to ensure that rules meet a standard of near perfection.

Senator GLENN has many times suggested a two-part test for the Senate to use in comparing these two bills. I recommend to my colleagues that they pay attention to these two points.

First, would the bill produce better rules, rules that are more cost effective and have a foundation in good science and economics?

Second, does the bill threaten to undermine the health, safety and environmental protection that has been achieved by the laws we have enacted over the past 25 years?

We want reform without a rollback. That is the test.

The Glenn-Chafee amendment passes that test. It incorporates all the significant reforms that the Senate adopted in 1982 when we considered, on this floor, S. 1080. That was a splendid piece of legislation. It was acclaimed by all as a thoroughgoing reform. In addition to the provisions of cost-benefit analysis and congressional veto that were included in S. 1080, the Glenn-Chafee amendment has new principles for risk assessment, an agenda to review existing regulations and steps to realign priorities based on risk. It goes well beyond S. 1080.

S. 1080 was adopted on the floor of this Senate 93 to nothing. I suspect the distinguished senior Senator from Louisiana voted for it. He certainly did not vote against it. Maybe he was not present, but he has a good attendance record so I suspect he voted for that bill. It was good enough in 1982.

The Glenn-Chafee amendment would catch poorly drawn or costly rules. Cost-benefit analysis is required of major rules. Courts can enforce this requirement. OMB is to oversee the preparation of these cost-benefit studies. The information on the costs and benefits of each rule will be sent to Congress, lay over there for 60 days before a rule becomes effective. Congress can veto the rule.

From the debate on this issue it appears that Congress may well receive between 500 and 1,000 rules every year under this congressional review process. If even a small minority of the Members of this body want reconsideration of a particular rule, it will be easy enough to ensure that a vote on the resolution occurs.

Now, I am currently serving as chairman of the Environment and Public Works Committee, and I have some concern about the workload that this so-called reform will create, having coming before us between 500 and 1,000 rules every year. But this is real reform. I expect we will be voting on many resolutions and many times will force agencies to reconsider their rules. If a bad rule gets through, we will have no one to blame but ourselves here in Congress; we let it happen. We can stop bad rules under the reform provisions that are contained in the Glenn-Chafee amendment. Once Congress has this veto mechanism in place, judicial review will become less important as a method to weed out bad rules. Courts will be reluctant to overturn a rule that has been issued by the executive branch and cleared in an expedited fashion in Congress.

The Glenn-Chafee amendment will bring significant changes to the regulatory process.

I do not think the underlying Johnston substitute passes the two-part test that Senator GLENN has outlined. I am concerned that it may prevent timely action to protect human health and safety and the environment. I know that is not what the authors intended, but I believe it will have this result.

The reforms are so far-reaching they could paralyze the Federal agencies. That is what Senator LEVIN has been talking about. It is very difficult to issue a significant rule to protect human health or the environment even under the procedures in place today. With the new hurdles erected by the substitute, S. 343, it could well become impossible to get a rule enacted.

Now, Mr. President, last week the senior Senator from Illinois described the experience his State had with cost-benefit analysis. Illinois passed a law in 1978 with cost-benefit provisions similar to those in this Johnston substitute. The Illinois law did not work. It was repealed. Everybody in Illinois that had any experience with their cost-benefit law will tell you it just plain does not work.

You do not have to go to Illinois to learn about the experience with cost-benefit analysis. We had that experience here with the Federal law. We have one environmental law, the Toxic Substances Control Act. This is called TSCA. That contains many of the same procedures that are set forth in the underlying substitute.

So we have been down this road before. Now, Yogi Berra said you can see a lot by looking, and you can see a lot by looking. We can learn a lot from this so-called TSCA experience. The lawyers who wrote this bill that is before us now, the Johnston substitute, must have used this TSCA experience and the TSCA law as a model. TSCA is a cost-benefit statute. To issue a rule under TSCA, EPA must determine that the benefits of the rule justify the costs.

Under TSCA, EPA is required to impose the least burdensome regulation, just like the Johnston bill does. TSCA requires that all of the available regulatory options be considered to determine which is the least burdensome.

Now, this is an important illustration, Mr. President. We have been down this road before. We have something actually before us that is nearly exactly the same as the Johnston substitute, the so-called Toxic Substances Control Act. How did it work?

EPA, under this TSCA bill, is required to produce substantial evidence in the record to support its rulemaking determination. That is what the Johnston substitute requires.

Now, when it was enacted in 1976, many in Congress claimed that TSCA would become the most powerful of all the environmental statutes. It appears to authorize EPA to regulate virtually any chemical in commerce, for any adverse effect, in any environmental medium, in products and in the workplace. TSCA was to be the law that integrated all our environmental goals under one umbrella.

However, TSCA has been a disaster. EPA has only attempted one major regulatory action since TSCA was passed nearly 20 years ago. EPA worked on that one rule for 10 years. It reviewed hundreds of health studies, spent millions of dollars reviewing the comments and the data from the industries to be regulated. The rule was issued after 10 years, and it was immediately challenged in court under the special judicial review standards that apply to TSCA, which are the same standards that would be imposed on all laws under the Johnston amendment. So we have been down this track. Now, what happens? The rule was overturned by the Fifth Circuit Court of Appeals.

I ask unanimous consent, Mr. President, that the opinion of the court be printed in the RECORD after my comments this morning.

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

(See exhibit 1.)

Mr. CHAFEE. The reason the court gave for vacating the rule was the failure of EPA to provide substantial evidence in the record to support its actions. You did not do enough, they said.

The substantial evidence test does not apply to any other environmental laws, only to TSCA, and the only rule ever attempted under TSCA was overturned by the courts because EPA did not meet a test, a test that under the Johnston amendment would apply to all our environmental laws.

Reading the decision, one gets the impression that even if EPA had passed the substantial evidence test, the rule would have been thrown out on other grounds. The court said that EPA had not considered a sufficient number of regulatory alternatives because it only did cost estimates on five options, not all of the possible options. The court

said EPA had not satisfied the requirement that it impose the least burdensome option because it had not presented any evidence the least burdensome option was among the five considered.

One could almost conclude that those who drafted the regulatory reform bill before the Senate—in other words, the Johnston substitute—did so with the Fifth Circuit Court's ruling in mind. Every hurdle that has made TSCA a useless law to protect health and environment is rolled up in this bill before us today. It applies across all of our health and our safety and our environmental statutes. No wonder the administration says it will veto the Johnston bill if it passes.

Mr. President, if the Senate will be guided by the two questions Senator GLENN set out—first; will real reform occur; and, second; will environmental laws be protected or will they be undermined—only one of the two proposals before us today passes that muster. The Glenn-Chafee amendment contains a series of steps that will improve the quality and reduce the burden of Federal regulations. It does so without threatening to undermine our environmental and safety laws.

The other bill may be described by Senator JOHNSTON as a tougher reform bill. No doubt more rules will be blocked by that bill. Under that bill, it could well result that Federal regulatory agencies would be brought to a virtual standstill. That is what I am confident will happen if this bill should ever become law, which fortunately has a slim chance of occurring.

But that is not the goal of regulatory reform, to have the whole regulatory process of our Federal Government brought to a halt. I am sure Senator JOHNSTON and proponents of his bill believe setting high standards for regulations will get better rules. But in making the hurdle too high, so high that needed rules, rules that are fully justified by their benefits, can never reach the level of perfection that is demanded, they are blocked by endless rounds of review.

While those on the other side may charge that the Glenn-Chafee amendment achieves only modest improvement in regulations, I fear that the underlying substitute may result in no health and environmental regulations at all. If that is the objective, fine. If the objective is we do not want any rules, and apparently we are going to pass everything in infinite detail in the laws that we pass, that is one thing, but certainly, in my judgment, that is not the best course for our Nation.

I thank the Chair.

EXHIBIT 1

CORROSION PROOF FITTINGS, ET AL., PETITIONERS, *v.* THE ENVIRONMENTAL PROTECTION AGENCY AND WILLIAM K. REILLY, ADMINISTRATOR, RESPONDENTS

No. 89-4596.

United States Court of Appeals, Fifth Circuit, Oct. 18, 1991.

On Motion for Clarification Nov. 15, 1991.

Rehearing Denied Nov. 27, 1991.

Petition was filed for review of final rule promulgated by Environmental Protection Agency (EPA) under Toxic Substances Control Act section prohibiting future manufacture, importation, processing, and distribution of asbestos in almost all products. The Court of Appeals, Jerry E. Smith, Circuit Judge, held that: (1) foreign entities lacked standing under Act to challenge rule; (2) EPA failed to give required notice to public, before conclusion of hearings, that it intended to use "analogous exposure" data to calculate expected benefits of product bans; and (3) EPA failed to give adequate weight to statutory language requiring it to promulgate least burdensome, reasonable regulation required to protect environment adequately.

The Environmental Protection Agency (EPA) issued a final rule under section 6 of the Toxic Substances Control Act (TSCA) to prohibit the future manufacture, importation, processing, and distribution of asbestos in almost all products. Petitioners claim that the EPA's rulemaking procedure was flawed and that the rule was not promulgated on the basis of substantial evidence. Certain petitioners and amici curiae contend that the EPA rule is invalid because it conflicts with international trade agreements and may have adverse economic effects on Canada and other foreign countries. Because the EPA failed to muster substantial evidence to support its rule, we remand this matter to the EPA for further consideration in light of this opinion.

I

Facts and Procedural History

Asbestos is a naturally occurring fibrous material that resists fire and most solvents. Its major uses include heat-resistant insulators, cements, building materials, fireproof gloves and clothing, and motor vehicle brake linings. Asbestos is a toxic material, and occupational exposure to asbestos dust can result in mesothelioma, asbestosis, and lung cancer.

The EPA began these proceedings in 1979, when it issued an Advanced Notice of Proposed Rulemaking announcing its intent to explore the use of TSCA "to reduce the risk to human health posed by exposure to asbestos." *See* 54 Fed. Reg. 29,460 (1989). While these proceedings were pending, other agencies continued their regulations of asbestos uses, in particular the Occupational Safety and Health Administration (OSHA), which in 1983 and 1984 involved itself with lowering standards for workplace asbestos exposure.[1]

An EPA-appointed panel reviewed over one hundred studies of asbestos and conducted several public meetings. Based upon its studies and the public comments, the EPA concluded that asbestos is a potential carcinogen at all levels of exposure, regardless of the type of asbestos or the size of the fiber. The EPA concluded in 1986 that exposure to asbestos "poses an unreasonable risk to human health" and thus proposed at least four regulatory options for prohibiting or restricting the use of asbestos, including a mixed ban and phase-out of asbestos over ten years; a two-stage ban of asbestos, depending upon product usage; a three-stage ban on all asbestos products leading to a total ban in ten years; and labeling of all products containing asbestos. *Id* at 29,460-61.

Over the next two years, the EPA updated its data, receiving further comments, and allowed cross-examination on the updated documents. In 1989, the EPA issued a final rule prohibiting the manufacture, importation, processing, and distribution in commerce of most asbestos-containing products. Finding that asbestos constituted an unreasonable risk to health and the environment, the EPA promulgated a staged ban of most commercial uses of asbestos. The EPA estimates that this rule will save either 202 or 148 lives, depending upon whether the benefits are discounted, at a cost of approximately $450-800 million, depending upon the price of substitutes. *Id.* at 29,468.

The rule is to take effect in three stages, depending upon the EPA's assessment of how toxic each substance is and how soon adequate substitutes will be available.[2] The rule allows affected persons one more year at each stage to sell existing stocks of prohibited products. The rule also imposes labeling requirements on stage 2 or stage 3 products and allows for exemptions from the rule in certain cases.

Section 19(a) of TSCA, 15 U.S.C. §2618(a), grants interested parties the right to appeal a final rule promulgated under section 6(a) directly to this or any other regional circuit court of appeals. Pursuant to this section, petitioners challenge the EPA's final rule, claiming that the EPA's rulemaking procedure was flawed and that the rule was not promulgated based upon substantial evidence. Some amici curiae also contend that the rule is invalid because it conflicts with international trade agreements and may have adverse economic effects on Canada and other foreign countries. We deal with each of these contentions *seriatim*.

II

Standing

A

Issues Raised Solely by Amici Curiae

[1] The EPA argues that the briefs of two of the amici curiae, Quebec and Canada, should be stricken because they improperly raise arguments not mentioned by any petitioner. To the extent that these briefs raise new issues, such as the EPA's decision not to consider the adverse impacts of the asbestos ban on the development of the economies of third-world countries, we disregard these arguments.[3] At times, however, the briefs raise variations of arguments also raised by petitioners. We thus draw on these briefs where helpful in our consideration of other issues properly brought before this court by the parties.

[2] The EPA also asserts that we cannot consider arguments raised by the two amici that relate to the differences in fiber types, sizes, and manufacturing processes because these differences only are raised by the petitioners within the context of prohibiting specific friction products, such as sheet gaskets and roof coating. This is, however, a role that amici are intended to fill: to bridge gaps in issues initially and properly raised by parties. Because various petitioners urge arguments similar to these, we properly can consider these specific issues articulated in the amici briefs.[4]

B

Standing of Foreign Entities Under TSCA

The EPA also contends that certain foreign petitioners and amici do not have standing to contest the EPA's final rule. In its

final rulemaking, the EPA decided to exclude foreign effects from its analysis. Cassiar Mining Corporation, a Canadian mining company that operates an asbestos mine, and the other Canadian petitioners believe that the EPA erred by not considering the effects of the ban on foreign countries and workers.

[3] At issue in this case is a question of prudential standing, which is of less than constitutional dimensions. The touchstone of the analysis, therefore, is the statutory language used by Congress in conferring standing upon the general public. *Warth v. Seldin*, 422 U.S. 490, 501, 95 S.Ct. 2197, 2206, 45 L.Ed.2d 343 (1975).

[4] Only those who come within the "zone of interests to be protected or regulated by the statute" have prudential standing to bring challenges to regulations under the statute at issue.[5] Indeed, when a party's interests are "inconsistent with the purposes implicit in the statute," it can "reasonably be assumed that Congress [did not] intend[ ] to permit the suit." *Clarke*, 479 U.S. at 399, 107 S.Ct. at 757.

The Canadian petitioners believe that Congress, by granting the right of judicial review to "any person," 15 U.S.C.A. §2618(a)(1)(A) (West Supp.1991), meant to confer standing on anyone who could arrange transportation to the courthouse door. The actual language of TSCA, however, belies the broad meaning the petitioners attempt to impart to the act, for the EPA was not required to consider the effects on people or entities outside the United States. TSCA provides a laundry list of factors to consider when promulgating a rule under section 6, including "the effect [of the rule] on the *national* economy." *Id.* §2605(c)(1)(D) (emphasis added). International concerns are conspicuously absent from the statute.

[5] Under the "zone of interests" test, we liberally construe Congressional acts to favor a plaintiff's standing to challenge administrative actions. *Warth*, 422 U.S. at 501, 95 S.Ct. at 2206. This is not to say, however, that all plaintiffs affected by a regulation or order have standing to sue; "[i]n cases where the plaintiff is not itself the subject of the contested regulatory action, the test denies a right of review if the plaintiff's interests are so marginally related to or inconsistent with the purposes implicit in the statute that it cannot reasonably be assumed that Congress intended to permit the suit." *Clarke*, 479 U.S. at 399, 107 S.Ct. at 757.

[6] The Canadian petitioners do not have standing to contest the EPA's actions. Nothing in the statute requires the EPA to consider the effects of its actions in areas outside the scope of section 6. TSCA speaks of the necessity of cleaning up the national environment and protecting United States workers but largely is silent concerning the international effects of agency action. Because of this national emphasis, we are reluctant to ascribe international standing rights to foreign workers affected by the loss of economic sales within this country. We note that the Supreme Court, using similar analysis, recently denied standing rights to workers only incidentally affected by a postal regulation. *Air Courier Conference of Am. v. American Postal Workers Union*, — U.S. ——, 111 S.Ct. 913, 112 L.Ed.2d 1125 (1991). Indeed, to "proceed[] at the behest of interests that coincide only accidentally with [the statutory] goals" of TSCA actually may work to defeat those goals. *Hazardous Waste Treatment Council*, 861 F.2d at 283. We therefore do not consider the arguments raised by the Canadian petitioners.

[7] Cassiar separately asserts even closer contacts with the United States and believes that its status as a vendor to an American vendee gives it the right to contest administrative decisions that affect the economic well-being of the vendee. Some courts recognize that vendors can stand as third parties in the shoes of their vendees in order to contest administrative decisions.[6]

Even if we were to accept this line of reasoning, however, the result would be unavailing. Cassiar's vendee is an independent entity, fully capable of asserting its own rights. Given the purely national scope of TSCA, Cassiar cannot, bootstrap from its vendee simply because it sells asbestos to an American company. Merely inserting a product into the stream of commerce is not sufficient to confer standing under TSCA. If the rule were otherwise, the concept of standing would lose all meaning, for the only parties who would not have standing would be those who sell nothing in the United States and thus are indifferent to federal government actions. There is no indication that Congress intended to enact so loose a concept of standing, and we do not import that intent into the act today.[7]

Hence, Cassiar does not have prudential standing to bring this claim, because TSCA expressly concerns itself with national economic concerns. Cassiar brings forth no evidence that it actually controls, and does not just deal with, the American vendee. We thus conclude, along the lines of *Moses*, 778 F.2d at 271–72, that parties that Congress specifically did not intend to participate in, or benefit from, an administrative decision have no right to challenge the legitimacy of that decision.

[8] We draw support for our holding from the decision of the EPA to give a similar construction to TSCA. "It is settled that courts should give great weight to any reasonable construction of a regulatory statute adopted by the agency charged with the enforcement of that statute." *Investment Co. Inst. v. Camp*, 401 U.S. 617, 626–27, 91 S.Ct. 1091, 1097, 28 L.Ed.2d 367 (1971). "Thus, only where congressional intent is pellucide are we entitled to reject reasonable administrative construction of a statute." *National Grain & Feed Ass'n v. OSHA*, 886 F.2d 717, 733 (5th Cir. 1989).

[9] We find the EPA's decision to ignore the international effects of its decision to be a rational construction of the statute. *Chemical Mfrs. Ass'n v. Natural Resources Defense Council*, 470 U.S. 116, 125, 134, 105 S.Ct. 1102, 1107, 1112, 84 L.Ed.2d 90 (1985). Because it is unlikely that these foreign entities were "intended [by Congress] to be relied upon to challenge agency disregard of the law," *Clarke*, 479 U.S. at 399, 107 S.Ct. at 757 (citations omitted), we hold that they are outside the zone of interests encompassed by TSCA and thus lack standing to protest the EPA's rulemaking.[8]

III

Rulemaking Defects

[10–12] The petitioners allege that the EPA's rulemaking procedure was flawed. Specifically, the petitioners contend that the EPA erred by not cross-examining petitioner's witnesses, by not assembling a panel of experts on asbestos disease risks, by designating a hearing officer, rather than an administrative law judge (ALJ), to preside at the hearings on the rule, and by not swearing in witnesses who testified. Petitioners also complain that the EPA did not allow cross-examination of some of its witnesses and did not notify anyone until after the hearings were over that it intended to use "analogous exposure" estimates and a substitute pricing assumption to support its rule. Most of these contentions lack merit and are part of the petitioners' "protest everything" approach,[9] but we address specifically the two EPA actions of most concern to us, the failure of the EPA to afford cross-examination of its own witnesses and its failure to provide notice of the analogous exposure estimates.

[13] Administrative agencies acting under TSCA are not required to adhere to all of the procedural requirements were might require of an adjudicative body. See 15 U.S.C. §2605(c)(3). In evaluating petitioners' claims, we are guided by our long-held view that an agency's choices concerning its rulemaking procedures are entitled to great deference, as the agencies are "best situated to determine how they should allocate their finite resources." *Superior Oil Co.* v. *FERC*, 563 F.2d 191, 201 (5th Cir. 1977).

[14] Section 19(c)(1)(B)(ii) of TSCA requires that we hold unlawful any rule promulgated where EPA restrictions on cross-examination "precluded disclosure of disputed material facts which [were] necessary to a fair determination by the Administrator." 15 U.S.C. §2618(c)(1)(B)(ii). In promulgating this rule, the EPA allowed substantial cross-examination of most, but not all, of its witnesses. Considering the importance TSCA accords to cross-examination, the EPA should have afforded interested parties full cross-examination on all of its major witnesses. We are mindful of the length of the asbestos regulatory process in this case, but Congress, in enacting the rules governing the informal hearing process under TSCA, specifically reserved a place for proper cross-examination on issues of disputed material fact. *See id.* §§2605(c)(3), 2618(c)(1)(B)(ii). Precluding cross-examination of EPA witnesses—even a minority of them—is not the proper way to expedite the finish of a lengthy rulemaking procedure.

The EPA's general failure to accord the petitioners adequate cross-examination, however, is not sufficient by itself to mandate overturning the rule. The "foundational question is whether any procedural flaw so subverts the process of judicial review that invalidation of the regulation is warranted." *Superior Oil Co.*, 563 F.2d at 201 (quoting *Alabama Ass'n of Ins. Agents v. Board of Governors of the Fed. Reserve Sys.*, 533 F.2d 224, 236–237 (5th Cir. 1976)). Under this standard, the EPA's denial of cross-examination, by itself, is insufficient to force us to overturn the EPA's asbestos regulation.

[15] We cannot reach the same conclusion in another area, however. The EPA failed to give notice to the public, before the conclusion of the hearings, that it intended to use "analogous exposure" data to calculate the expected benefits of certain product bans. In general, the EPA should give notice as to its intended methodology while the public still has an opportunity to analyze, comment, and influence the proceedings. The EPA's use of the analogous exposure estimates, apart from their merits, thus should have been subjected to public scrutiny *before* the record was closed. While it is true that "[t]he public need not have an opportunity to comment on every bit of information influencing an agency's decision," *Texan v. Lyng*, 868 F.2d 795, 799 (5th Cir. 1989), this cannot be used as a defense to the late adoption of the analogous exposure estimates, as they are used to support a substantial part of the regulation finally promulgated by the EPA.[10]

We draw support for this conclusion from *Aqua Slide 'N' Dive v. CPSC*, 569 F.2d 831 (5th Cir.1978), in which the CPSC decided, without

granting interested parties the opportunity to comment, that its proposed regulation merely would slow the industry's rate of growth rather than actually cut sales. We rejected the CPSC's rule, and our reasons there are similar to those that require us to reject the EPA's reliance upon the analogous exposure data today:

[T]he evidence on which the Commission relies was only made public after the period for public comment on the standard had closed. Consequently, critics had no realistic chance to rebut it. . . . It matters not that the late submission probably did not violate the notice requirement of 5 U.S.C.A. §553. . . . *The statute requires that the Commission's findings be supported by substantial evidence, and that requirement is not met when the only evidence on a crucial finding is alleged to be unreliable and the Commission has not exposed it to the full scrutiny which would encourage confidence in its accuracy.*

Id. at 842–43 (citations omitted) (emphasis added).

In short, the EPA should not hold critical analysis in reserve and then use it to justify its regulation despite the lack of public comment on the validity of its basis. Failure to seek public comment on such an important part of the EPA's analysis deprived its rule of the substantial evidence required to survive judicial scrutiny, as in *Aqua Slide*.

[16] We reach this conclusion despite the relatively lenient standard by which we judge administrative rulemaking proceedings. E.g., *Superior Oil Co.*, 563 F.2d at 201. The EPA seeks to avert this result by contending that the petitioners had constructive notice that the EPA might adopt the analogous exposure theory because it included, among its published data, certain information that might be manipulated to support such an analysis. We hold, however, that considering that for some products the analogous exposure estimates constituted the bulk of the EPA's analysis, constructive notice was insufficient notice.[11] In summary, on an issue of this import, the EPA should have announced during the years in which the hearings were ongoing, rather than in the subsequent weeks after which they were closed, that it intended to use the analogous exposure estimates. On reconsideration, the EPA should open to public comment the validity of its analogous exposure estimates and methodology.

IV

The Language of TSCA

A

Standard of Review

Our inquiry into the legitimacy of the EPA rulemaking begins with a discussion of the standard of review governing this case. EPA's phase-out ban of most commercial uses of asbestos is a TSCA §6(a) rulemaking. TSCA provides that a reviewing court "shall hold unlawful and set aside" a final rule promulgated under §6(a) "if the court finds that the rule is not supported by substantial evidence in the rulemaking record . . . taken as a whole." 15 U.S.C. §2618(c)(1)(B)(i).

[17] Substantial evidence requires "something less than the weight of the evidence, and the possibility of drawing two inconsistent conclusions from the evidence does not prevent an administrative agency's finding from being supported by substantial evidence." *Consolo v. Federal Maritime Comm'n*, 383 U.S. 607, 620, 86 S.Ct. 1018, 1026, 16 L.Ed.2d 131 (1966). This standard requires (1) that the agency's decision be based upon the entire record,[12] taking into account whatever in the record detracts from the weight of the agency's decision; and (2) that the agency's decision be what "'a reasonable mind might accept as adequate to support [its] conclusion.'" *American Textile Mfrs. Inst. v. Donovan*, 452 U.S. 490, 522, 101 S.Ct. 2478, 2497, 69 L.Ed.2d 185 (1981) (quoting *Universal Camera Corp. v. NLRB*, 340 U.S. 474, 477, 71 S.Ct. 456, 459, 95 L.Ed. 456 (1951)). Thus, even if there is enough evidence in the record to support the petitioners; assertions, we will not reverse if there is substantial evidence to support the agency's decision. *See, e.g., Villa v. Sullivan*, 895 F.2d 1019, 1021–22 (5th Cir. 1990); *Singletary v. Bowen*, 798 F.2d 818, 822–23 (5th Cir.1986); *accord Fort Valley State College v. Bennett*, 853 F.2d 862, 864 (11th Cir. 1988) (reviewing court examines the entire record but defers to the agency's choice between two conflicting views).

[18, 19] Contrary to the EPA's assertions, the arbitrary and capricious standard found in the APA and the substantial evidence standard found in TSCA are different standards, even in the context of an informal rulemaking.[13] Congress specifically went out of its way to provide that "the standard of review prescribed by paragraph (2)(E) of section 706 [of the APA] shall not apply and the court shall hold unlawful and set aside such rule if the court finds that the rule is not supported by substantial evidence in the rulemaking record . . . taken as a whole." 15 U.S.C. §2618(c)(1)(B)(i). "The substantial evidence standard mandated by [TSCA] is generally considered to be more rigorous than the arbitrary and capricious standard normally applied to informal rulemaking," *Environmental Defense Funds v. EPA*, 636 F.2d 1267, 1277 (D.C.Cir.1980), and "afford[s] a considerably more generous judicial review" than the arbitrary and capricious test. *Abbott Laboratories v. Gardner*, 387 U.S. 136, 143, 87 S.Ct. 1507, 1512, 18 L.Ed.2d 681 (1967), *overruled on other grounds, Califano v. Sanders*, 430 U.S. 99, 97 S.Ct. 980, 51 L.Ed.2d 192 (1977). The test "imposes a considerable burden on the agency and limits its discretion in arriving at a factual predicate." *Mobile Oil Corp. v. FPC*, 483 F.2d 1238, 1258 (D.C.Cir.1973).

[20] "Under the substantial evidence standard, a reviewing court must give careful scrutiny to agency findings and, at the same time, accord appropriate deference to administrative decisions that are based on agency experience and expertise." *Environmental Defense Fund*, 636 F.2d at 1277. As with consumer product legislation, "Congress put the substantial evidence test in the statute because it wanted the courts to scrutinize the Commission's actions more closely than an 'arbitrary and capricious' standard would allow." *Aqua Slide*, 569 F.2d at 837.

[21, 22] The recent case of *Chemical Mfrs. Ass'n v. EPA*, 899 F.2d 344 (5thCir.1990), provides our basic framework for reviewing the EPA's actions. In evaluating whether the EPA has presented substantial evidence, we examine (1) whether the quantities of the regulated chemical entering into the environment are "substantial" and (2) whether human exposure to the chemical is "substantial" or "significant." *Id.* at 359. An agency may exercise its judgment without strictly relying upon quantifiable risks, costs, and benefits, but it must "cogently explain why it has exercised its discretion in a given manner" and "must offer a 'rational connection between the facts found and the choice made.'" *Id.* (quoting *Motor Vehicle Mfrs. Ass'n v. State Farm Mut. Auto. Ins.*, 463 U.S. 29, 103 S.Ct. 2856, 77 L.Ed.2d 443 (1983)).

[23,24] We note that in undertaking our review, we give all agency rules a presumption of validity, and it is up to the challenger to any rule to show that the agency action is invalid. *Alabama Nursing Home Ass'n v. Harris*, 617 F.2d 388, 393–94 (5th Cir. 1980). The burden remains on the EPA, however, to justify that the products it bans present an unreasonable risk, no matter how regulated. *See Industrial Union Dep't v. American Petroleum Inst.*, 448 U.S. 607, 662, 100 S.Ct. 2844, 2874, 65 L.Ed.2d 1010 (1980); *cf. National Lime Ass'n v. EPA*, 627 F.2d 416, 433 (D.C.Cir. 1980) ("an initial burden of promulgating and explaining a non-arbitrary, non-capricious rule rests with the Agency"). Finally, as we discuss in detail *infra*, because TSCA instructs the EPA to undertake the least burdensome regulation sufficient to regulate the substance at issue, the agency bears a heavier burden when it seeks a partial or total ban of a substance than when it merely seeks to regulate that product. *See* 15 U.S.C. §2605(a).

B

The EPA's Burden Under TSCA

TSCA provides, in pertinent part, as follows:

(a) Scope of regulation.—If the Administrator finds that there is a *reasonable basis* to conclude that the manufacture, processing, distribution in commerce, use, or disposal of a chemical substance or mixture, or that any combination of such activities, presents or will present an *unreasonable risk of injury* to health or the environment, the Administrator shall by rule apply one or more of the following requirements to such substance or mixture to the extent necessary to *protect adequately* against such risk using the *least burdensome* requirements. *Id.* (emphasis added). As the highlighted language shows, Congress did not enact TSCA as a zero-risk statute.[14] The EPA, rather, was required to consider both alternatives to a ban and the costs of any proposed actions and to "carry out this chapter in a reasonable and prudent manner [after considering] the environmental, economic and social impact of any action." 15 U.S.C. §2601(c).

[25] We conclude that the EPA has presented insufficient evidence to justify its asbestos ban. We base this conclusion upon two grounds: the failure of the EPA to consider all necessary evidence and its failure to give adequate weight to statutory language requiring it to promulgate the least burdensome, reasonable regulation required to protect the environment adequately. Because the EPA failed to address these concerns, and because the EPA is required to articulate a "reasoned basis" for its rules, we are compelled to return the regulation to the agency for reconsideration.

1. Least Burdensome and Reasonable.

[26] TSCA requires that the EPA use the least burdensome regulation to achieve its goal of minimum reasonable risk. This statutory requirement can create problems in evaluating just what is a "reasonable risk." Congress's rejection of a no-risk policy, however, also means that in certain cases, the least burdensome yet still adequate solution may entail somewhat more risk than would other, known regulations that are far more burdensome on the industry and the economy. The very language of TSCA requires that the EPA once it has determined what an acceptable level of non-zero risk is, chose the least burdensome method of reaching that level.

In this case, the EPA banned, for all practical purposes, all present and future use of asbestos—a position the petitioners characterize as the "death penalty alternative," as this is the *most* burdensome of all possible alternatives listed as open to the EPA under TSCA. TSCA not only provides the EPA with

a list of alternative actions but also provides those alternatives in order of how burdensome they are.[15] The regulations thus provide for EPA regulation ranging from labeling the least toxic chemicals an industry may use. Total bans head the list as the most burdensome regulatory option.

By choosing the harshest remedy given to it under TSCA, the EPA assigned to itself the toughest burden in satisfying TSCA's requirement that its alternative be the least burdensome of all those offered to it. Since, both by definition and by the terms of TSCA, the complete ban of manufacturing is the most burdensome alternative—for even stringent regulation at least allows a manufacturer the chance to invest and meet the new, higher standard—the EPA's regulation cannot stand if there is any other regulation that would achieve an acceptable level of risk as mandated by TSCA.

We reserve until a later part of the opinion a product-by-product review of the regulation. Before reaching this analysis, however, we lay down the inquiry that the EPA should undertake whenever it seeks total ban of a product.

The EPA considered, and rejected, such options as labeling asbestos products, thereby warning users and workers involved in the manufacture of asbestos-containing products of the chemical's dangers, and stricter workplace rules. EPA also rejected controlled use of asbestos in the workplace and deferral to other government agencies charged with worker and consumer exposure to industrial and product hazards, such as OSHA, the CPSC, and the MSHA. The EPA determined that deferral to these other agencies was inappropriate because no one other authority could address all the risks posed "throughout the life cycle" by asbestos, and any action by one or more of the other agencies still would leave an unacceptable residual risk.[16]

Much of the EPA's analysis is correct, and the EPA's basic decision to use TSCA as a comprehensive statute designed to fight a multi-industry problem was a proper one that we uphold today on review. What concerns us, however, is the manner in which the EPA conducted some of its analysis. TSCA requires the EPA to consider, along with the effects of toxic substances on human health and the environment, "the benefits of such substance[s] or mixture[s] for various uses and the availability of substitutes for such uses," as well as "the reasonably ascertainable economic consequences of the rule, after consideration for the effect on the national economy, small business, technological innovation, the environment, and public health." *Id.* §2605(c)(1)(C–D).

The EPA presented two comparisons in the record: a world with no further regulation under TSCA, and a world in which no manufacture of asbestos takes place. The EPA rejected calculating how many lives a less burdensome regulation would save, and at what cost. Furthermore the EPA, when calculating the benefits of its ban, explicitly refused to compare it to an improved workplace in which currently available control technology is utilized. *See* 54 Fed.Reg. at 29,474. This decision artificially inflated the purported benefits of the rule by using a baseline comparison substantially lower than what currently available technology could yield.

[27] Under TSCA, the EPA was required to evaluate, rather than ignore, less burdensome regulatory alternatives. TSCA imposes a least-to-most-burdensome hierarchy. In order to impose a regulation at the top of the hierarchy—a total ban of asbestos—the EPA must show not only that its proposed action reduces the risk of the product to an adequate level, but also that the actions Congress identified as less burdensome also would not do the job.[17] The failure of the EPA to do this constitutes a failure to meet its burden of showing that its actions not only reduce the risk but do so in the Congressionally-mandated *least burdensome* fashion.

Thus it was not enough for the EPA to show, as it did in this case, that banning some asbestos products might reduce the harm that could occur from the use of these products. If that were the standard, it would be no standard at all, for few indeed are the products that are so safe that a complete ban of them would not make the world still safer.

This comparison of two static worlds is insufficient to satisfy the dictates of TSCA. While the EPA may have shown that a world with a complete ban of asbestos might be preferable to one in which there is only the current amount of regulation, the EPA has failed to show that there is not some intermediate state of regulation that would be superior to both the currently-regulated and the completely-banned world. Without showing that asbestos regulation would be ineffective, the EPA cannot discharge its TSCA burden of showing that its regulation is the least burdensome available to it.

Upon an initial showing of product danger, the proper course for the EPA to follow is to consider each regulatory option, beginning with the least burdensome, and the costs and benefits of regulation under each option. The EPA cannot simply skip several rungs, as it did in this case, for in doing so, it may skip a less-burdensome alternative mandated by TSCA. Here, although the EPA mentions the problems posed by intermediate levels of regulation, it takes no steps to calculate the costs and benefits of these intermediate levels. *See* 54 Fed.Reg. at 29,462, 29,474. Without doing this it is impossible, both for the EPA and for this court on review, to know that none of these alternatives was less burdensome than the ban in fact chosen by the agency.

The EPA's offhand rejection of these intermediate regulatory steps is "not the stuff of which substantial evidence is made." *Aqua Slide*, 569 F.2d at 843. While it is true that the EPA considered five different ban options, these differed solely with respect to their effective dates. The EPA did not calculate the risk levels for intermediate levels of regulation, as it believed that there was no asbestos exposure level for which the risk of injury or death was zero. Reducing risk to zero, however, was not the task that Congress set for the EPA in enacting TSCA. The EPA thus has failed "cogently [to] explain why it has exercised its discretion in a given manner," *Chemical Mfrs. Ass'n*, 899 F.2d at 349, by failing to explore in more than a cursory way the less burdensome alternatives to a total ban.

2. The EPA's Calculations.

Furthmore, we are concerned about some of the methodology employed by the EPA in making various of the calculations that it did perform. In order to aid the EPA's reconsideration of this and other cases, we present our concerns here.

[28] First, we note that there was some dispute in the record regarding the appropriateness of discounting the perceived benefits of the EPA's rule. In choosing between the calculated costs and benefits, the EPA presented variations in which it discounted only the costs, and counter-variations in which it discounted about the costs and the benefits, measured in both monetary and human injury terms. As between these two variations, we choose to evaluate the EPA's work using its discounted benefits calculations.

Although various commentators dispute whether it ever is appropriate to discount benefits when they are measured in human lives, we note that it would skew the results to discount only costs without according similar treatment to the benefits side of the equation. Adopting the position of the commentators who advocate not discounting benefits would force the EPA similarly not to calculate costs in present discounted real terms, making comparisons difficult. Furthermore, in evaluating situations in which different options incur costs at varying time intervals, the EPA would not be able to take into account that soon-to-be incurred costs are more harmful than postponable costs. Because the EPA must discount costs to perform its evaluations properly, the EPA also should discount benefits to preserve an apples-to-apples comparison, even if this entails discounting benefits of a non-monetary nature. *See What Price Posterity?*, The Economist, March 23, 1991, at 73 (explaining use of discount rates for non-monetary goods).

When the EPA does discount costs of benefits, however, it cannot choose an unreasonable time upon which to base its discount calculation. Instead of using the time of injury as the appropriate time from which to discount, as one might expect, the EPA instead used the time of exposure.

The difficulties inherent in the EPA's approach can be illustrated by an example. Suppose two workers will be exposed to asbestos in 1995, with worker *X* subjected to a tiny amount of asbestos that will have no adverse health effects, and worker *Y* exposed to massive amounts of asbestos that quickly will lead to an asbestos-related disease. Under the EPA's approach, which takes into account only the time of exposure rather than the time at which any injury manifests itself, both examples would be treated the same. The EPA's approach implicitly assumes that the day on which the risk of injury occurs is the same day the injury actually occurs.[18] Such an approach might be proper when the exposure and injury are one and the same, such as when a person is exposed to an immediately fatal poison, but is inappropiate for discounting toxins in which exposure often is followed by a substantial lag time before manifestation of injuries.[19]

Of more concern to us is the failure of the EPA to compute the costs and benefits of its proposed rule past the year 2000, and its double-counting of the costs of asbestos use. In performing its calculus, the EPA only included the number of lives saved over the next thirteen years, and counted any additional lives saved as simply "unquantified benefits." 54 Fed. Reg. at 29,486. The EPA and intervenors now seek to use these unquantified lives saved to justify calculations as to which the benefits seem far outweighed by the astronomical costs. For example, the EPA plans to save about three lives with its ban of asbestos pipe, at a cost of $128–227 million (*i.e.*, approximately $43–76 million per life saved). Although the EPA admits that the lives saved past the year 2000 justify the price. *See generally id.* at 29,473 (explaining use of unquantified benefits).

Such calculations not only lessen the value of the EPA's cost analysis, but also make any meaningful judicial review impossible. While TSCA contemplates a useful place for unquantified benefits beyond the EPA's calculation, unquantified benefits never were

intended as a trump card allowing the EPA to justify any cost calculus, no matter how high.

The concept of unquantified benefits, rather, is intended to allow the EPA to provide a rightful place for any remaining benefits that are impossible to quantify after the EPA's best attempt, but which still are of some concern. But the allowance for unquantified costs is not intended to allow the EPA to perform its calculations over an arbitrarily short period so as to preserve a large unquantified portion.

Unquantified benefits can, at times, permissibly tip the balance in close cases. They cannot, however, be used to effect a wholesale shift on the balance beam. Such a use makes a mockery of the requirements of TSCA that the EPA weigh the costs of its actions before it chooses the least burdensome alternative.[20]

[29] Most problematical to us is the EPA's ban of products for which no substitutes presently are available. In these cases, the EPA bears a tough burden indeed to show that under TSCA a ban is the least burdensome alternative, as TSCA explicitly instructs the EPA to consider "the benefits of such substance or mixture for various uses and the availability of substitutes for such uses." *Id.* §2605(c)(1)(C). These words are particularly appropriate where the EPA actually has decided to ban a product, rather than simply restrict its use, for it is in these cases that the lack of an adequate substitute is most troubling under TSCA.

As the EPA itself states, "[w]hen no information is available for a product indicating that cost-effective substitutes exist, the estimated cost of a product ban is very high." 54 Fed.Reg. at 29,468. Because of this, the EPA did not ban certain uses of asbestos, such as its use in rocket engines and battery separators. The EPA, however, in several other instances, ignores its own arguments and attempts to justify its ban by stating that the ban itself will cause the development of low-cost, adequate substitute products.

[30] As a general matter, we agree with the EPA that a product ban can lead to great innovation, and it is true that an agency under TSCA, as under other regulatory statutes, "is empowered to issue safety standards which require improvements in existing technology or which require the development of new technology." *Chrysler Corp. v. Department of Transp.*, 472 F.2d 659, 673 (6th Cit.1972). As even the EPA acknowledges, however, when no adequate substitutes currently exist, the EPA cannot fail to consider this lack when formulating its own guidelines. Under TSCA, therefore, the EPA must present a stronger case to justify the ban, as opposed to regulation, of products with no substitutes.

We note that the EPA does provide a waiver provision for industries where the hoped-for substitutes fail to materialize in time. *See* 54 Fed. Reg. at 29,464. Under this provision, if no adequate substitutes develop, the EPA temporarily may extend the planned phase-out.

The EPA uses this provision to argue that it can ban any product, regardless of whether it has an adequate substitute, because inventive companies soon will develop good substitutes. The EPA contends that if they do not, the waiver provision will allow the continued use of asbestos in these areas, just as if the ban had not occurred at all.

The EPA errs, however, in asserting that the waiver provision will allow a continuation of the status quo in those cases in which no substitutes materialize. By its own terms, the exemption shifts the burden onto the waiver proponent to convince the EPA that the waiver is justified. *See id.* As even the EPA acknowledges, the waiver only "may be granted by [the] EPA in very limited circumstances." *Id.* at 29,460.

The EPA thus cannot use the waiver provision to lessen its burden when justifying banning products without existing substitutes. While TSCA gives the EPA the power to ban such products, the EPA must bear its heavier burden of justifying its total ban in the face of inadequate substitutes. Thus, the agency cannot use its waiver provision to argue that the ban of products with no substitutes should be treated the same as the ban of those for which adequate substitutes are available now.

[31] We also are concerned with the EPA's evaluation of substitutes even in those instances in which the record shows that they are available. The EPA explicitly rejects considering the harm that may flow from the increased use of products designed to substitute for asbestos, even where the probable substitutes themselves are known carcinogens. *Id.* at 29,481–83. The EPA justifies this by stating that it has "more concern about the continued use and exposure to asbestos than it has for the future replacement of asbestos in the products subject to this rule with other fibrous substitutes." *Id.* at 29,481. The agency thus concludes that any "[r]egulatory decisions about asbestos which poses well-recognized, serious risks should not be delayed until the risk of all replacement materials are fully quantified." *Id.* at 29,483.

This presents two problems. First, TSCA instructs the EPA to consider the relative merits of its ban, as compared to the economic effects of its actions. The EPA cannot make this calculation if it fails to consider the effects that alternate substitutes will pose after a ban.

Second, the EPA cannot say with any assurance that its regulation will increase workplace safety when it refuses to evaluate the harm that will result from the increased use of substitute products. While the EPA may be correct in its conclusion that the alternate materials pose less risk than asbestos, we cannot say with any more assurance than that flowing from an educated guess that this conclusion is true.

Considering that many of the substitutes that the EPA itself concedes will be used in the place of asbestos have known carcinogenic effects, the EPA not only cannot assure this court that it has taken the least burdensome alternative, but cannot even prove that its regulations will increase workplace safety. Eager to douse the dangers of asbestos, the agency inadvertently actually may increase the risk of injury Americans face. The EPA's explicit failure to consider the toxicity of likely substitutes thus deprives its order of a reasonable basis. *Cf. American Petroleum Inst. v. OSHA*, 581 F. 2d 493, 504 (5th Cir. 1978) (An agency is required to "regulate on the basis of knowledge rather than the unknown.").

Our opinion should not be construed to state that the EPA has an affirmative duty to seek out and test every workplace substitute for any product it seeks to regulate. TSCA does not place such a burden upon the agency. We do not think it unreasonable, however, once interested parties introduce credible studies and evidence showing the toxicity of workplace substitutes, or the decreased effectiveness of safety alternatives such as non-asbestos brakes, that the EPA then consider whether its regulations are even increasing workplace safety, and whether the increased risk occasioned by dangerous substitutes makes the proposed regulation no longer reasonable. In the words of the EPA's own release that initiated the asbestos rulemaking, we direct that the agency consider the adverse health effects of asbestos substitute "for comparison with the known hazards of asbestos," so that it can conduct, as it promised in 1979, a "balanced consideration of the environmental, economic, and social impact of any action taken by the agency." 44 Fed. Reg. at 60,065 (1979).

[32] In short, a death is a death, whether occasioned by asbestos or by a toxic substitute product, and the EPA's decision not to evaluate the toxicity of known carcinogenic substitutes is not a reasonable action under TSCA. Once an interested party brings forth credible evidence suggesting the toxicity of the probable or only alternatives to a substance, the EPA must consider the comparative toxic costs of each.[21] Its failure to do so in this case thus deprived its regulation of a reasonable basis, at least in regard to those products as to which petitioners introduced credible evidence of the dangers of the likely substitutes.[22]

4. Unreasonable Risk of Injury.

The final requirement the EPA must satisfy before engaging in any TSCA rulemaking is that it only take steps designed to prevent "unreasonable" risks. In evaluating what is "unreasonable," the EPA is required to consider the costs of any proposed actions and to "carry out this chapter in a reasonable and prudent manner [after considering] the environmental, economic, and social impact of any action." 15 U.S.C. §2601(c).

[33] As the District of Columbia Circuit stated when evaluating similar language governing the Federal Hazardous Substances Act, "[t]he requirement that the risk be 'unreasonable' necessarily involves a balancing test like that familiar in tort law: The regulation may issue if the severity of the injury that may result from the product, factored by the likelihood of the injury, offsets the harm the regulation itself imposes upon manufacturers and consumers," *Forester v. CPSC*, 559 F.2d 774, 789 (D.C.Cir. 1977). We have quoted this language approvingly when evaluating other statutes using similar language. *See, e.g., Aqua Slide*, 569 F.2d at 839.

That the EPA must balance the costs of its regulations against their benefits further is reinforced by the requirement that it seek the least burdensome regulation. While Congress did not dictate that the EPA engage in an exhaustive, full-scale cost-benefit analysis, it did require the EPA to consider both sides of the regulatory equation, and it rejected the notion that the EPA should pursue the reduction of workplace risk at any cost. *See American Textile Mfrs. Inst.*, 452 U.S. at 510 n. 30, 101 S.Ct. at 2491 n. 30 ("unreasonable risk" statutes require "a generalized balancing of costs and benefits" (citing *Aqua Slide*, 569 F.2d at 839)). Thus, "Congress also plainly intended the EPA to consider the economic impact of *any* actions taken by it under . . . TSCA." *Chemical Mfrs. Ass'n*, 899 F.2d at 348.

Even taking all of the EPA's figures as true, and evaluating them in the light most favorable to the agency's decision (non-discounted benefits, discounted costs, analogous exposure estimates included), the agency's analysis results in figures as high as $74 million per life saved. For example, the EPA states that its ban of asbestos pipe will save three lives over the next thirteen years, at a cost of $128–227 million ($43–76 million per

life saved), depending upon the price of substitutes; that its ban of asbestos shingles will cost $23–34 million to save 0.32 statistical lives ($72–106 million per life saved); that its ban of asbestos coatings will cost $46–181 million to save 3.33 lives ($14–54 million per life saved); and that its ban of asbestos paper products will save 0.60 lives at a cost of $4–5 million ($7–8 million per life saved). *See* Fed. Reg. at 29,484–85. Were the analogous exposure estimates not included, the cancer risks from substitutes such as ductile iron pipe factored in, and the benefits of the ban appropriately discounted from the time of the manifestation of an injury rather than the time of exposure, the costs would shift even more sharply against the EPA's position.

While we do not sit as a regulatory agency that must make the difficult decision as to what an appropriate expenditure is to prevent someone from incurring the risk of an asbestos-related death, we do note that the EPA, in its zeal to ban any and all asbestos products, basically ignored the cost side of the TSCA equation. The EPA would have this court believe that Congress, when it enacted its requirement that the EPA consider the economic impacts of its regulations, thought that spending $200–300 million to save approximately seven lives (approximately $30–40 million per life) over thirteen years is reasonable.

As we stated in the OSHA context, until an agency "can provide substantial evidence that the benefits to be achieved by [a regulation] bear a reasonable relationship to the costs imposed by the reduction, it cannot show that the standard is reasonably necessary to provide safe or healthful workplaces." *American Petroleum Inst.*, 581 F.2d at 504. Although the OSHA statute differs in major respects from TSCA, the statute does require substantial evidence to support the EPA's contentions that its regulations both have a reasonable basis and are the least burdensome means to a reasonably safe workplace.

The EPA's willingness to argue that spending $23.7 million to save less than one-third of a life reveals that its economic review of its regulations, as required by TSCA, was meaningless. As the petitioners' brief and our review of EPA caselaw reveals, such high costs are rarely, if ever, used to support a safety regulation. If we were to allow such cavalier treatment of the EPA's duty to consider the economic effects of its decisions, we would have to excise entire sections and phrases from the language of TSCA. Because we are judges, not surgeons, we decline to do so.[23]

V

Substantial Evidence Regarding Least Burdensome, Adequate Regulation

TSCA provides that a reviewing court "shall hold unlawful and set aside" a final rule promulgated under section 6(a) "if the court finds that the rule is not supported by substantial evidence in the rulemaking record . . . taken as a whole." 15 U.S.C. §2618(c)(1)(B)(i). The substantial evidence standard "afford[s] a considerably more generous judicial review" than the arbitrary or capricious test, *Abbott Laboratories*, 387 U.S. at 143, 87 S.Ct. at 1513, and "imposes a considerable burden on the agency and limits its discretion in arriving at a factual predicate." *Mobil Oil Corp.* v. *FPC, 483 F.2d 1238, 1258 (D.C.Cir.1973).*

[34] We have declared that the EPA must articulate an "understandable basis" to support its TSCA action with respect to each substance or application of the substance banned. *Chemical Mfrs. Ass'n*, 899 F.2d at 357. To make a finding of unreasonable risk based upon this assessment, the "EPA must balance the probability that harm will occur from the activities against the effects of the proposed regulatory action on the availability to society of the benefits of asbestos." 54 Fed.Reg. at 29, 467. With these edicts in mind, we now examine each product against the TSCA criteria.[24]

A

Friction Products

[35] We begin our analysis with the EPA's ban of friction products, which constitutes the lion's share of the proposed benefits of the asbestos regulation—nearly three-fourths of the anticipated asbestos deaths. The friction products in question, although primarily made up of drum and disk brakes, also include brake blocks and other friction products.

Workers are exposed to asbestos during the manufacture, use, repair, and disposal of these products. The EPA banned most of these products with a stage 2 ban, which would require companies to cease manufacturing or importing the products by August 25, 1993, with distribution to end one year later. The final stage 3 ban would ban any remaining friction products on August 26, 1996, with distribution again ceasing one year later. *See id.* at 29,461–62.

We note that of all the asbestos bans, the EPA did the most impressive job in this area, both in conducting its studies and in supporting its contention that banning asbestos products would save over 102 discounted lives. *Id.* at 29,485. Furthermore, the EPA demonstrates that the population exposure to asbestos in this area is great, while the estimated cost of the measure is low, at least in comparison to the cost-per-life of its other bans. Were the petitioners only questioning the EPA's decision to ban friction products based upon disputing these figures, we would be tempted to uphold the EPA, even in the fact of petitioner's arguments that workplace exposure to friction product asbestos could be decreased by as much as ninety percent using stricter workplace controls and in light of studies supporting the conclusion that some forms of asbestos present less danger. Decisions such as these are better left to the agency's expertise.

Such expertise, however, is not a universal talisman affording the EPA unbridled latitude to act as it chooses under TSCA. What we cannot ignore is that the EPA failed to study the effect of non-asbestos brakes on automotive safety, despite credible evidence that non-asbestos brakes could increase significantly the number of highway fatalities, and that the EPA failed to evaluate the toxicity of likely brake substitutes. As we already mentioned, the EPA, in its zeal to ban asbestos, cannot overlook, with only cursory study, credible contentions that substitute products actually might increase fatalities.

The EPA commissioned an American Society of Mechanical Engineers (ASME) study that concluded that while more research was needed, it appeared that many of the proposed substitutes for friction products are not, and will not soon be available, especially in the replacement brake market, and that the substitutes may or may not assure safety.[25] Despite this credible record evidence, by a study specifically commissioned by the EPA, that substitute products actually might cause more deaths than those asbestos deaths predicted by the EPA, the agency did not evaluate the dangers posed by the substitutes, including cancer deaths from the others fibers used and highway deaths occasioned by less effective, non-asbestos brakes. This failure to examine the likely consequence of the EPA's regulation renders the ban of asbestos friction products unreasonable.

This failure would be of little moment, were the relevant market confined to original equipment disk brakes and pads. For these original equipment brakes, it appears that manufacturers already have developed safe substitutes for asbestos, considering that nearly all new vehicles come with non-asbestos disk brakes, with non-asbestos drum brakes apparently soon to follow. *See id.* at 29,493. The ASME Report concluded that "at the present rate of technological progress, most new passenger cars could be equipped with totally non-asbestos frictional systems by 1991, and most light trucks and heavy trucks with S-cam brakes, by 1992." *See id.* at 29,494.

Although the petitioners dispute the evidence, we find particularly telling the fact that manufacturers already are producing most vehicles with newly designed, non-asbestos brakes. The ban of asbestos brakes for these uses here appears reasonable and, had the EPA taken the proper steps to consider and reject the less burdensome alternatives, we might find the ban of these products supported by substantial evidence.

With respect to the aftermarket replacement market, however, the EPA's failure to consider the safety ramifications of its decisions is problematic. Original equipment, non-asbestos brakes are designed from the start to work without the superior insulating properties of asbestos. The replacement market brakes, on the other hand, were designed with asbestos, rather than substitutes, in mind. As the EPA itself states, "[c]ommenters generally agreed that it is easier to develop replacement asbestos-free friction materials for use in vehicles that are intentionally designed to use such materials that it is to develop asbestos-free friction materials for use as after-market replacement products in vehicles currently in use that have brake systems designed to use asbestos." *Id.* Because of these difficulties, the EPA decided to use a stage 3 ban for replacement brakes.

Despite acknowledging the difficulty of retrofitting current asbestos brakes, however, the EPA decided that the problem with non-asbestos brakes was not that they are inferior, but that they are less safe because the government does not regulate them. Based upon this conclusion, the EPA decided that is need not consider the safety of alternative brakes because, after consultation with the National Highway Traffic Safety Administration, (NNTSA), the EPA concluded that regulation of non-asbestos brakes soon would be forthcoming. *Id.*

This determination is insufficient to discharge the EPA's duties under TSCA. The EPA failed to settle whether alternative brakes will be as safe as current brakes, even though, by its own admission, the "EPA also acknowledges that a ban on asbestos in the brake friction product categories may increase the uncertainty about brake performance." *Id.* at 29,495. The EPA contends that it can rely upon NHTSA to discharge its regulatory burdens, but it ignores the fact that the problem with non-asbestos brakes may be technical, rather than regulatory, in nature.

Future consideration by the NHTSA cannot support a present ban by the EPA when the record contains conflicting and non-conclusive evidence regarding the safety of non-asbestos brake replacement parts. After

being presented with credible evidence "that a ban on asbestos use in the aftermarket for brake systems designed for asbestos friction products will compromise the performance of braking systems designed for asbestos brakes," *id.* at 29,494, the EPA under TSCA had to consider whether its proposed ban not only was reasonable, but also whether the increased deaths caused by less efficient brakes made the ban of asbestos in the replacement brake market unreasonable.

In short, while it is apparent that non-asbestos brake products either are available or soon will be available on new vehicles, there is no evidence indicating that forcing consumers to replace their asbestos brakes with new non-asbestos brakes as they wear out on their present vehicles will decrease fatalities or that such a ban will produce other benefits that outweigh its costs. Furthermore, many of the EPA's own witnesses conceded on cross-examination that the non-asbestos fibrous substitutes also pose a cancer risk upon inhalation, yet the EPA failed to examine in more than a cursory fashion the toxicity of these alternatives. Under these circumstances, the EPA has failed to support its ban with the substantial evidence needed to provide it with a reasonable basis.

Finally, as we already have noted, the structure of TSCA requires the EPA to consider, and reject, the less burdensome alternatives in the TSCA hierarchy before it can invoke its power to ban a product completely. It may well be true, as the EPA contends, that workplace controls are insufficient measures under TSCA and that only a ban will discharge the EPA's TSCA-imposed duty to seek the safest, reasonable environment. The EPA's failure to consider the regulatory alternatives, however, cannot be substantiated by conclusory statements that regulation would be insufficient. *See Texas Indep. Ginners Ass'n v. Marshall*, 630 F.2d 398, 411–12 (5th Cir. 1980); *Aqua Slide*, 569 F.2d at 843. We thus concede that while the EPA may have presented sufficient evidence to underpin the dangers of asbestos brakes, its failure to consider whether the ban is the least burdensome alternative, and its refusal to consider the toxicity and danger of substitute brake products, in regard to both highway and workplace safety, deprived its regulation of the reasonable basis required by TSCA.

B

Asbestos-Cement Pipe Products

[36] The EPA's analysis supporting its ban of asbestos-cement ("A/C") pipe is more troublesome than its action in regard to friction products. Asbestos pipe primarily is used to convey water in mains, sewage under pressure, and materials in various industrial process lines. Unlike most uses of asbestos, asbestos pipe is valued primarily for its strength and resistance to corrosion, rather than for its heat-resistant qualities. The EPA imposed a stage 3 ban on asbestos pipe. 54 Fed. Reg. at 29,462.

Petitioners question EPA's cost/benefit balancing, noting that by the EPA's own predictions, the ban of asbestos pipe will save only 3–4 discounted lives, at a cost ranging from $128–227 million ($43–76 million per life saved), depending upon the price of substitutes. *Id.* at 29,484. Furthermore, much of EPA's data regarding this product and others depends upon data received from exposures observed during activities similar to the ones to be regulated—the "analogous exposure" analysis that the EPA adopted subsequent to the public comment period, which thus was not subjected to cross-examination or other critical testing.[26] Finally, the petitioners protest that the EPA acted unreasonably because the most likely substitutes for the asbestos pipe, PVC and ductile iron pipe, also contain known carcinogens.

Once again we are troubled by the EPA's methodology and its evaluation of the substitute products. Many of the objections raised by the asbestos cement pipe producers are general protests about the EPA's studies and other similar complaints. We will not disturb such agency inquiries, as it is not our role to delve into matters better left for agency expertise. We do, however, examine the EPA's methodology in places to determine whether it has presented substantial evidence to support its regulation.

As with friction products, the EPA refused to assess the risks of substitutes to asbestos pipe. *Id.* at 29,497–98. Unlike non-asbestos brakes, which the EPA contends are safe, the EPA here admits that vinyl chloride, used in PVC, is a human carcinogen that is especially potent during the manufacture of PVC pipe. As for the EPA's defense of the ductile iron pipe substitute, the EPA also acknowledges evidence that it will cause cancer deaths but rejects these deaths as overestimated, even though it can present no more support for this assumption than its own *ipse dixit*.

The EPA presented several plausible, albeit untested, reasons why PVC and ductile iron pipe might be less of a health risk than asbestos pipe. It did not, however, actually evaluate the health risk flowing from these substitute products, even though the "EPA acknowledges that the individual lifetime cancer risk associated with the production of PVC may be equivalent to that associated with the production of A/C pipe." *Id.* at 29,497. The agency concedes that "[t]he population cancer risk for the production of ductile iron pipe could be comparable to the population cancer risk for production of A/C pipe." *Id.*

It was insufficient for the EPA to conclude that while its data showed that "the number of cancer cases associated with production of equivalent amounts of ductile iron pipe and A/C pipe 'may be similar,' the estimate of cancer risk for ductile iron pipe 'is most likely an overestimate,'" *see* 54 Fed.Reg. at 29,498, unless the agency can present something more concrete than its own speculation to refute these earlier iron pipe cancer studies. Musings and conjecture are "not the stuff of which substantial evidence is made," *Aqua Slide*, 569 F.2d at 843, 'and "[u]narticulated reliance on Commission 'experience' may satisfy an 'arbitrary, capricious' standard of review, but it does not add one jot to the record evidence." *Id.* at 841–42 (citations omitted). "While expert opinion deserves to be heeded, it must be based on more than casual observation and speculation, particularly where a risk of fatal injury is being evaluated." *Id.* These concerns are of special note where the increased carcinogen risk occasioned by the EPA's proposed substitutes is both credible and known.

This conclusion only is strengthened when we consider the EPA's failure to analyze the health risks of PVC pipe, the most likely substitute for asbestos pipe, which the EPA concedes poses a cancer risk similar to that presented by asbestos pipe. The failure of the EPA to make a record finding on the risks of PVC pipe is particularly inexplicable, as the EPA *already is studying* increasing the stringency of PVC regulation in separate rulemaking proceedings, an action that one of the very intervenors in the instant case has been urging for years. *See NRDC v. EPA*, 824 F.2d 1146, 1148–49 (D.C.Cir.1987) (en banc).

The EPA, in these separate proceedings, has estimated the cancer risk from PVC plants to be as high as twenty deaths *per year*, a death rate that stringent controls might be able to reduce to one *per year*, *see id.* at 1149, *far in excess of the fractions of a life that the asbestos pipe ban may save each year, by the EPA's own calculations.* Considering that the EPA concedes that there is no evidence showing that *ingested*, as opposed to *inhaled*, asbestos is a health risk, while the EPA's own studies show that ingested vinyl chloride is a significant cancer risk that could cause up to 260 cancer deaths over the next thirteen years, *see id.*; 54 Fed.Reg. at 29,498, the EPA's failure to consider the risks of substitute products in the asbestos pipe area is particularly troublesome. The agency cannot simply choose to note the similar cancer risks of asbestos and iron pipe and then reject the data underpinning the iron and PVC pipe without more than its own conclusory statements.

We also express concern with the EPA's cavalier attitude toward the use of its own data. The asbestos pipe industry argues that the exposure times the EPA used to calculate its figures are much higher than experience would warrant, a contention that the EPA now basically concedes. Rather than recalculate its figures, however, based upon the best data available to it, the EPA merely responds that while the one figure may be too high, it undoubtedly underestimated the exposure levels, because contractors seldom comply with OSHA regulations. In the words of its brief, "[t]hus, EPA concluded that its estimates contain both over and underestimates, but nevertheless represented a reasonable picture of aggregate exposure."

The EPA is required to support its analysis with substantial evidence under TSCA. When one figure is challenged, it cannot back up its position by changing an unrelated figure to yield the same result. Allowing such behavior would require us only to focus on the final numbers provided by an agency, and to ignore how it arrives at that number. Because a conclusion is no better than the methodology used to reach it, such a result cannot survive the substantial evidence test.

Finally, we once again note that the EPA failed to discharge its TSCA-mandated burden that it consider and reject less burdensome alternatives before it impose a more burdensome alternative such as a complete ban. The EPA instead jumped immediately to the ban provision, without calculating whether a less burdensome alternative might accomplish TSCA's goals. *See* 54 Fed. Reg. at 29,489. We therefore conclude that the EPA failed to present substantial evidence to support its ban of asbestos pipe.

C

Gaskets, Roofing, Shingles, and Paper Products

We here deal with the remaining products affected by the EPA ban. Petitioners challenge the basis for the EPA's finding that beater-add and sheet gaskets, primarily used in automotive parts, should be banned. The agency estimated its ban would save thirty-two lives over a thirteen-year time span, at an overall cost of $207–263 million ($6–8 million per life saved). *Id.* at 29,484.

We have little to add in this area, beyond our general discussion and comments on other products apart from a brief highlight of the EPA's use of analogous exposure data to support its gasket ban. For these products, the analogous exposure estimate constituted almost eighty percent of the anticipated total benefits—a proportion so large that the EPA's duty to give interested parties notice that it intended to use analogous

exposure estimate was particularly acute.[27] Considering some of the EPA's support for its analogous exposure estimates—such as its assumption that *none* of the same workers who install beater-add and sheet gaskets *ever* is involved in repairing or disposing of them, and the unexplained discrepancy between its present conclusion that over 50,000 workers are involved in this area and its 1984 estimate that only 768 workers are involved in "gasket removal and installation," *see* 51 Fed.Reg. 22,612, 22,665 (1986)—the petitioners' complaint that they never were afforded the opportunity to comment publicly upon these figures, or to cross-examine any EPA witnesses regarding them, is particularly telling.

[37] The EPA also banned roof coatings, roof shingles, non-roof coatings, and asbestos paper products. Again, we have little to add beyond our discussions already concluded, especially regarding TSCA's requirement that the EPA always choose the least burdensome alternative, whether it be workplace regulation, labeling, or only a partial ban. We note, however, that in those cases in which a complete ban would save less than one statistical life, such as those affecting asbestos paper products and certain roofing materials, the EPA has a particular need to examine the less burdensome alternatives to a complete ban.

Where appropriate, the EPA should consider our preceding discussion as applicable to their bans of these products. By following the dictates of *Chemical Mfrs. Ass'n*, 899 F.2d at 359, that the quantities of the regulated chemical entering into the environment be "substantial," and that the human exposure to the chemical also must be "substantial" or "significant," as well as our concerns expressed in this opinion, the EPA should be able to determine the proper procedures to follow on its reconsideration of its rule and present the cogent explanation of its actions as required under *Chemical Manufacturers Association*.

D

Ban of Products Not Being Produced in the United States

Petitioners also contend that the EPA overstepped TSCA's bounds by seeking to ban products that once were, but no longer are, being produced in the United States. We find little merit to this claim, considering that sections 5 and 6 of TSCA allow the EPA to ban a product "that presents *or will present*" a significant risk. (Emphasis added.)

Although petitioners correctly point out that the value of a product not being produced is not zero, as it may find some future use, and that the EPA here has banned items where the estimated risk is zero, this was not error on the part of the EPA. The numbers appear to favor petitioners only because even products with known high risks temporarily show no risk because they are not part of this country's present stream of commerce. This would soon change if the produce returned, which is precisely what the EPA is trying to avoid.

Should some unlikely future use arise for these products, the manufacturers and importers have access to the waiver provision established by the EPA for just these contingencies. Under such circumstances, we will not disturb the agency's decision to ban products that no longer are being produced in or imported into the United States.

[38] Similarly, we also decide that the EPA properly can attempt to promulgate a "clean up" ban under TSCA, providing it takes the proper steps in doing so. A clean-up ban, like the asbestos ban in this case, seeks to ban all uses of a certain toxic substance, including unknown, future uses of the substance. Although there is some merit to petitioners' argument that the EPA cannot possibly evaluate the costs and benefits of banning unknown, uninvented products, we hold that the nebulousness of these future products, combined with TSCA's language authorizing the EPA to ban products that "will" create a public risk, allows the EPA to ban future uses of asbestos even in products not yet on the market.

E

Fundamental EPA Choices

Finally, we note that there are many other issues raised by petitioners, such as the EPA's decision to treat all types of asbestos the same, its conclusion that various lengths of fibers present similar toxic risks, and its decision that asbestos presents similar risks even in different industries. *See generally* 54 Fed.Reg. at 29,470–71 (detailing differences in potency of chrysotile and other forms of asbestos and toxicity of various fiber lengths). We mention these concerns now only to reject them.

Of these, any many similar points, the petitioners merely seek to have us reevaluate the EPA's initial evaluation of the evidence. While we can, and in this opinion do, question the agency's reliance upon flawed methodology and its failure to consider factors and alternatives that TSCA explicitly requires it to consider, we do not sit as a regulatory agency ourselves. Decisions such as the EPA's decision to treat various types of asbestos as presenting similar health risks properly are better left for agency determination and, while the EPA is free to reconsider its data should it so choose when it revisits this area, it also is free to adopt similar reasoning in the future.

VI

Conclusion

In summary, of most concern to us is that the EPA has failed to implement the dictates of TSCA and the prior decisions of this and other courts that, before it impose a ban on a product, it first evaluate and then reject the less burdensome alternatives laid out for it by Congress. While the EPA spend much time and care crafting its asbestos regulation, its explicit failure to consider the alternatives required of it by Congress deprived its final rule of the reasonable basis it needed to survive judicial scrutiny.

Furthermore, the EPA's adoption of the analogous exposure estimates during the final weeks of its rulemaking process, after public comment was concluded, rather than during the ten years during which it was considering the asbestos ban, was unreasonable and deprived the petitioners of the notice that they required in order to present their own evidence on the validity of the estimates and its data bases. By depriving the petitioners of their right to cross-examine EPA witnesses on methodology and data used to support as much as eighty percent of the proposed benefits in some areas, the EPA also violated the dictates of TSCA.

Finally, the EPA failed to provide a reasonable basis for the purported benefits of its proposed rule by refusing to evaluate the toxicity of likely substitute products that will be used to replace asbestos goods. While the EPA does not have the duty under TSCA of affirmatively seeking out and testing all possible substitutes, when an interested party comes forward with credible evidence that the planned substitutes present a significant, or even greater, toxic risk than the substance in question, the agency must make a formal finding on the record that its proposed action still is both reasonable and warranted under TSCA.

We regret that this matter must continue to take up the valuable time of the agency, parties and undoubtedly, future courts. The requirements of TSCA, however, are plain, and the EPA cannot deviate from them to reach its desired result. We therefore GRANT the petition for review, VACATE the EPA's proposed regulation, and REMAND to the EPA for further proceedings in light of this opinion.[28]

On Petition for Review of a Rule of the Environmental Protection Agency.

ON MOTION FOR CLARIFICATION

Before BROWN, SMITH, and WIENER, Circuit Judges.

PER CURIAM:

[39] Respondents, the Environmental Protection Agency (EPA) and William K. Reilly, seek a clarification of the status of the phase 1, or stage 1, provisions in the challenged rule, which provisions ban, effective August 27, 1990, the manufacture, importation, and processing of asbestos containing corrugated and flat sheet, asbestos clothing, flooring felt, pipeline wrap, roofing felt, and vinyl/asbestos floor tile, and any new uses of asbestos. See 40 C.F.R. §§763.165(a)–.167(a). The rule also requires labeling of phase 1 products after August 27, 1990, *see id.* §763.171(a), and prohibits the distribution in commerce of such products after August 27, 1992, *see id.* §763.169(a). *See Corrosion Proof Fittings v. EPA*, 947 F.2d 1201, 1208 & n. 2 (5th Cir. 1991).

Respondents assert that the clarification is needed because, in part V.D of our opinion, *id.* at 1228–29, we have held that the EPA may "ban products that once were, but no longer are, being produced in the United States." Thus, the motion seeks clarification of the status of any products that still were being manufactured, imported, or processed on July 12, 1989, which is the date on which the final rule was issued, *see* 54 Fed. Reg. 29,459 (1989), but which no longer were being manufactured, imported, or processed, as a result of the phase 1 ban, on the date of our opinion, which is October 18, 1991.

The motion for clarification is GRANTED. The holding in part V.D of our opinion applies only to products that were not being manufactured, imported, or processed on July 12, 1989, the date of the rule's promulgation. To the extent, if any, that there is doubt as to whether particular products are in that category, the EPA may resolve the factual dispute on remand.

1. OSHA began to regulate asbestos in the workplace in 1971. At that time, the permissible exposure limit was 12 fibers per cubic centimeter (f/cc), which OSHA lowered several times until today it stands at 0.2 f/cc. OSHA currently is considering lowering the limit to 0.1 f/cc, following a challenge to the regulation in *Building & Constr. Trades Dep't v. Brock*, 838 F.2d 1258, 1267–69 (D.C. Cir. 1988). The Mine Safety and Health Administration (MSHA) since 1976 has limited mine worker asbestos exposure to 2 f/cc. *See* 30 C.F.R. §71.702 (1990).

The Consumer Product Safety Commission (CPSC) has banned consumer patching compounds containing respirable asbestos, *see* 16 C.F.R. §§1304–05 (1990), and also requires labeling for other products containing respirable asbestos. Similarly, the Food and Drug Administration has banned general-use garments containing asbestos unless used for protection against fire. *See* 16 C.F.R. §1500.17 (1990).

2. The main products covered by each ban stage are as follows:

(1) Stage 1: August 27, 1990: ban on asbestos-containing floor materials, clothing, roofing felt, corrugated and flat sheet materials, pipeline wrap, and new asbestos uses;

(2) Stage 2: August 25, 1993: ban on asbestos-containing "friction products" and certain automotive products or uses;

(3) Stage 3: August 26, 1996: ban on other asbestos-containing automotive products or uses, asbestos-containing building materials including non-roof and roof coatings, and asbestos cement shingles.

See 54 Fed. Reg. at 29,461–62.

3. *See Bell v. Wolfish*, 441 U.S. 520, 531 n. 13, 99 S.Ct. 1861, 1870 n. 13, 60 L.Ed.2d 447 (1979). While it is true that the joint brief of petitioners Centrale des Syndicats Democratiques, Confederation des Syndicats Nationaux, and United Steel Workers of America (Canada) (collectively along with petitioner Cassiar Mining Corp. (Cassiar), the "Canadian petitioners") also deal with some of the same issues raised by amici, we hold in part II.B, *infra*, that these petitioners lack standing. The arguments of amici cannot be bootstrapped into this case based upon the arguments of petitioners who themselves lack standing.

4. The EPA also seeks to bar the brief of Grinnell College. That brief, however, presents arguments directly related to the arguments raised by the parties seeking to prevent the ban of asbestos shingles.

5. *Association of Data Processing Serv. Orgs. v. Camp*, 397 U.S. 150, 153, 90 S.Ct. 827, 829, 25 L.Ed.2d 184 (1970); *accord Panhandle Producers & Royalty Owners Ass'n v. Economic Regulatory Admin., 847 F.2d 1168, 1173–74 (5th Cir. 1988); Hazardous Waste Treatment Council v. EPA*, 861 F.2d 277, 282 (D.C.Cir. 1988) (per curiam), *cert. denied*, 490 U.S. 1106, 109 S.Ct. 3157, 104 L.Ed.2d 1020 (1989). We note that the zone of interest test is not one universally applied outside the context of the Administrative Procedure Act (APA), *see Clark v. Securities Indus. Ass'n*. 479 U.S. 388, 400, n. 16, 107 S.Ct. 750, 757 n. 16, 93 L.Ed.2d 757 (1987), but because it is the most useful factor in considering Congressional intent on the question of standing, we invoke it as an aid to our decisionmaking today, as we sometimes have in the past. *Cf. Moses v. Banco Mortgage Co.*, 778 F.2d 267, 271 (5th Cir. 1985).

6. *See, e.g., Carey v. Population Serv. Int'l.* 431 U.S. 678, 683–84 & n. 4, 97 S.Ct. 2010, 2015 & n. 4, 52 L.Ed.2d 675 (1977); *National Cottonseed Prods. Ass'n v. Brock*, 825 F.2d 482, 489–92 (D.C.Cir. 1987), *cert. denied*, 485 U.S. 1020, 108 S.Ct. 1573, 99 L.Ed.2d 889 (1988); *FAIC Sec. v. United States*, 768 F.2d 352, 357–61 (D.C.Cir. 1985). *Carey*, however, gives *jus tertii* standing to a party only if the party directly affected is incapable of asserting its own interests, which is not true in the instant case. *See Carey*, 431 U.S. at 683–84, 97 S.Ct. at 2015; *accord Craig v. Boren*, 429 U.S. 190, 195–96, 97 S.Ct. 451, 456, 50 L.Ed.2d 397 (1976). The cases from the District of Columbia Circuit, represented by *National Cottonseed* and *FAIC Securities*, appear to go too far in expanding the exception in the vendor-vendee relationship, at least when evaluating a statute so purely national in scope.

7. *See Warth*, 422 U.S. at 501, 95 S.Ct. at 2206 (noting that courts generally are relucant "to extend judicial power when the plaintiff's claim to relief rests on the legal rights of third parties"). Cassiar mentions only one case, *Construction Civiles de Centroamerica, S.A. v. Hannah*, 459 F.2d 1183, 1190–91 (D.C.Cir. 1972), in which a foreign vendor was able to borrow its domestic vendee's standing rights to pursue its own claim. That case, however, involved the APA, which, unlike TSCA, does not confine itself to matters concerning national economic interests.

8. The Canadian petitioners also allege that United States treaty obligations, such as the provisions of the General Agreement on Tariffs and Trade (GATT), award them the right to protest the EPA's actions. GATT requires nations to indicate that their environmental decisions meet international standards, thus preventing countries from using arbitrary environmental rulings as *de facto* trade barriers. GATT, however, establishes trade dispute procedures of its own. These Canadian parties therefore have no standing here to challenge the EPA's decision.

9. These complaints include the failure of the EPA to cross-examine petitioners' witnesses, which it was not required to do, and the EPA's decision not to designate an AIJ, which also was within its discretion under 40 C.F.R. §§750.7 and 750.8 (1990). Similarly, the EPA's failure to issue subpoenas was of little moment, as the petitioners in fact suffered no injury from the lack of subpoenas. *See id.* §750.5.

We also note that while an independent panel of experts often might be needed, in this case the EPA was not required to assemble such a panel on asbestos disease risks, as it already possessed an abundance of information on the subject, including a report by the members of the Ontario Royal Commission, a study often cited by the petitioners themselves. Considering the number of studies available, the EPA was not required to assemble its own panel to duplicate them, except to fill in any gaps.

10. According to the EPA, if the analogous exposure estimates were not included, the benefits of the rule would decrease from 168 to 120 deaths avoided, discounted at 3%. 54 Fed. Reg. at 29,469, 29,485. The analogous exposure estimates, adopted after hearings were concluded, thus increase the purported benefits of the rule by more than one-third.

11. For some of the products, such as the beater-add and sheet gaskets, the analogous exposure analysis completely altered the EPA's calculus and multiplied four- or fivefold the anticipated benefits of the proposed regulation. This was a change sufficient to make the proceedings unfair to the petitioners and was of sufficient importance that the EPA's failure to afford any cross-examination on this issue was an abuse of discretion.

12. The term "rulemaking record" means (A) the rule being reviewed; (B) all commentary received in response to the (EPA) Administrator's notice of proposed rulemaking, and the Administrator's own published statement of the effects of exposure of the substance on health and the environment, the benefits of the substance for various uses and the availability of substitutes for such uses, and "the reasonably ascertainable economic consequences of the rule" on the national economy, small business, technological innovation, the environment, and public health; (C) transcripts of hearings on promulgation of the rule; (D) written submissions of interested parties; and (E) any other information the Administrator deems relevant. *See* 15 U.S.C. §2618(a)(3) (referring to §§2604(f) and 2605(c)(1) in regard to component (B) above).

13. The EPA cites *Superior Oil Co.*, 563 F.2d at 199, an APA case, for the proposition that in informal rulemaking, the arbitrary and capricious standard and the substantial evidence standard "tend to converge." While it certainly is true that the requirement of substantial evidence within formal rulemaking is more strenuous, we acknowledged in *Superior Oil* that when comparing arbitrary and capricious to substantial evidence, "[i]t is generally accepted that the latter standard allows for 'a considerably more generous judicial review' than does the former." *Id.* (quoting *Abbott Laboratories*, 387 U.S. at 143, 87 S.Ct. at 1512). Considering that Congress specifically rejected the arbitrary and capricious standard in the TSCA context, we will not act now to read that same standard back in by holding that the two standards are in fact one and the same.

14. *Cf. Southland Mower Co. v. CPSC*, 619 F.2d 499, 510 (5th Cir. 1980) ("It must be remembered that '[t]he statutory term "unreasonable risk" presupposes that a real, and not a speculative, risk be found to exist and that the Commission bear the burden of demonstrating the existence of such a risk before proceeding to regulate.' " (Citation omitted.)).

15. The statute provides, in order, the possible regulatory schemes as follows:

(1) A requirement (A) prohibiting the manufacturing, processing, or distribution in commerce of such substance or mixture, or (B) limiting the amount of such substance or mixture which may be manufactured, processed, or distributed in commerce.

(2) A requirement—

(A) prohibiting the manufacture, processing, or distribution in commerce of such substance or mixture for (i) a particular use or (ii) a particular use in a concentration in excess of a level specified by the Administrator in the rule imposing the requirement, or

(B) limiting the amount of such substance or mixture which may be manufactured, processed, or distributed in commerce for (i) a particular use or (ii) a particular use in a concentration in excess of a level specified by the Administrator in the rule imposing the requirement.

(3) A requirement that such substance of mixture or any article containing such substance or mixture be marked with or accompanied by clear and adequate warnings and instructions with respect to its use, distribution in commerce, or disposal or with respect to any combination of such activities. The form and content of such warnings and instructions shall be prescribed by the Administrator.

(4) A requirement that manufacturers and processors of such substance or mixture make and retain records of the processes used to manufacture or process such substance or mixture and monitor or conduct tests which are reasonable and necessary to assure compliance with the requirements of any rule applicable under this subsection.

(5) A requirement prohibiting or otherwise regulating any manner or method of commercial use of such substance or mixture.

(6) (A) A requirement prohibiting or otherwise regulating any manner or method of disposal of such substance or mixture, or of any article containing such substance or mixture, by its manufacturer or processor or by any other person who uses, or disposes of, it for commercial purposes.

(B) A requirement under subparagraph (A) may not require any person to take any action which would be in violation of any law or requirement of, or in effect for, a State or political subdivision, and shall require each person subject to it to notify each State and political subdivision in which a required disposal may occur of such disposal.

(7) A requirement directing manufacturers or processors of such substance or mixture (A) to give notice of such unreasonable risk of injury to distributors in commerce of such substance or mixture and, to the extent reasonably ascertainable, to other persons in

possession of such substance or mixture or exposed to such substance or mixture, (B) to give public notice of such risk of injury, and (C) to replace or repurchase such substance or mixture as elected by the person to which the requirement is directed. 15 U.S.C. §2605(a). As is plain from the order in which they are listed, options at the top of the list are the most burdensome regulatory options, progressively declining to the least burdensome option.

16. EPA argues that OSHA can only deal with workplace exposures to asbestos and that the CPSC and MSHA cannot take up the slack, as the CPSC can impose safety standards for asbestos products based only upon the risk to consumers, and MSHA can protect against exposure only in the mining and milling process. These agencies leave unaddressed dangers posed by asbestos exposure through product repair, installation, wear and tear, and the like.

17. Although we, as always, rely mainly upon the language of the statute to determine Congress's intent, we also note that the legislative history of TSCA supports the notion of TSCA's least-to-most-burdensome hierarchy. As the Senate sponsor of the "least burdensome" requirement stated, Congress did "not want to give the Administrator unlimited authority and let him say, 'I will impose this control, if there are other controls that are effective and are less burdensome on the industry.'" 122 Cong. Rec. 8295 (1976) (statement of Sen. Cannon).

In addition, the EPA itself acknowledges this hierarchy when it states in its brief that "TSCA authorizes and directs [the] EPA to impose that burden [of a total ban] *if the risks of a substance cannot be adequately addressed in another way.*" (Emphasis added.) The EPA does not explain how it can determine that the risks of a substance cannot be addressed in another way if it refuses to make a finding that the alternatives will not discharge the EPA's TSCA burden. It cannot simply state that there is no level of zero risk asbestos use and then impose the most burdensome alternative on that sole basis.

We do not today determine what an appropriate period for the EPA's calculations would be, as this is a matter better left for agency discretion. *See Motor Vehicle Mfrs. Ass'n*, 463 U.S. at 53, 103 S.Ct. at 2872. We do note, however, that the choice of a thirteen-year period is so short as to make the unquantified period so unreasonably large that any EPA reliance upon it must be displaced.

Under the EPA's calculations, a twenty-year-old worker entering employment today still would be at risk from workplace dangers for more than thirty years after the EPA's analysis period had ended. The true benefits of regulating asbestos under such calculations remain unknown. The EPA cannot choose to leave these benefits high and then use the high unknown benefits as a major factor justifying EPA action.

We also note that the EPA appears to place too great a reliance upon the concept of population exposure. While a high population exposure certainly is a factor that the EPA must consider in making its calculations, the agency cannot count such problems more than once. For example, in the case of asbestos brake products, the EPA used factors such as risk and exposure to calculate the probable harm of the brakes, and then used, as an *additional* reason to ban the products, the fact that the exposure levels were high. Considering that calculations of the probable harm level, when reduced to basics, simply are a calculation of population risk multiplied by population exposure, the EPA's redundant use of population exposure to justify its actions cannot stand.

3. Reasonable Basis.

In addition to showing that its regulation is the least burdensome one necessary to protect the environment adequately, the EPA also must show that it has a reasonable basis for the regulation. 15 U.S.C. §2605(a). To some extent, our inquiry in this area mirrors that used above, for many of the methodological problems we have noted also indicate that the EPA did not have a reasonable basis. We here take the opportunity to highlight some areas of additional concern.

18. Recently, in a different context, we observed the important distinction between present and future injury. *See Willett v. Baxter Int'l, Inc.*, 929 F.2d 1094, 1099–1100 & n. 20 (5th Cir.1991).

19. We also note that the EPA chose to use a real discount rate of 3%. Because historically the real rate of interest has tended to vary between 2% and 4%, this figure was not inaccurate.

The EPA also did not err by calculating that the price of substitute goods is likely to decline at a rate of 1% per year, resulting from economies of scale and increasing manufacturing prowess. Because the EPA properly limited the scope of these declines in its models so that the cost of substitutes would not decline so far as to make the price of the substitutes less than the cost of the asbestos they were forced to replace, this was not an unreasonable real rate of price decline to adopt.

20. We thus reject the arguments made by the Natural Resources Defense Council, Inc., and the Environmental Defense Fund, Inc., that the EPA's decision can be justified because the EPA "relied on many serious risks that were understated or not quantified in the final rule," presented figures in which the "benefits are calculated only for a limited time period," and undercounted the risks to the general population from low-level asbestos exposure. In addition, the intervenors argue that the EPA rejected using upper estimates, *see* 54 Fed.Reg. at 29,473, and that this court now should use the rejected limits as evidence to support the EPA. They thus would have us reject the upper limit concerns when they are not needed, but use them if necessary.

We agree that these all are valid concerns that the EPA legitimately should take into account when considering regulatory action. What we disagree with, however, is the manner in which the EPA incorporated these concerns. By not using such concerns in its quantitive analysis, even where doing so was not difficult, and reserving them as additional factors to buttress the ban, the EPA improperly transformed permissible considerations into determinative factors.

21. This is not to say that an interested party can introduce just any evidence of a suspected carcinogen or other toxin in its efforts to slow down a valid EPA regulation. The agency may, within its discretion, consider the probable merits of such dilatory tactics and act appropriately. *Cf. National Grain & Feed Ass'n*, 866 F.2d at 734 ("[W]e do not require the agency to respond in detail to every imaginable proposal for tighter standards."). Where, however, the health risks of substitutes, such as non-asbestos brakes and polyvinyl chloride (PVC) pipe, are both plausible and known, the EPA must consider not only the probable costs of continued use of the product it is considering, but also the harm that would follow from its regulation and increased use of an alternate, harmful product.

22. We note that at least part of the EPA's arguments rest on the assumption that regulation will not work because the federal government will not adequately enforce any workplace standards that the EPA might promulgate. This is an improper assumption. The EPA should assume reasonable efforts by the government to implement its own regulations. A governmental agency cannot point to how poorly the government will implement regulations as a reason to reject regulation. Rather, the solution to poor enforcement of regulations is better enforcement, not more burdensome alternative solutions under TSCA.

23. *See Environmental Defense Fund*, 636 F.2d at 1275 n. 17 ("[W]e must construe the statute 'so that no provision will be inoperative or superfluous'" (quoting *Motor & Equip. M[rs. Ass'n v. EPA*, 627 F.2d 1095, 1108 (D.C.Cir. 1979), *cert. denied*, 446 U.S. 952, 100 S.Ct. 2917, 64 L.Ed.2d 808 (1980))); *see also Old Colony R.R. v. Commissioner*, 284 U.S. 552, 560, 52 S.Ct. 211, 213, 76 L.Ed. 484 (1932) (in interpreting statutory language, "the plain, obvious and rational meaning of a statute is to be preferred to any curious, narrow, hidden sense").

As the petitioners point out, the EPA regularly rejects, as unjustified, regulations that would save more lives at less cost. For example, over the next 13 years, we can expect more than a dozen deaths from ingested *toothpicks*—a death toll more than twice what the EPA predicts will flow from the quarter-billion-dollar bans of asbestos pipe, shingles, and roof coatings. *See* L. Budnick, *Toothpick-Related Injuries in the United States, 1979 Through 1982*, 252 J. Am. Med. Ass'n, Aug. 10, 1984, at 796 (study showing that toothpick-related deaths average approximately one per year).

24. In large part, our analysis draws upon our general discussion already concluded. Where necessary, however, we develop specific themes more appropriately addressed in the context of a specific product. The EPA on subsequent review should consider these specific comments as applicable to its procedures dealing with other products, where necessary. In other words, by presenting a concern in the context of one product, we do not mean to imply that it arises only in that area.

25. One of the study's authors, Mr. Anderson, submitted written testimony that the "replacement/substitution of asbestos-based with nonasbestos brake linings will produce grave risks" and that "the expected increase of skid-related highway accidents and resultant traffic deaths would certainly be expected to overshadow any potential health-related benefits of fiber substitution." The ASME report itself concludes only that "[i]f the eventual elimination of all asbestos in friction products is to be accomplished, additional future studies are required." This is an insufficient basis upon which to support the EPA's judgment that non-asbestos brakes are just as safe as asbestos brakes.

26. In this case, the EPA extrapolated data regarding asbestos exposure during installation of asbestos pipe products and estimated, by formula, how often workers would be exposed to asbestos during repair and disposal.

27. The EPA estimates drop from 32.24 discounted lives to 6.68 discounted lives without the analogous exposure data.

28. Pursuant to the Internal Operating Procedures accompanying Fifth Cir.Loc.R. 47, Judge Brown reserves the right to file a separate opinion.

Mr. GLENN addressed the Chair.

The PRESIDING OFFICER. The Senator from Ohio.

Mr. GLENN. Mr. President, we will be having the vote on the Glenn-Chafee substitute after our respective conferences today at noon. I have several wrap-up remarks I want to make before we do break at 12:30.

The first thing I want to address is each day now we heard examples from proponents of Dole-Johnston about how silly some of these regulations are, and I agree with that. We have a lot that are very, very silly. I believe we have bureaucratic excess. We need regulatory reform, and there are plenty of anecdotal stories to go around about what the problems are.

But I do not think we need to make our Government look any more stupid than it actually is, in some instances, and some of the things that have been stated as silly regulations have proven, upon investigation, to be not true. We do not need reform based on half truths and inaccuracies. Many of these stories have been shown to be not true or are, at least, serious exaggerations.

Let me give an example. The other day I believe the Senator from Utah said that if a company spills 1 pint of antifreeze, the Federal Government requires it to notify the Coast Guard in Washington. That is simply not true.

The main ingredient of antifreeze is ethylene glycol. It is covered by the Clean Air Act because of its high evaporation rate. According to EPA, you have to spill over 1,000 pounds of antifreeze to have to report an ethylene glycol spill; 1,000 pounds comes out to about 140-some gallons, 143 or 144 gallons, I believe. That would be almost three barrels of ethylene glycol that would have to be spilled.

If you did spill that much, you are supposed to report it to the National Response Center, which is staffed by Coast Guard personnel as part of a multiagency support for that Center. It is not just reporting to the Coast Guard. But the facts of the case are, it is 1,000 pounds and you report it to this Center, which is staffed by Coast Guard personnel as part of a multiagency support force.

There was also a claim made the other day that Federal rules prevent a farmer from diverting water from a river, even when the farm drains back into the same river, and this happened despite the involvement, I guess the story goes, even with the approval of the BLM, the Forest Service, and the State government.

I never saw any substantiation for this story, but I do believe that while the water diversion problem may have existed during past administrations when they allowed wetlands regulations to be divided among agencies with no coordination, that is not the case now. The Clinton administration uses an interagency memorandum of understanding that provides for coordination among agencies, that provides for farmers and ranchers to interact with only one agency, and provides a single set of guidelines coming out from the Government. Once again, there is a new approach to this being taken by this administration that makes the anecdotal information at, very best, an exaggeration.

Another example of distortion was the claim that EPA insists on regulating asbestos even when it says that the number of annual deaths from toothpick ingestion exceeds the number of deaths from asbestos exposure. This proves to be just flat wrong.

According to EPA, a 1984 American Medical Association study showed that toothpick-related deaths average about 1 per year for the whole Nation out of our 260 million people, or close to that many. In 1988, EPA released a report that estimated that 4,280 people have died over the past 130 years due to asbestos in the buildings in which they live. That averages out to more than 30 deaths a year.

According to EPA, this is actually a low estimate because many more asbestos-related deaths can be expected for building workers, such as custodians who are exposed at much higher levels. So here, again, we have the facts that show that the proponents are distorting the truth and relying on inaccurate anecdotal stories to create a false image of our Government.

Sure, we want reform. Yes, Government needs to work better, but let us be reasonable. Let us use common sense. We do not need to make up stories about the Government working against the public interest and then end up throwing out the baby with the bath water, as my colleague from California, Senator FEINSTEIN, put it yesterday. Let us not jeopardize public health and safety with scare stories of bureaucratic excess. Too much is at stake to justify such callous disregard for the public interest or the truth.

Mr. President, regulatory reform is one of the most important issues we are going to take up this whole Congress. There is clearly a need to reform the regulatory process. We can all tell the horror stories of regulations gone awry, but before we rush to fix a problem with even worse medicine, let us take a hard look at what balanced, fair, and effective regulatory reform is all about.

I believe that regulatory reform must not only alleviate unnecessary burdens on businesses and on States and on local governments and on individuals, but at the same time it must also ensure the Government's ability to protect the health, safety, and environment of the American people. That is my twofold test. That is a test of balance that is in the best interest of all the people of this country.

Today, we have an opportunity to vote for true regulatory reform, reform that focuses on the biggest regulations, that makes agencies weigh the costs and benefits of their actions, that makes agencies take a hard look at the regulations on the books. At the same time, we have the opportunity to vote for reform that maintains the ability of agencies to do their jobs. That is commonsense reform, and the Glenn-Chafee substitute to S. 343 is pure common sense.

Let me outline six major differences between the Glenn-Chafee substitute and the Dole-Johnston substitute. I hope those listening in their offices, those who may not have decided how they are going to vote yet after our noon break, will listen to these things and consider them very, very carefully, because these are major reasons why I feel you should support the Glenn-Chafee substitute.

First, the Glenn-Chafee substitute focuses on truly major rules. We require truly significant rules—it will be between 100 and 200 rules per year—to go through rigorous cost-benefit analyses and risk assessment requirements. Even though we voted to amend the threshold of a major rule to $100 million in the Dole-Johnston substitute, we also voted to require any rule that has a significant impact on small businesses to go through the rigorous cost-benefit analyses and risk assessment requirements.

Therefore, the Dole-Johnston substitute bill will still cover several hundred more rules than the Glenn-Chafee substitute and will tie up scarce agency resources with little added benefit. In fact, the estimate is this will run it up to somewhere between 500 and 800 regulations that would have to be reviewed per year. These are not cheap to do.

Alice Rivlin estimated that when it was at a $50 million estimate, that we would require an additional $1.3 billion and 4,500 additional full-time employees. Now this is run up several times over that, and I would presume that $1.3 billion per year is going to be exceeded by the requirements that we find in the Dole-Johnston substitute now.

That was not in the original bill, I realize, but it was voted on the floor, and as of now the small businesses going through the rigorous cost-benefit analyses and risk assessment requirements will run the cost and complexity of this way up.

Our goal should not be to swamp the agencies so they are unable to carry out their missions. Whether that mission be to protect the health, safety, or environment or another important public function, our goals should be to help them do their jobs more effectively. We should require these rigorous cost-benefit analyses and risk assessments for the rules that have a significant impact on the economy, not for all the rules now covered by S. 343. That is why a vote for the Glenn-

Chafee substitute is a vote for commonsense reform.

Second, the Glenn-Chafee substitute requires cost-benefit analysis for all major rules, but does not make the agencies pass a least-cost, cost-benefit test. That is its decisional criteria, before issuing rules. Costs and benefits are often hard to quantify and cost-benefit analysis, while useful, is less than perfect. It is a developing science.

The Dole-Johnston substitute requires agencies to pass a set of four rigid tests before they can issue a major rule. Most troubling of these criteria is the least-cost test. The agency must pick the cheapest alternative, even if for a few more dollars it could save hundreds of more lives or reduce pollution by a much greater amount. In other words, common sense goes out the door on this approach. It has to be least cost. Examples on the floor were given. If you had an additional cost of $2, and it would save an additional 200 lives, you could not put that into effect because you have to use least cost in the Dole-Johnston substitute as it is now constituted.

Dole-Johnston does allow agencies to use other more costly alternatives, but only in the case of "scientific uncertainties," or "nonquantifiable benefits." So if the agency is certain about a benefit or can quantify how much extra benefit they gain by using something other than the least-cost alternative, they are prohibited from doing it. That just does not make any sense at all.

Because these decisional criteria are tests that the agency must pass before promulgating a rule, the issue of whether the benefits really do justify the costs and whether the agency picked the least-cost alternative will certainly become matters for the lawyers to settle in court.

Agencies should absolutely be required to use cost-benefit analysis. I think we all agree on that. But they should not be forced to pass a rigid least-cost, cost-benefit test to issue every major rule. If an agency does not think a rule's benefits justify its costs, but still is required by law to issue that rule, the rule should come back to us in Congress. That is where the responsibility lies, and that is what we provide in this legislation. It can come back to Congress, and that is where it should be, because after all, as much as 80 percent of agency rules are strictly required by laws we have passed in the Congress. I keep coming back to this point, but the plain truth is that if we really want regulatory reform, we should start fixing the laws we have passed, not load up the agencies and the American people with more bureaucratic procedures and more litigation. That is what Dole-Johnston does.

Third, the Glenn-Chafee substitute provides for a review of current rules—in other words, laws, rules, regs, that are in effect now, maybe some have been in effect for many years—but with no automatic arbitrary sunset if agencies fail to review a rule.

We provide for review of existing rules, much like the Dole-Johnston bill, but we do not have an automatic immediate sunset of rules if an agency fails to review those rules according to schedule.

As the Senator from Louisiana points out, the agency may get up to a 2-year extension. True. However, it is still true that if the agency still does not complete its review by then, then at that point, the rule becomes immediately unenforceable; in other words, it is canceled. So it does still sunset after the extension. The Glenn-Chafee substitute, on the other hand, requires an agency that fails to review a rule according to schedule to issue a notice of proposed rulemaking to repeal the rule. And this process allows public comment on the rule and ensures that a rule does not sunset arbitrarily. The agency must then complete this rulemaking action within 2 years, and such action is judicially reviewable.

Also, an annual process is established for Congress to amend agency review schedules in cases where an agency does not schedule review of rules people think are in need of review. This process will lead to the review and elimination of outmoded rules. Dole-Johnston, with its review petition process, will lead to delay, waste of money, and lawsuits. Let me reemphasize these points and set the record straight from yesterday. All the charges that our agency review of existing rules has no teeth are just not true. Under Glenn-Chafee, agencies must review existing rules and solicit public comment on the review and on the schedule. Agencies just cannot sit back and do nothing about reviewing existing rules under the Glenn-Chafee substitute, as some of my colleagues said yesterday. Glenn-Chafee requires agencies to review existing rules, to set a schedule for that review, to solicit input from the public, and to complete that review within a time certain.

The Dole-Johnston substitute creates a petition process for interested parties to get a rule on the schedule for review. These petitions are all judicially reviewable and there is no limit on the number of petitions; there can be hundreds, there can be thousands. The agency has two options. If the agency grants the petition, it has to complete the review of that rule within 3 years, or the rule sunsets. If they deny the petition, they can get dragged to court. It seems to me that puts the agency between a rock and a hard place—3 years or the courthouse. It also seems to me that these petitions put interested parties, like the regulated businesses, not the agencies, in the driver's seat.

The Glenn-Chafee substitute has an enforcement mechanism to make sure agencies review rules, contrary to what we heard yesterday. Under Glenn-Chafee, agencies must publish a schedule to review rules. That is a requirement that is judicially reviewable. Agencies cannot just sit on their hands and not review rules. If an agency, upon review, decides to amend or repeal a rule, it must do so within 2 years, and that is judicially reviewable. If an agency does not complete its review of a rule within the allotted time, it must publish a notice of proposed rulemaking to repeal the rule. And it must complete that agency action within 2 years. And that is judicially reviewable. That is a real hammer.

We do not allow judicial review of what rules the agency decides to put on the list or of the deadlines for the review of those rules. But agencies must solicit and consider public input into this process. We just want to make sure the agencies spend their time and resources doing a review of rules, not defending their every action in court. We think, once again, that just makes common sense.

The Senator from Louisiana stated that the schedule for review of rules is in the sole discretion of the agency. This is misleading. We use the phrase "sole discretion" to stop industries and others from litigating what and when rules should be reviewed. If interested parties have complaints about rules not getting on the schedule, there is a specific process allowing annual amendments and additions to any schedule through Congress. If any groups of constituents feel that an important rule is being ignored by agencies, this is the politically accountable way to handle that problem. We should not add to the litigation explosion, the litigation burden that would otherwise be created through Dole-Johnston.

Fourth, the Glenn-Chafee substitute is not a lawyer's dream. We allow for judicial review of, one, the determination of a major rule and, two, whether a final rule is arbitrary and capricious in light of the whole rulemaking file. We do not allow separate challenges of the procedures of cost-benefit analysis or risk assessment.

The Dole-Johnston bill has much more judicial review which can be interpreted to allow a review of procedural compliance with analyses and assessments.

Senator JOHN KERRY of Massachusetts, yesterday, had a list of 88 different points of judicial review. That was taken from a longer list, as I understand it, of 144 that one of the agencies said, as they interpret the bill as now proposed under Dole-Johnston—they could find 144 separate areas where there could be judicial review. We have it here, and if I have time, I will read it. But under S. 343, this is one where OSHA has about 15 different places that they—more than that; it is about 30 different places where OSHA

says they can see there would be judicial review, as they view it, unnecessarily, where things could just be tied up in court. I will get to that if I have time for it a little bit later.

I think it is important to remember that S. 343 has many more provisions for judicial review than what is found in section 625, the section the Senator from Louisiana kept coming back to yesterday. The Dole-Johnston substitute creates numerous new positions that are judicially reviewable. It changes the standards for review for the Administrative Procedure Act, and it makes fundamental changes in the use of consent decrees and burden of proof for industry compliance. All of these changes in Dole-Johnston, coupled with the judicial review language in section 625, mean one thing: more lawsuits, more money spent on lawyers, less money spent on the public's business of protecting the health, safety, and environment.

Fifth, the Glenn-Chafee substitute does not create brand new petitions by private persons that will eat up agency resources and will let special interests, not the agency or Congress, guide priorities. The Dole-Johnston bill creates several new avenues for interested persons to petition agencies, including, one, issuance of amendment or repeal of a rule; two, amendment or repeal of an interpretive rule or general statement of policy or guidance; three, interpretation regarding meaning of a rule, interpretive rule, general statement of policy, or guidance; four, placing a rule on schedule for review; five, alternative methods of compliance; six, review of freestanding risk assessment. All petitions must be decided at a time certain, which ranges from 18 months to 180 days. Except for the petition for alternative method of compliance, all these petition decisions are judicially reviewable. That is a massive number of points of judicial reviewability.

Again, we see that the real effect of Dole-Johnston will be to create special avenues for special interests and more ways for lawyers to tie up agencies in court.

The Glenn-Chafee substitute has no special interest provisions. The Dole-Johnston bill, on the other hand, has very specific fixes for special interests. For example, it changes the Delaney clause and EPA's toxic release inventory. These provisions have no place in a Government-wide regulatory reform bill. Changes to these important laws—and I think some changes should be made—should be handled by the committees of jurisdiction in the context of full debate about the underlying laws. They should not be piggybacked on the larger process bill.

This way of lacing the process reform legislation with special interest fixes is not reform. It involves special pleadings for the special money few. The American people will pay a heavy price in the end if we go that route.

These are six important reasons why we should support the Glenn-Chafee substitute over the Dole-Johnston substitute. My colleague from Louisiana has tried to improve the underlying bill, S. 343. He has been out here on the floor every day, almost by himself, trying to make the case for his improvements. But I do not believe the improvements are enough. The bill is still too flawed to be supported. It endangered the public health and safety and the environment. It wastes Government resources. It enriches lawyers and bogs down the courts for the interests of a few. So I think we should enact the Glenn-Chafee substitute, which I feel is a commonsense reform.

I want to also set the record straight about two additional issues in Glenn-Chafee that the proponents of Dole-Johnston misrepresented yesterday. First is the issue of exemptions. Glenn-Chafee has been criticized for not having enough exemptions. There are several issues involved here. There is one question about general exemptions. Both Dole-Johnston and Glenn-Chafee exempt several categories of rules from the regulatory reform legislation by exempting them from the definitions of rule and/or major rule. The question is, how do the two bills differ?

Now, in total, I believe Dole-Johnston has more exemptions than Glenn-Chafee. I think some of these should actually be added to Glenn-Chafee. But Dole-Johnston is also missing some exemptions that Glenn-Chafee has. We need to get together on this. Dole-Johnston does not exempt actions relating to the removal of a product from commerce, for instance. It only exempts actions authorizing sales of a product. Now, this is wrong. If we allow expedited introduction of some product into the stores—that is, with no lengthy cost-benefit analysis and risk assessment—we should provide for expedited removal of dangerous products. That is only fair. Public health and safety demands no less.

If we just think about the lignite situation of a few years ago, we can see why it is important that we be able to expeditiously remove dangerous products from the marketplace.

Dole-Johnston also does not exempt Federal Election Commission rules and certain Federal Communication Commission rules relating to political campaigns. We believe the political nature of both these FEC and FCC rules recommend that they should not be treated like other rules. They may need review, but not under this legislation with review in the political environment of the White House and OMB.

Dole-Johnston does have exemptions not in the Glenn-Chafee bill. These are exemptions that also were not in S. 291, our bipartisan Governmental Affairs Committee bill. They have been added since then. No. 1, Dole-Johnston exempts rules relating to customs, duties and revenue; No. 2, international trade law and agreements; No. 3 public debt; No. 4, relief from statutory prohibitions; No. 5, decisions of the Federal Energy Regulatory Commission; No. 6, matters involving financial responsibilities of securities brokers and dealers.

Now, some of these exemptions do make a lot of sense. Customs duties and Treasury fiscal policy rules relating to the public debt, for example, should be exempted. These exemptions should be added to Glenn-Chafee. There are some areas we can agree and should keep working to improve the legislation. I think that is what we should do—keep talking about these and work out the things we all agree on are best between these two approaches.

Now, the issue of exemptions also involves the question about special exemptions. The debate last week went beyond the general exemptions to focus on whether special exemptions are needed to protect public health and safety rules. As my colleagues know, last week exemptions were added to Dole-Johnston for mammography standards and rules to protect children from poisoning.

At the same time, amendments for exemptions for meat inspection and safe drinking water rules were rejected. Again, this debate raised the issue of whether each bill needs special exemptions to protect important pending health and safety rules. The simple answer is that Glenn-Chafee needs no special exemptions, Dole-Johnston does.

First, both bills allow agencies to use the current APA good-cause exemption. This allows an agency to exempt a rule from notice and comment rulemaking whenever necessary to protect the public interest. Once exempted from notice and comment procedures, the rule is exempt from the cost benefit and other requirements of the regulatory reform legislation. As far as Glenn-Chafee is concerned, no other special exemptions are needed.

Second, proponents of Dole-Johnston argued last week that their bill has an extra exemption for health and safety rules, and Glenn-Chafee does not have this exemption.

This is a smoke screen. Again, Glenn-Chafee does not need an extra special exemption. The APA good cause exemption is enough. Dole-Johnston needs an extra exemption because of its effective date and because of its onerous requirements.

Proponents of Dole-Johnston argue that their bill solved people's concerns about USDA's proposed meat inspection rule and other pending rules, because it provided a 180-day—later extended to 1-year—extension which is in now, and I emphasize the word "extension" for agencies to complete all required cost-benefit and related steps.

Dole-Johnston supporters characterized this section as an emergency exemption and criticized Glenn-Chafee

for not having a comparable section. This is just wrong. The real issue is not about emergencies. Again, the APA gives Glenn-Chafee an emergency exemption.

The real issue involves pending rules. The USDA meat inspection rule, for example, is not an emergency rule. It has been under development for some time. It is, after all, a proposed revision of a set of inspection results that have been in effect, more or less, since 1906. It is not an emergency rule. Neither are EPA's cryptosporidium safe drinking water rules or FDA's mammography rules or the rules to protect children from poison.

These health and safety rules are vulnerable under Dole-Johnston not because of the inadequacy of emergency exemption provisions, but because Dole-Johnston, No. 1, covers pending rules; No. 2, subjects those rules to onerous cost-benefit analysis and decisional criteria requirements.

Dole-Johnston 1-year extension allows agencies to issue a rule, but then they still have to finish their cost before analysis in that year and then go back and revise the rule for the least cost test demands a different solution.

Moreover, regardless of the cost-benefit test, Dole-Johnston's other requirements, like its APA revisions I discussed yesterday, still open up the rule to immediate challenge. These include new APA rulemaking publication requirements, a new APA substantial support standard, the petition processes, and all the related avenues for judicial review. Even with the Johnston amendment, only to cover rules for which a notice of proposed rulemaking was published after April 1, 1995, pending rules already in the rulemaking pipeline will emerge and immediately be subject to all of the Dole-Johnston requirements.

This threat to rules in the pipeline will make agencies stop rulemaking, reassess the sufficiency of their rulemaking record, and even reanalyze their proposed rule then modify and republish their proposed rule in order to address issues that would be raised under the new standards of Dole-Johnston.

Let me make this very clear. The issue is not whether an agency has or could exempt a rule from notice and comment rulemaking. The issue is whether a new rule coming out of the pipeline will satisfy the new requirements of the new law. The answer is that Dole-Johnston's extension does not solve this problem.

Unlike Dole-Johnston, Glenn-Chafee will jeopardize pending rule makings. First, the Glenn-Chafee effective date is 10 days after an enactment for proposed rules. Glenn-Chafee will only cover new rules proposed at least 6 months after enactment of the legislation. This 6-month delay will allow agencies a reasonable amount of time to put into place the new tough procedures required by the law.

Second, Glenn-Chafee requires an evaluation of costs and benefits. We also require a certification, whether the benefits justify the costs, and whether the rule will achieve its objectives in a more cost-effective manner than the alternatives.

While this necessitates a cost-benefit analysis, it is in no way as prescriptive as Dole-Johnston's least cost decisional criteria, let alone Dole-Johnston's minimal impact Regulatory Flexibility Act requirements.

The bottom line is the proponents of Glenn-Chafee are not afraid of having agencies comply with our cost-benefit requirements. They are tough, but they are also fair and they are workable. The Dole-Johnston 1-year extension, on the other hand, is no solution. It is an extension, not an exemption. In fact, it simply introduced uncertainty.

All interested parties will have to wait until the completion of the required cost before analysis and satisfaction of the least cost test to learn whether the rule will continue in effect or whether the agency will reenter rulemaking to revise the rule.

This uncertainty and waste of resources serves no interest other than Government inefficiency and ineffectiveness. To summarize these exemption questions, No. 1, we may be able to agree on more general exemption to the definition of rule and major rule; No. 2, Glenn-Chafee does not need any special exemptions because of the APA's current good cause exemption. This protects emergency rules. Our future effective date also protects rules now in the pipeline. No. 3, the only bill that needs extra special exemptions is Dole-Johnston. Its immediate effective date will capture pending rules. Its onerous requirements will force many important rules back to the drawing board, wasting resources, causing delays and literally inviting litigation.

Another matter that must be set straight involves some statements made yesterday regarding the risk assessment provisions in Glenn-Chafee. Some have stated that the Glenn-Chafee substitute is weak because it requires risk assessments for only particular agencies and programs rather than requiring them for all agencies. This is not weak. It is common sense. It makes sense to make agencies that issue rules relating to health, safety, and the environment comply with these requirements. It does not make sense to cover every agency.

For example, what if the health care financing administration wants to change Medicare eligibility requirements. That is a rule related to health. Under Dole-Johnston they may have to do a risk assessment. That does not make sense. I do not think so.

All we are trying to do in the Glenn-Chafee substitute is to use some common sense. It does not make sense to cover all agencies, because not all agencies should do risk assessments.

Glenn-Chafee risk assessment requirements are less prescriptive and better science than the Dole-Johnston substitute. We need to be careful when legislating science. I do not classify myself as a scientist. Many scientists have warned against writing language that is too prescriptive.

For example, the Dole-Johnston substitute states that agencies must base each risk assessment only on the "best reasonably available scientific data in scientific understanding." I ask, who determines what data are best in that requirement? What is best? Scientists say there is often wide dispute within the scientific community about what data are best, and it is common practice for agencies to use several different data sets.

This language will not allow that to happen anymore. They use several different data sets, and then they use their best judgment. In other words, they come back to something that may be startling, they use common sense—and that is what we would require.

The Dole-Johnston substitute also says that when conflicts among data occur, agencies must discuss, "all relevant information including the likelihood of alternative interpretations of the data and emphasizing postulates that represent the most reasonable inferences * * *" Again, who makes this determination of most reasonable? Proponents of S. 343 are assuming there is only one right answer. But scientists tell us that risk assessment is a growing science with lots of uncertainty, and rarely, if ever, is there just one right answer.

Let me also respond to what the Senator from Delaware said yesterday, that the Glenn-Chafee substitute goes against the National Academy of Sciences by preferring default assumptions to relevant data. That is just not right. It is wrong. I will read that again: It goes against the National Academy of Sciences by preferring the default assumption to relevant data.

Default assumption means, basically, that we do not know, so we make a decision not knowing, not having as much data as we would like to have. That is a shorthand of what default assumptions means. But that is just not right. On the contrary, we explicitly state in the Glenn-Chafee bill that, "each agency shall use default assumptions when relevant and adequate scientific data and understanding are lacking." That does not say we prefer such assumptions to relevant data. We say use them when relevant data are not available.

Moreover, unlike the Dole-Johnston bill, we require agencies to issue guidance to "provide procedures for the refinement and replacement of policy-based default assumptions." In other

words, we even provide in there for going out and doing our level best to get some relevant information, not just to go along with default assumptions, as was stated yesterday.

So, I disagree with the Senator on that point. But I also want to add that we should not be in the business of telling the agencies to throw out all their assumptions, no matter what. That also would not be good science. What we try to do in the Glenn-Chafee bill is to make our risk language less prescriptive. We should not freeze the science, as many scientists fear would happen if we legislate risk assessment with no room for incorporating new understanding in how these assessments should be done.

That brings me to a more general point. The Senator from Louisiana brought up the issue several times yesterday regarding EPA's own reports about its ability to do good science. First, I do not think it is really fair to imply that EPA has not done a good job. That is not just my opinion. The National Academy of Sciences, in their 1994 report called Science and Judgment In Risk Assessment reaffirmed EPA's approach to risk assessment, stating—and this is from the National Academy of Sciences: "EPA's approach to assessing risks is fundamentally sound, despite often-heard criticism."

The report gave many recommendations for EPA to improve its policies and practices. As I understand it, EPA currently has programs underway to do just exactly that. In their March 1995 report, just a couple of months ago, called Setting Priorities, Getting Results: A New Direction For EPA, the National Academy of Public Administration, NAPA, concurred with the National Academy of Science findings. Second, I think it is important to point out what else the NAPA study found, the National Academy of Public Administration. They state:

Congress should not attempt to define "best science" or "best estimate" in statutes. Congress should not attempt to legislate specific risk assessment techniques, or to adjust assumptions that underlie risk assessments. Such legislation would almost certainly inhibit innovation and improvement in risk assessments methods while constraining scientists from using their judgment in appropriate ways.

That is a very definitive statement from NAPA. And their report goes on to say, further:

Congress should draft any risk legislation so as to constrain the grounds on which risk analyses might be challenged in court. Courts should ensure that regulators follow reasonable procedures, but should not be put in the position of resolving science policy questions such as the definition of "best science."

That is what we try to do in the Glenn-Chafee substitute. We get rid of words like "best data" or "the most reasonable inference." We limit judicial review, and that is a far better approach.

Another issue: What is and is not exempted from risk assessment requirements? The Dole-Johnston substitute exempts from the requirements actions to introduce a product into commerce. Should we not also exempt actions to remove a product from commerce? To put a product on the market, no risk assessment needs to be done. But to get a dangerous substance off the market, an agency has to do a full-blown risk assessment? That does not seem right.

I mentioned a few moments ago, what if we had the thalidomide scare going on today? That would be held up from being taken off the market, I guess. And that would not make any sense at all.

Finally, what about peer review? The Glenn-Chafee bill is actually tougher than the Dole-Johnston bill. We require peer review analysis of both cost-benefit analysis and risk assessment. We believe both should be reviewed. Both have lots of assumptions. Both should be scrubbed to make sure that agencies are making good decisions based on good information.

The Dole-Johnston bill also exempts peer review from the Federal Advisory Committee Act, FACA. Last year, during the health care debate, my colleagues who support the Dole-Johnston substitute made a very big thing about making sure that such panels were done in sunshine and complied with FACA.

Now they seem to have changed their minds, exempting all peer reviews from FACA. I do not think that is the way we should be conducting business. Glenn-Chafee does not exempt FACA, and that is the way we should do business.

Mr. President, some of the comments that were made last year about FACA, when we were considering health reform—my colleague, Senator MACK, for instance, said:

Secrecy in Government is not the American way. Secrecy in Government has led to all sorts of abuses and denial of freedom in other lands. We must keep our system of government open and accountable to the citizens of our country for public inspection and scrutiny. FACA requires that these meetings should be meetings in public, published notice of meetings in the Federal Register. Let the public know of the agenda for those meetings. The act requires boards to permit persons to obtain transcripts, appear and testify or file statements, make a record, keep minutes, working papers, et cetera, available. Keep detailed minutes, permit citizens to purchase manuscripts and transcripts. Keep adequate financial records. And the act also requires there should be a 2-year time period for boards and commissions.

Senator CRAIG, Senator GRASSLEY, Senator LOTT, I believe my colleague Senator SPECTER, Senator MCCONNELL, and Senator DOLE all spoke on behalf of keeping FACA and supported FACA and the importance of FACA.

Senator DOLE in particular said:

And, plain and simple, the American public did not trust the Clinton plan. They did not trust the secrecy in which it was written. They did not trust the principle that Government knows best. There is no reason why these boards should be granted the power to meet in secrecy. Indeed, there is every reason why they must meet in public.

On and on, we have several pages of those here. I will not read all of them into the RECORD.

But, Mr. President, I ask my colleagues to take a very hard look at the regulatory reform substitutes before them. I urge them to support the Glenn-Chafee bill. The Glenn-Chafee bill is a very tough reform bill. It also provides a balanced—repeat, a balanced—and a fair approach to reform. It will relieve regulatory burdens on businesses and individuals.

I repeat that. It will relieve regulatory burdens on businesses and individuals. At the same time, it will also protect the health and safety and the environment of the American people. This is responsible legislation. I urge your consideration and support.

Mr. President, in indicating the litigation that can occur with this legislation, OSHA has looked at this, and they asked a question, they postulated something here. The title of this is: "S. 343, Endless Rounds of Litigation While Workers Wait For Protection." They say:

Imagine: You are a metal finisher who works with a toxin that causes acute pneumonitis, pulmonary edema, kidney disease, and lung cancer. You are not alone. 500,000 other men and women also work with this compound.

Right now, OSHA can protect you from exposure to this dangerous hazard by proving that: workers are exposed to a significant risk, the proposed standard would substantially reduce that risk, and the standard would be technologically and economically feasible.

Under S. 343, a protective rule to limit your exposure to this compound could be invalidated because of the endless opportunities for judicial review. For example, a petition could:

Claim that OSHA failed to consider substitute risks. (See 631(8); Sec. 632(a); Sec. 633(f)(3))

Claim that OSHA failed to distinguish between risk assessment and risk management. (Sec. 633(a)(2))

Claim that OSHA failed to use only the best reasonably available scientific data and scientific understanding. (Sec. 633(c)(1))

Claim that OSHA failed to select data based on reasoned analysis of the quality and relevance of the data. (Sec. 633(c)(2))

Claim that OSHA failed to consider whether the data was published in peer reviewed literature. (Sec. 633(c)(3))

Claim that OSHA failed to discuss alternative interpretations of that data that emphasize postulates that represent the most reasonable inferences from the supporting data. (Sec. 633(c)(5)(A))

Claim that OSHA used a policy judgement when relevant scientific data was available. (Sec. 633(d)(1))

Claim that OSHA failed to explain adequately the extent to which policy judgements were validated, or conflict with, empirical data. (Sec. 633(d)(2)(A))

Claim that OSHA failed to describe adequately reasonable alternative policy judgements and the sensitivity of the conclusions

of the risk assessments to the alternatives. (Sec. 633(d)(2)(C))

Claim that OSHA inappropriately combined or compounded multiple policy judgements. (Sec. 633(d)(2)(3))

Claim that OSHA failed to express adequately the range and distribution of risks and the corresponding exposure scenarios, and failed to identify adequately the expected risk to the general population and to more highly exposed or sensitive populations. (Sec. 633(f)(1)(C))

Claim that OSHA failed to describe adequately the significant substitution risks of the rule. (Sec. 633(f)(3))

Claim that OSHA's peer review panel was not balanced and independent. (Sec. 633(g))

Claim that OSHA's response to peer review comments were inadequate. (Sec. 633(D)(3))

Claim that OSHA failed to provide adequate opportunity for public participation and comment. (Sec. 633(D)(3))

Claim that OSHA did not properly determine that the benefits of the rule justify the costs. (Sec. 624(b)(1))

Claim that OSHA failed to identify all of the significant adverse effects of the rule. (Sec. 621)

Claim that OSHA failed to give regulated persons adequate flexibility to respond to changes in general economic conditions. (Sec. 621(6)(C))

Claim that OSHA did not properly determine the least-cost alternative of the reasonable alternatives. (Sec. 624(b)(3)(A))

And more claims, and more claims, and more claims.

Thankfully, OSHA addressed this dangerous compound in its Cadmium standard. If S. 343 had been in place, however, this protective standard could have been delayed for years, leading to many work-related cases of cancer and kidney disease that could otherwise have been avoided.

So, Mr. President, this is just one little example of—what is that, 25 or 30, I guess, examples after just a first-cut look at S. 343 that OSHA indicates they feel would provide grounds for litigation.

Mr. President, I wished to make a reasonably complete statement, which I think I have done here this morning. We have combined several previous things that were brought up over the last couple of days as well as refuting some of the scare stories that have been applied. We still have basically six different areas in which we disagree.

It is on major rules and how we deal with those; on the cost-benefit analysis versus the least-cost approach. We provide for review of current rules with no automatic sunset. We disagree with Dole-Johnston that provides a sunset after an extension period.

Our bill is not a lawyer's dream. It does not provide nearly unlimited judicial review of everything from beginning to end. And our substitute does not create brand new petitions by private sources, by private persons or groups, that will just eat up agency resources and let special interests, not the agency or Congress, guide our priorities. And we do not have special interest provisions. We do not try to deal with things in this bill that deal with processes. We do not try to solve things like the Delaney clause on which separate legislation is being prepared by a different committee; toxics release inventory and things such as that.

So I believe we have a better bill here, and I hope that when the vote occurs this afternoon after our noon break we will have enough votes to pass this. I know it is a squeaker. I know that we may lack the votes to do this. But I hope that after people look at the two bills side by side, they will realize we take the more reasoned approach to this and that this really is a superior bill.

Mr. President, I yield the floor.

Mr. KENNEDY. Mr. President, I support the Glenn-Chafee substitute to the regulatory reform bill, because it will achieve real reform without paralyzing the Government agencies that set health, safety, and environmental standards, and without wasting their resources on redtape that adds nothing to the wisdom of their decisions. It will lead to commonsense regulation, rather than excessive litigation and full employment for lawyers.

It will give us cost-effective regulations, rather than always the cheapest, but not necessarily the most effective, rule. And it will allow for full public participation in regulatory decision-making, instead of back door, special interest processes that exclude the public.

In each of these respects, our proposal is superior to the pending alternative. The Dole-Johnston alternative applies its cost-benefit analysis and risk assessment requirements to hundreds of rules each year that do not have enough of an impact on the economy to justify the expenditure.

To require dozens of costly, time-consuming procedural steps for even minor rules is wasteful and counterproductive. At a time when we are cutting agency budgets and laying off tens of thousands of employees, forcing the agencies to comply with these procedures is simply a way to prevent them from doing their real work—protecting the American public from significant health and safety threats.

Some say that we rely too much on the Government and that in doing so we risk our freedom.

But none of us as individuals can protect ourselves from the destruction of the ozone layer, from deadly bacteria in our food or drinking water, or from HIV when we get a blood transfusion. The Government must be active in these areas, and it must have the resources to do for all of us what we cannot do for ourselves. The Dole-Johnston proposal will cost at least $1.3 billion a year, but it does not provide any new funding to pay for these costs. This $1.3 billion is money that will not be available for enforcement and administration of essential laws and regulations.

The Dole-Johnston alternative relies on private lawsuits to be what some call the hammer to make agencies comply with the law. But as Professor Peter L. Strauss of Columbia Law School testified before the Judiciary Committee,

> Permitting judicial review of the process hands over to interested private parties weapons with which they can cheaply and unaccountably delay government action and make it more expensive to accomplish what government should be doing.

Our alternative, by contrast, leaves the review of rules more in the hands of Congress.

We can block any regulation from taking effect by invoking the legislative veto provision, which the Senate has already passed in separate legislation. That is a better answer than private litigation.

Congress gives agencies their power to regulate, and we are ultimately responsible for what they do. If a rule is unreasonably burdensome and costly, if it is based on bad science, Congress has the power and will have the opportunity under our alternative to intervene and block it.

We do not need to depend on special interest lawyers, and we should not depend on them, to ensure that Federal regulations make sense.

Senator HATCH has repeatedly cited examples of bad regulation from Philip K. Howard's book "The Death of Common Sense." But Mr. Howard's testimony is enlightening, because he favors limits on judicial review like those in our proposal. Mr. Howard testified that, "The main control over agencies should be oversight by Congress, not endless procedure or appeals to courts over procedural nitpicks."

I also prefer the Glenn-Chafee substitute because the alternative creates special opportunities for businesses to escape regulation without any public involvement or notice. Section 629 of the Dole-Johnston alternative allows any regulated business to petition for a waiver from any major rule. The petition must be granted if the business shows that it is reasonably likely that the business can achieve the goal without complying with the rule.

In other words, if the new safe meat handling rules were in effect, and a meat packer were able to convince USDA that "there is a reasonable likelihood" that it could keep its meat free of E. coli without doing any sampling for bacteria, USDA would have to grant its petition.

The Dole-Johnston alternative gives no one else a chance to question or challenge the company's petition, to cross-examine its scientists, or even to know that the petition is pending. A secret relationship between the agency and the company is created. And if the agency grants the petition, no one can challenge the decision in court. Section 629(e) provides that "in no event shall agency action taken pursuant to this section be subject to judicial review." The public interest is totally ignored.

When, as here, the issue is agency action to exempt a business from regulation, the Dole-Johnston alternative rejects any interest in risk assessment and good science. The agency is given 180 days to respond to the company's petition, which may not be sufficient time to investigate the issue fully.

The agency is not required to conduct a risk assessment, or subject its decision on waiving the rule to peer review. The Dole-Johnston alternative operates on the assumption that agencies can be trusted to make the right decision in the case of waiving a rule—but not in issuing the rule.

I object to this back door way to let businesses escape regulations that are designed to protect the public. At a minimum, there must be some opportunity for public involvement and comment.

I also question whether a process like this can be justified if it does not require peer review of the agency's decision, to ensure that there is not collusion. The Glenn-Chafee proposal does not provide for this kind of petition at all, and it is, therefore, superior to the Dole-Johnston alternative. I am also pleased that the Glenn-Chafee amendment does not include the special interest fixes or the Dole-Johnston alternative. For example, our proposal does not undermine the Delaney clause, which prohibits the approval of cancer-causing food additives.

We all agree on the need for Delaney reform, but it is a complex, technical subject that requires careful consideration by the committees of jurisdiction. The approach in the Dole-Johnston alternative is too simplistic and provides insufficient protection to infants and children, whose special diets leave them especially vulnerable to food-borne carcinogens.

Finally, the Dole-Johnston alternative continues to be a supermandate that requires agencies to choose the cheapest alternative in any case where the benefits to health, safety or the environment are quantifiable. Suppose that OSHA finds that requiring grain elevators to continuously vacuum up dust could save 10 lives a year by preventing dust explosions, but would be more expensive than have employees sweep up once a shift.

OSHA could not require the grain elevator to install dust control equipment, or to maintain a consistently low "action level" of dust, because it is not the least cost alternative.

Our proposal, on the other hand, is not a supermandate and does not impose any new decision criteria. OSHA would be able to choose the more protective alternative, as it did under the Reagan administration, because that is the alternative that better accomplishes the goal of the statute—providing a safe workplace.

The Nation has made tremendous progress in the last quarter of a century toward cleaning up the environment, protecting endangered species, ensuring the safety of food and drugs, and improving health and safety in the workplace. We must not destroy this progress in the guise of reforming the laws and regulatory system that made it possible. The Glenn-Chafee substitute will help us streamline the regulatory process and make it more cost effective. It will not throw the baby out with the bath water.

I urge the Senate to support the Glenn-Chafee substitute.

Mr. BIDEN. Mr. President, I want to reform our regulatory process.

No one can deny that we need to write smarter, clearer, more effective, and more flexible Federal regulations. The question before us is not whether to reform our regulations. The question is how to reform them.

I believe that the most balanced answer to this question is in S. 1001, that Senators GLENN, CHAFEE, and I, along with other of our colleagues from both sides of the aisle, offer here today.

And I am afraid that S. 343, the Dole-Johnston bill, remains an unbalanced, costly, confrontational approach, that fails to meet its own reform criteria, and that will fail to protect the public health and safety—the general welfare that it is our Constitutional duty to protect.

Mr. President, the days are long gone when Americans grew their own food, made their own tools, stayed pretty close to home, and saw most disease as an act of God.

Now we buy food from all over the world, packaged and processed with unpronounceable chemicals, even irradiation.

We travel at higher speeds over longer distances, in larger and larger aircraft, and in automobiles that are as much electronic as they are mechanical.

Mr. President, as much as we may long for a simpler, more self-sufficient time, we must face the costs—in new risks to our health and safety—that come with the benefits of our rapidly evolving economy.

It is one thing to recognize those costs, Mr. President, and quite another to know what to do about them. What is the best way to protect against the new threats to our safety and health that come from the way we now live?

That is the heart of the question before us in this debate on regulatory reform.

Mr. President, the issue before us today has been a generation in the making. Many of the safety and health regulations now on the books had their origins 25 to 30 years ago, when we began to face up to the real costs—in injury, disease, and even death—from unregulated manufacturing processes and products.

By the end of the 1960's and the beginning of the 1970's, we came to realize that consumer choice alone—the guiding principle of the free market—was not enough to protect us from poorly designed, inadequately researched, or criminally negligent products and processes.

Our private enterprise economy functions so well because it is based on individual initiative and self-interest. Economic competition among free individuals drives the inventiveness that gives us new products, new technologies—progress that has given us the most powerful economy in the history of the world.

But those competitive individuals all face the same need to keep their costs lower than their competitors—each individual must find ways to avoid paying for anything that competitors get for free.

The unfortunate effect in this process is that what we all have in common—the need for clean water, clean air, clean food, safe working conditions, products that are safe and effective—those things we have in common are not necessarily protected in each business' calculations of economic efficiency.

At the same time, with the rapid technological changes brought by our free enterprise economy, we find ourselves more and more dependent on products whose safety and effectiveness we cannot evaluate ourselves—except, perhaps by experiencing the tragic consequences of thalidomide or DDT, or increasing automobile injuries and deaths.

So we need some way to make sure we can take care of those things we have in common—the common good.

A generation ago, the public began to demand cleaner air, safer food, water, and transportation. To accomplish those goals, Congress has passed laws, and agencies have written the regulations to put the goals of those laws into effect.

In era of skepticism, cynicism, and downright hostility toward government, these are the most popular federal laws now on the books, Mr. President.

Everywhere I travel in my own State of Delaware, and in other States around our country, people of every political persuasion tell that they continue to support government policies that keep our food and water safe and clean, that assure we can travel in safety, and that protect the environment.

At the same time, these are also some of the most frustrating, demanding, confusing regulations that our small businesses and property owners must face. Reform must balance the demands of the public for continued safety with the needs of those businessmen and women who seek reasonable relief.

Still, taken as a whole, in terms of their impact on the economy, these

regulations are not, Mr. President, the unmitigated disaster some would have us believe.

Our food, our water, our prescription drugs, our highways and airways—even our children's clothes and toys—are safer today because of Federal regulations.

But at what cost, ask our colleagues? They tell us that our country is being strangled by regulations, jobs are being lost, that the burden of regulations is sinking our economy.

Now, Mr. President, a couple of days ago on the floor of the Senate I related a story from my own State of Delaware about regulations run amok, about a rule that flies in the face of common sense, a rule that cost a good friend of mine an outrageous amount of money simply to settle a claim out of court.

I know as well as anyone here that these horror stories are real, and that it is high time we undertook serious reform of the ways we write Federal rules and regulations.

But our job here is to weigh the full body of evidence, and to put the individual cases that are so frustrating and infuriating into context, and correct them individually. When I told that story, I said I would return to the floor to discuss the real cost of regulations, the real costs of these rules to our economy.

Fortunately, Mr. President, the big picture is not what some would have us believe. The fact is that the burden of regulation a share of our economy has not exploded as some of my colleagues have stated here on the floor.

As a matter of fact, the share of regulatory costs in our economy has actually gone down, as documented by an analysis done last month by the GAO. From 1977 to this year, the regulatory cost have shrunk by 11 percent—from about 4.5 percent of GDP to about 4 percent of GDP.

There is nothing in the facts to support the claim that the cost of regulations has exploded, nothing to justify putting hurdles, even landmines, in front of every regulation now on the books, and every regulation now in the works.

Mr. President, many of the stories we have heard here in recent days—stories of regulators' excesses and abuses of power—are more folklore than fact. But if even these horror stories were true, would that justify putting the health and safety of the American public at risk? Would the risks justify the benefits? Would it not be better to fix the particular abuses, rather than take the Dole approach?

Let us look at this another way, Mr. President. Many of my colleagues insist on using a grossly inflated estimate of the total cost of regulations—$562 billion a year, by one well-publicized estimate.

But that number includes costs like farm subsidies, that transfer funds from one sector of the economy to another—they add up to zero on the national accounts. And they also include the costs of complying with the IRS—a burden we all resent, but one that the Dole-Johnston bill does not touch. The IRS is not covered by regulatory reform—that is an issue for tax reform, a topic for another day.

So the real costs of complying with regulations is actually more like $228 billion a year, according the study cited in the GAO report I have here today—half of what some would have us believe.

But what do we get for those costs? Is this just money down the drain? Not according to the Center for Risk Analysis at the Harvard School of Public Health. Its report from March of this year cites one study—from the peer-reviewed Yale Journal on Regulation—that sets the benefits of health, safety, and environmental regulations at $200 billion a year.

A little quick math suggests that we are left with a total NET cost of regulations to the economy—if we take reasonable account of benefits that we can measure in dollars and cents, as well as the costs—of about $28 billion a year.

That $228 billion a year in regulatory costs means about $912 dollars a year for everyone in the country, or about $2.50 a day, for all of the health, safety, and environmental protection we enjoy.

If we throw in some of the benefits that cannot be measured in dollars and cents—a little extra peace of mind, some fairness in the distribution of benefits, deference to principles like federalism—that seems like a pretty fair deal.

Some might call it a bargain—clean water, safe food, secure transportation, and a few basic American values thrown in—for $2.50 a day.

Like most of the numbers we have heard in this debate, of course, these are estimates, extrapolations, and a reflection of how hard it is to measure these things. As much as we need to know the hard facts about the costs and benefits of regulations, we are still learning how to count them.

But that small number makes sense when we look at the effect of regulations on the growth of our economy, Mr. President. It is hard to find evidence that regulations are dragging us down. Throughout the entire post-War period to the present, Mr. President, before the enactment of significant environmental, health, and safety regulations and after, our economy has continued to grow at a remarkably steady pace.

When you look at the pattern of growth that our economy has been able to sustain over this period, Mr. President, it is impossible to detect a point at which regulations become a burden.

Between 1980 and 1994, our industrial output rose more than 50 percent. In the past 3 years, it has increased 15 percent. Our output is now twice as high as it was in 1970, and five times as high as 1950.

Our productivity has risen about 3 percent per year in the past decade. A recent comprehensive survey of the impact of environmental regulations—on those industries like chemicals, petroleum, and paper that have had the most to clean up—showed little or no correlation between regulations and profits, competitiveness, or productivity.

Where is the evidence that the cost of regulations has exploded?

Where is the evidence that the cost of regulations has become a major burden on the growth of the economy?

It simply is not there, Mr. President.

In fact, there is persuasive evidence that regulation has generated positive overall effects for our economy, by spurring innovations and economies.

We know that there are positive economic effects from lowering costly threats to public health and safety, threats that take their toll in medical bills, time lost on the jobs, and so forth. By making our citizens healthier and safer, regulations make our economy more efficient, because we do not waste scarce resources paying for preventable illness and injury.

But in addition to preventing wasteful expenditures—and preventing unnecessary human suffering—regulations can have positive effects on economic innovation.

Here is an example from that recent Business Week article: When OSHA issued a new standard for worker exposure to formaldehyde, costs to the industry were estimated at $10 billion. But when the affected industries changed the way they operated, the costs were negligible, and the changes improved their international competitiveness. The conclusion? The regulations were a large net plus for the industry and the country.

Let us think about this for a minute, Mr. President. Does anyone here want to argue that an economy that wastes less—that sends less of its waste products into the environment in which its citizens live—is less efficient than an economy that spews tons of waste into the air and water?

Logic does not support the idea that these regulations will make us less competitive—as a nation, over the long run—and the data do not support it, either.

So let us not let exaggerated costs and horror stories of regulatory excess stampede us into a wholesale attack on regulations that, by and large, are doing what we want them to do.

But there is a real problem, Mr. President, one that is at the heart of the movement to reform regulations, a movement we should all support.

That problem is the lack of flexibility and the lack of openness in rule-

making and enforcement of regulations. And that problem can be traced to the arrogance and insensitivity of the public officials charged with writing and enforcing many of our regulations.

It is fundamental, Mr. President—power corrupts. From the comically officious church parking lot attendant on Sunday morning to the most powerful public officials, people's heads swell when they are given power over others. Our regulatory agencies are not immune from this law of human nature.

Mr. President, the abuse of private power by polluters, unsafe employers, and sellers of dangerous products—that abuse of private power is the reason we need regulations.

And the abuse of public power by arrogant public officials is the reason we need regulatory reform.

It should be our job to fight both forms of abuse, not add momentum to that pendulum that swings from one extreme to the other.

Which of the two bills before us is more likely to remedy this problem and still protect the public interest?

I am convinced that the Glenn-Chafee approach is the more balanced, effective way to restore common sense to the way we write our regulations, without putting punitive layers of paperwork and procedures in the way of better regulations than we have today.

This approach requires a cost-benefit analysis and a risk assessment for public safety, health, and environmental regulations that have a major impact—$100 million—on the economy.

It backs those up with specific requirements for peer review, congressional review, and executive oversight of each agency's rule writing. And the courts will examine each agency's compliance with the scientific and economic justifications for each rule.

It requires that agencies include flexible, market-based alternatives in their considerations, and makes them show how the rule they choose matches up to those alternative for cost-effectiveness.

The Glenn-Chafee substitute calls for a thorough-going review of regulations now on the books, and sets up a procedure to assure that we have a sensible way to rank the risks we face—from contaminated air, water, or food, or from unsafe aircraft, cars, or toys. We will attack the worst problems first, the best way to allocate our scarce resources.

Mr. President, the Glenn-Chafee substitute is tough, thoughtful reform.

Ironically, the Dole-Johnston bill adds to the costs of regulation by adding inflexible, prescriptive procedures to the process, subject to petition and judicial review requirements that could keep better rules—replacing the bad ones on the books today—from seeing the light of day.

But most significantly, it forces agencies to write every rule according to fixed criteria—they must choose the least cost alternative among all the possible versions. But the cheapest rule may not be the best—it depends on the circumstances, it requires more flexibility.

The cheapest broom may get the job done in most cases, but when you need an operation, maybe you would consider paying a little more for the best doctor you can afford. It depends on the problem you are trying to solve.

Flexibility is not what the Dole-Johnston bill provides. Do we really think that public officials will become more accommodating, more concerned with differing circumstances, if they must, by law, choose the rule that they can defend in court as the cheapest way to get the job done?

Maybe they could get the public more benefits for a little more cost—maybe they could write a rule that is more cost-effective. But not under the Dole-Johnston bill.

Under the Dole-Johnston bill, agencies will practice defensive rule writing—to conform to whatever the latest case law says is the cheapest way to do things. They are not encouraged to apply a variety of criteria—maybe in some cases, the cheapest rule is the best; maybe we want to maximize the benefits in safety and health; maybe we want the rule with the most net benefits—the spread between costs and benefits.

But the Dole-Johnston bill is not concerned with flexibility—it mandates that every rule fit into the same box—the least cost box.

Furthermore, the Dole-Johnston bill will add bureaucracy and litigation, instead of reducing it. For example, lawyers will be able to challenge rules—or prevent them from going into effect—by raising any of a number of new issues which they cannot now raise.

This will keep Washington lawyers busy, and will keep agency lawyers busy. That means everyone will be in court—instead of out in the field, enforcing the new regulations. And in an effort to avoid lawsuits in the future, agencies will practice defensive rulemaking—being overly cautious, spending enormous amounts of money and becoming even more bureaucratic.

This is not reform. It makes the regulatory system more bureaucratic, not less. It results in more litigation and less policy. It makes it harder for the Government to respond to legitimate needs.

Furthermore, the bill includes new cumbersome and complicated processes by which industry and special interests can petition to have existing rules thrown out. There are numerous of these petition processes in the Dole-Johnston bill—and each of them can be brought into court if the agency denies the petition. That explosion in litigation simply is not what regulatory reform is about.

The effect of these and other procedural hurdles would be either to require larger bureaucracies, with bigger budgets—or, more likely under current conditions—to make the process of getting out new, better rules virtually endless.

If advocates of this gridlock think that hog-tying the bureaucracies will reduce the public's demand for safety, health, and environmental protection, they have seriously misread public opinion. The demand for these protections will collide with the cumbersome process they have devised, adding to the frustration with government—and to the hostility and suspicion of the special interests who are served by delay and weakening of those protections.

Regulatory reform should be the way to make the system more flexible, more open, but S. 343—the Dole-Johnston bill—would establish a more costly, less flexible rule writing process.

Mr. President, S. 343 has been written to be just a bad mirror image of the process some imagine we have today. It will tie up agencies in new procedures, adding to the costs and uncertainty of the regulatory process, the same complaints many citizens have rightfully leveled against the current process.

It would waste resources by piling requirements on rulemakers that add nothing to the public safety and health, and add nothing to the effectiveness of the regulatory process, and will do nothing to make agencies more accommodating to the real needs of individuals, firms, and communities.

Now I know that some of my colleagues here today, and certainly some of those business men and women who feel themselves most aggrieved by current regulations view the prospect of frustrating a few Federal bureaucrats eagerly.

Some may even see regulatory reform as pay back time: a chance to dump on Federal agencies some of the burdens they have felt.

Mr. President, I ask those who may feel that way to consider how they will feel if the effect on the regulatory process is to make it more complex, more time-consuming, more uncertain. Will those who feel most aggrieved by the current system be better served if they succeed in their attempt at retribution?

The fact is, Mr. President, that the big corporations whose contributions have bought them access to the legislative process—those corporations have always been able to make the system work. They play the regulatory system like a harp, and they have helped to write the new rules of the game, a game in which their deep pockets and hefty legal staffs will carry a lot of weight.

But what about the guy who cannot sail or fish on the Delaware River, or cannot take his family to the beach,

when our waters are not protected? What about the family with crippling health care costs from their child's respiratory problems when our air is not clean?

What of the small businesswoman who just wanted a fair shake and a straight answer, who is told by OSHA or the EPA, "Sorry, that rule has been held up by another petition—we cannot tell you how to bring your business into compliance?"

Mr. President, those of us who are rightfully proud of the accomplishments of public safety and health regulations should be among the first to want them to work efficiently and effectively, without waste of taxpayers' dollars and without antagonizing the citizens who operate the businesses and who own the property that are the subjects of so many of these regulations.

Any waste in the process, any wasted effort and dollars by those who comply with these regulations, is a waste of resources that could be used to create another job—or to improve the quality of our air and water, or increase the safety of our airways and highways.

The tough choices before us in the next few years will leave little room for excess in any programs. Those of us who support the Glenn-Chafee amendment recognize our continuing responsibility to promote the general welfare; reform is essential to wringing every dime's worth of protection out of every regulation.

We cannot maintain a regulatory process that thoughtlessly pushes the cost of regulation onto the people whose businesses create the products—and the jobs—we all depend on. We must not have a regulatory process that generates increasing resentment and frustration on the part of the businessmen and women whose behavior—and balance sheets—must change to put our regulations into effect.

Mr. President, all Americans benefit from regulations that work well, and that work efficiently. And we are all poorer if our businesses divert resources away from productive economic activity for regulations that are not well designed.

But demonizing Federal regulations—legislating by anecdote, where often imaginary excesses are inflated into an anti-Government scenario of bureaucrats run amok—is surely not the way to accomplish real regulatory reform.

Now, Mr. President, I am impressed by the extent of the changes in S. 343 since it was reported out of the Judiciary Committee. The sheer volume of revisions confirms, I believe, the minority view back then that it was seriously flawed and not ready for consideration by the full Senate.

The changes also reflect the good work of many of my colleagues, including Senator ROTH and Senator JOHNSTON, who have lent their expertise to remove some of the worst elements of the earlier version of S. 343. They have spent hours and hours over recent weeks debating and revising the details of what we all agree is a very complex, arcane bill.

But the volume of changes also has its downside, Mr. President. It means that this bill, in its current form, has never been the subject of committee hearings or debate. It has remained a moving target, defying any attempt to analyze the cumulative implications of its many interrelated subchapters and provisions.

In the process, it has become an amalgam of innumerable drafts and revisions, last-minute concessions, and internal inconsistencies.

The Dole bill began as a proposal that would frustrate, not promote reform, by adding paperwork, delays, and costs to a system already swamped by procedures. The many changes that have been adopted in recent weeks have blunted, but not deflected, its original intent.

That is why I am pleased to support the efforts of Senator GLENN, Senator CHAFEE, and many others, to revive a superior approach to legislative reform, one that was subject to extensive hearings, and that enjoyed a unanimous, bipartisan vote from the Governmental Affairs Committee.

I am pleased to be an original cosponsor of this alternative, that is a tough, considered approach to regulatory reform, that raises the standards for the regulations that will be written from now on, and that provides a rational program to assure all earlier regulations meet these new, higher standards.

Mr. ROTH addressed the Chair.

The PRESIDING OFFICER (Mr. ASHCROFT). The Senator from Delaware.

Mr. ROTH. Mr. President, I rise to call upon my colleagues to take a leadership role to change the status quo, to reduce the cumulative regulatory burden that costs the average American family $6,000 per year, and to ensure that we will have smarter, more cost-effective regulation that will benefit us all.

I rise to repeat once again that meaningful regulatory reform is critical to ensuring that we reduce the regulatory burden while still ensuring strong protections for health, safety, and the environment. The answer to this problem is legislation that will make a difference. Make no mistake about it, the answer to this problem is the Dole-Johnston compromise, not the Glenn substitute.

Mr. President, there is no argument but what the regulatory process is broken. Virtually every authority who has studied the regulatory process—from Justice Stephen Breyer to the Carnegie Commission, from Vice President GORE to the Harvard Center for Risk Analysis, from scores of scholars to dozens of think tanks—agrees that the regulatory process needs to be reformed. And this problem is so undeniable that I do not believe any of my colleagues would publicly deny that there is a problem. But the question remains, who wants to do something about this problem that none of us can deny?

I submit that the Dole-Johnston compromise, S. 343, will do something about the problem. It will effect meaningful, responsible regulatory reform. And I regret to say that the Glenn substitute will not.

We all agree that we do not want to be where we are with Government regulation. We will admit that we need to move back to reform old rules and move ahead to be sure future rules make sense.

Mr. President, allow me to draw an analogy. You could compare S. 343 and the Glenn substitute to automobiles that purport to allow us to take this journey which we all say we want to make.

As I detailed yesterday, if you look at these two vehicles, they look similar at first blush. From a distance, they both have provisions for cost-benefit analysis, review of existing rules, risk assessment, comparative risk analysis, market mechanisms and performance standards, reform of the Regulatory Flexibility Act, congressional review of rules, and regulatory accounting.

When you try to start the Glenn vehicle, you find it does not go backward. It will not ensure that old, irrational rules already on the books are reviewed and reformed. You will find that the Glenn vehicle does not go forward. It does not have a focused cost-benefit test which will ensure that new rules make sense, that their benefits justify their costs. When you look under the hood of the Glenn vehicle, you will find to your surprise that it has no engine. The judicial review provision is so weak that an agency can do a very sloppy job of doing a cost-benefit analysis or other analysis and then does not have to act upon that analysis, so it makes a difference on the rule. And there is little anyone can do about it.

Now, what good is this—a car that cannot go in reverse, cannot go forward, and has no engine? That vehicle will get you nowhere. That is the Glenn substitute. If we are to have that, we may as well not have a regulatory reform statute because the Glenn substitute represents nothing but the status quo.

Mr. President, I need to take a little time to dispel a very serious misconception that some people have about the Glenn substitute, and that is it is not—it is not—the Roth bill. The Glenn substitute is not by a long shot S. 291, the bill that I introduced in January and that was reported unanimously out of the Governmental Affairs Committee.

While S. 291 was itself a compromise and was originally adopted by Senator GLENN as S. 1001, he has now taken steps to fatally weaken it.

Let me briefly highlight a few major departures. First, the Glenn substitute seriously weakens the lookback provision that was in the Roth bill. The Roth bill required agencies to review all major rules in a 10-year period or be subject to sunset or termination.

The revised Glenn substitute now makes the review of rules a purely voluntary undertaking. There are no firm requirements about the number of rules to be reviewed or which rules to review. In other words, it is a matter up to the sole discretion of the agency. There are no requirements about the number of rules, if any, that have to be reviewed.

A second major change. Senator GLENN's substitute guts the judicial review provision that was in the Roth bill. Section 623(e) of the Roth bill and the original Glenn bill stated that the cost-benefit analysis and risk assessment shall, to the extent relevant, be considered by a court in determining the legality of the agency action, and that meant that the court should focus on the cost-benefit analysis in determining whether the rule was arbitrary and capricious.

The Glenn substitute strikes that language. That weakens the whole bill. That means the Glenn vehicle has no engine. The Glenn substitute does adopt cost-benefit language that was in the Roth bill. But without any meaningful judicial review, the cost-benefit test does not mean much at all. For a reviewing court, the analysis is just another piece of paper among the thousands of pieces of paper in the rulemaking record.

The Glenn substitute asks the agency to publish a determination whether the benefits justify the costs. But the Glenn substitute does not push regulators to issue rules whose benefits actually do justify their costs. I have always believed we need a stronger cost-benefit test.

In effect, the Glenn substitute merely asks the agency to do a cost-benefit analysis. However, the agency can do a poor analysis and, worse still, does not have to act upon the analysis. In other words, the cost-benefit analysis need not make a difference in the rule. The rule can still be inefficient and ineffective. This is not the Roth bill. This is not what I want, and it is not what the American people want.

Mr. President, the Dole-Johnston compromise is the proper vehicle for regulatory reform. It will allow us to go back to review old rules on the books. It will allow us to go forward and to ensure, as a general rule, new rules will have benefits that justify their costs. It has an engine to ensure we will get where we want. And I urge my colleagues who want real regulatory reform to set aside partisan politics and join me in supporting the Dole-Johnston compromise.

The truth is, if you compare the Dole bill and the Glenn bill section by section, they, at first blush, look a lot alike. At bottom, there are some very key, important differences. First, meaningful regulatory reform must change future rules. The key to ensuring that new rules will be efficient and cost-effective is to have an effective cost-benefit test. The Dole bill has a focused cost-benefit test. The decisional criteria in section 624 ensures that the benefits of a rule will justify its cost unless prohibited by the underlying law authorizing the rule.

In contrast, the Glenn bill has no cost-benefit decisional criteria. The bill requires that a cost-benefit analysis be done, but the bill does not require that the cost-benefit analysis be used or that the rule will be affected by the cost-benefit analysis. The agency only has to publish a determination whether the benefits of a rule will justify its cost and whether the regulation is cost effective. But the Glenn bill does not push regulators to issue rules whose benefits actually do justify their costs. I have always believed that an effective regulatory reform bill should have a stronger cost-benefit test.

Some of my colleagues have complained about the least cost component of the decisional criteria. Many of us have been willing and have sought to negotiate language to substitute for or remedy some of the concerns as expressed by my colleague, but I want now to return to a second point about regulatory reform.

The PRESIDING OFFICER. The Chair advises the Senator that under a previous order, the Senate was to recess at 12:30 and not to reconvene until 2:15.

Mr. GLENN. Mr. President, I ask unanimous consent——

The PRESIDING OFFICER. The Senator from Delaware has the floor.

EXTENSION OF TIME FOR RECESS

Mr. ROTH. Mr. President, I ask unanimous consent that the recess ordered for 12:30 p.m. today be delayed in order that Senator DASCHLE be recognized to speak for a period of not more than 10 minutes.

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

Mr. GLENN. Mr. President, I ask unanimous consent that Senator ROTH be permitted to speak until the minority leader reaches the floor.

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

Mr. ROTH. I thank the distinguished Senator.

Mr. President, as I was saying, I want to return to a second point about regulatory reform. Effective regulatory reform cannot be prospective only. It must look back to reform old rules already on the books, and the Dole-Johnston compromise contains a balanced, workable and fair resolution of how agencies should review existing rules. Agencies may select for themselves any particular rules that they think need reexamination, while allowing interested parties to petition the agency to add an overlooked rule.

To ensure that only a limited number of petitions will be filed, S. 343 limits petitions to major rules and sets a high burden of proof. Petitioners must show a substantial likelihood that the rule could not satisfy the cost-benefit decisional criteria of section 624. This is an efficient and workable method to review problematic rules.

The Glenn substitute, on the other hand, makes the review of agency rules a voluntary undertaking. There are no firm requirements for action, no set rules to be reviewed, no binding standard, no meaningful deadline.

The Glenn substitute simply asks that every 5 years, the agency issue a schedule of rules that each agency, in its sole discretion, thinks merits review. It does not require any particular number of rules to be reviewed, and if someone asks the agency to review a particular rule, there is no judicial review of a decision declining to place the rule on the schedule. Moreover, there is no judicial review of any of the deadlines for completing the review of any rules.

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

Mr. ROTH. My time is limited, so I want to continue.

The third point I want to emphasize is that effective regulatory reform must be enforceable to be effective. That means there has to be some opportunity for judicial review of the requirements of the legislation, just as there is with most any law Congress passed. S. 343 strikes a balance by allowing limited but effective judicial review.

S. 343 carves away from the standard level of judicial review provided by the Administrative Procedures Act which has existed for almost 50 years. The limited judicial review provided by S. 343 will help discourage frivolous lawsuits, and that is why S. 343 has limited judicial review.

An agency's compliance or noncompliance with the provisions of S. 343 can be considered by a court to some degree. The court can, based on the whole rulemaking record, determine whether the agencies sufficiently complied with the cost-benefit analysis and risk assessment requirements of S. 343 so that the rule passes muster upon the arbitrary and capricious standard.

The arbitrary and capricious standard is very deferential to the agency. A court would uphold the rule unless the agency's cost-benefit analysis or risk assessment was so flawed that the rule itself was arbitrary and capricious. The court would not strike down a rule

merely because there were some minor procedural missteps in the cost-benefit analysis or risk assessment.

In contrast, the Glenn substitute, as now redrafted, does not permit meaningful judicial review of the risk assessment or cost-benefit analysis. The Glenn substitute only requires a court to invalidate a rule if the cost-benefit analysis or risk assessment was not done at all. But the Glenn substitute does not really allow the court to consider whether the cost-benefit analysis or risk assessment was done properly. Indeed, the language of the legislation has been so weakened that now substantial portions of this bill are irrelevant to the extent that a court could not require the agency to perform the cost-benefit analysis, the risk assessment or peer review in the manner prescribed by the bill.

Compliance with cost-benefit analysis and risk assessment requirements of the bill would be optional by the agency, the same way it is optional for them to comply with the Executive order that now requires these analyses.

Now, Senator GLENN has claimed that his bill is essentially the same as S. 291 which, of course, is the regulatory reform bill I introduced in January, which did receive bipartisan support of the Committee on Governmental Affairs. I say, as I stated earlier, that while the original Glenn bill was similar to the Roth bill, the latest version of the Glenn bill seriously differs from the Roth bill. Many of the provisions have been weakened. The Roth bill and the original Glenn bill required agencies to review all major rules in a 10-year period with a possible 5-year extension, or the rules would sunset or terminate. The revised Glenn substitute lacked any firm requirement about the number of bills to be reviewed.

Now, Mr. President, I think that is a very important and very significant change. As a matter of fact, as I said earlier, anyone who has reviewed the regulatory rules on the books have agreed that many of them are, today, irrelevant, cumbersome, and not equipped to do the job that they were intended. These studies have been made by distinguished organizations, including a group at Harvard. Our former colleague, and now Vice President GORE, has stated on a number of occasions, as part of his program to reinvent Government, that many regulations are undesirable. So I think it is a very, very serious mistake the way the Glenn substitute has weakened the lookback provisions of this legislation.

As I said, my original bill required all rules to be reviewed in a 10-year period, subject to a 5-year extension, and if a rule were not reviewed in that period of time, then, of course, the rule would be terminated. Under the revised Glenn substitute, that is not the case. It leaves everything entirely in the discretion of the agency head. An agency head could provide a 5-year schedule of reviewing rules that includes many appropriate rules. On the other hand, he or she could include one, zero, or five, as there are no requirements in the current version of the Glenn legislation that rules be reviewed.

As I say, I think this is a serious mistake. Worse still, Senator GLENN has weakened the judicial review provision that was in the Roth bill and that originally appeared in the Glenn bill. Here I have reference to section 623(E) of the Roth bill, the original bill, which stated that the cost-benefit analysis and risk assessment shall, to the extent relevant, be considered by a court in determining the legality of the agency action.

This is a matter that is particularly bothersome, because what the proposed legislation provides is that an agency will make a cost-benefit analysis and, where appropriate, it will make a risk assessment. But there is no requirement in the Glenn substitute that either the cost-benefit analysis or risk assessment be used in the rulemaking process. Now, it seems to me that that destroys the whole purpose of regulatory reform. I think many of us feel very strongly that regulatory reform, as a general rule, means that benefits should justify costs.

Mr. President, I ask unanimous consent that the time before the recess be further extended for a statement to be made by the majority leader, following the statement of the minority leader.

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

The minority leader is recognized.

Mr. DASCHLE. Mr. President, I appreciate very much the distinguished Senator from Delaware accommodating both myself and the majority leader.

Mr. President, over the last week we have debated a regulatory reform bill that poses a number of serious concerns. Senators have come to the floor with amendments to address those concerns for over a week now.

It has become increasingly clear that in order to produce a bill that will be acceptable to a majority of this body and the President, significant changes will need to be made. Frankly, given the way the debate has gone—the fact that we have until now been unable to pass most of our amendments—I am not optimistic that we will be able to bring this bill into a form that is reasonable and responsible, unless the circumstances change.

Despite efforts last week to clarify that the bill will not override existing law, the so-called least-cost standard that remains will drive agencies away from choosing more cost-effective and thus economically sensible and justifiable regulatory options.

Last week, the Senate rejected by one vote my amendment to protect the ability of the Department of Agriculture to issue its proposed rule requiring science-based hazard analysis and critical control point, or HACCP, systems in meat and poultry inspections.

I later learned that while I was here on the Senate floor recounting the story of 2-year-old Cullen Mack, a young boy from South Dakota who fell ill from eating beef contaminated with E. coli bacteria, people were suffering from E. coli poisoning in at least four States: Georgia, Tennessee, Wisconsin, and Illinois.

So, despite the fact that we are confronted presently by real gaps in our ability to ensure a safer food supply, and despite the fact that the USDA rule would take a huge step toward that goal, we continue to have a bill that would subject that rule to legal challenge and consequent delay.

Farmers have special concerns about this bill. The Department of Agriculture each year issues regulations to implement the farm program—regulations that address wheat, wool, rice, cotton, and feedgrain programs. The Department issues regulations to implement the Federal crop insurance program and the Conservation Reserve Program. USDA marketing orders—orders which are voluntarily approved by agricultural producers—are implemented through Federal regulations.

Many, if not all, of these regulations would be subject to the cost-benefit and risk assessment delays of this bill. They would be subject to the decision criteria in the bill calling for the least-cost option, and they would be subject to judicial challenge. Do we really want to foreclose regulatory options that would provide greater benefits to farmers? Is this what we really want for rural America? I certainly do not think that this makes sense for South Dakota or any other rural State.

Recently, the majority leader, came to the floor of the Senate to discuss the power of shame. His comments were made in the context of the public debate over the content of Hollywood movies.

The leader made the point that shame can be a very valuable tool in the effort to encourage movie-makers to be more socially responsible in writing and producing movies. I agree. I think that in this society, shame can be a very powerful means of encouraging more responsible behavior.

Certainly, the evidence is clear that the Community-Right-To-Know Program has been able to put shame to good use. What industry wants to declare year after year that they are releasing poisons into the air and water of local communities? What industry is so callous that it is not moved to reduce those releases when faced with public disclosure of its behavior?

Why, then, if we can agree that shame is such a powerful tool, are we

attempting to erode the effectiveness of the toxic release inventory—known as the Community-Right-To-Know Program—in this bill?

Last Thursday, this body voted against an amendment by Senators BAUCUS and LAUTENBERG to protect the Community-Right-To-Know Program.

Apparently, despite the clear success of this program in getting industries to cut their releases of toxic chemicals, shame is too tough a medicine for some industries to endure. Instead of shaming the special interests into responsible behavior, the Senate essentially defended the special interests' shameful behavior.

In addition to the special-interest fixes and the willingness of the sponsors of the bill to undermine even the most needed and supported rules, there are countless opportunities for petitions in the bill that will consume vast agency resources. Petitions themselves are subject to judicial review, increasing the likelihood of delay and administrative burden.

The sum effect of all these provisions would create havoc with out ability to protect public safety. The Office of Management and Budget estimated that the Dole-Johnson bill would cost the Federal Government roughly $1.3 billion to implement, including the salaries of an additional 4,500 full-time Federal employees, who would be needed to fulfill the bills' requirements. I am skeptical that the bill itself could even pass a cost-benefit test. It may well impose more costs on the Federal Government—and thus the taxpayers—than it purports to save in regulatory expenses.

At a time when we are trying to downsize the Government and balance the Federal budget, it makes little sense to consider legislation that would reverse our course. Last week, the House appropriators recommended cutting the Environmental Protection Agency's budget by one-third. Other Federal agencies will surely feel the budget knife this year and in the years to come.

Where will the money to pay the costs of this bill come from? Where will we find this army of analysts to fulfill all the new requirements of this bill? Who will pay for them?

The primary beneficiaries of this bill will be the large corporate law firms, which undoubtedly will enjoy a renaissance of business if it becomes law. The judicial review provisions invite a morass of litigation. In fact, I understand that there will be at least 144 different issues that can be litigated, if this bill is enacted. It is ironic that this body passed legislation limiting opportunities for litigation earlier this year and now stands poised to pass a bill designed to create an explosion of litigation.

Mr. President, no Senator would agree that every regulation that has ever been issued by the Federal Government makes good sense. All of us Members recognize that excesses occur in the development and enforcement of rules.

In many cases, we in Congress are to blame, as we enact laws that provide little or ambiguous regulatory guidance. Federal agencies are staffed by human beings, who are known to make mistakes from time to time. The political winds frequently change, carrying the Federal agencies in different and often inconsistent directions. So, the entire process is imperfect.

The question we are confronted with, then, is how can we improve the regulatory development process without crippling the ability of the Federal Government to protect the quality of our food supply, our water, our air, and all the other of those services that Americans have come to expect.

The bill we have been debating now for a week was seriously flawed when it was introduced, and our efforts to improve it have been thwarted. It remains a bill that could be used to undermine the ability of the Federal Government to carry out its responsibility to protect our environment and the health of American families. It is not emblematic of the type of society that most Americans believe we should be striving for, and should not be enacted in its current form.

The alternative regulatory reform bill that has been introduced by Senators GLENN, CHAFEE, and others would provide serious, constructive reform that I believe should gain broad support. Unlike the Dole bill, the Glenn-Chafee bill would limit the opportunities for litigation to the fundamental question of whether the rule is a major rule and whether the final rule is arbitrary and capricious, taking into account the entire rulemking record. Unlike the Dole bill, it does not allow judicial review of the agency decisions to grant or deny petitions.

The Glenn-Chafee bill contains no special-interest fixes, which do not belong in a procedural bill like this and which should only be addressed through hearings and legislation debated within the committees of jurisdiction.

The Glenn-Chafee alternative does not impose rigid criteria of the Dole bill that agencies must apply when selecting a regulatory option, driving agencies toward the cheapest, but not necessarily the most cost-effective, alternative.

I think we can all agree that the costs and benefits of proposed rules should be considered during their development. But calculating those costs and benefits can present a great challenge.

What is the value of ensuring that our children and grandchildren do not suffer the effects of lead on their ability to reason? What is the value of ensuring that when we take our families to see the Grand Canyon, the air will be clean and we will have a clear view of that incredible vista? Given the extreme challenges in characterizing these values, does it make sense to apply such a rigid test to the rules that will effect the quality of our lives so profoundly?

The Glenn-Chafee substitute places cost-benefit analysis in proper perspective. It requires agencies to identify the costs and benefits of proposed rules, but does not elevate cost considerations above all else. The cheapest option is not always the best or the most cost-effective one.

The Glenn-Chafee bill follows an approach that I believe provides a far better representation of the goals and objectives of mainstream America with respect to regulatory reform. Apparently the Governmental Affairs Committee agrees with me.

I say that because the Glenn-Chafee is nearly identical to the bill passed unanimously by the Governmental Affairs Committee. It is moderate and sensible, and I believe it should serve as a model for reforming the regulatory process. The modifications that Senators GLENN and CHAFEE subsequently made to the Governmental Affairs-passed bill represent good, sensible improvements.

First, we have eliminated the arbitrary sunset for existing rules, that would have occurred whenever an agency failed to perform the needed review in a timely manner. Given the history of antagonism to environmental and public health and safety regulations that have been demonstrated by recent administrations, it does not make sense to provide future administrations that might also be antagonistic to such rules with the incentive to intentionally fail to perform reviews as a back-door means of repealing existing rules and thwarting the will of Congress.

Second, the Glenn-Chafee bill eliminates the narrative definition of major rules, adding clarity to the bill, and limiting its scope so as not to overburden Federal agencies.

Finally, the Glenn-Chafee alternative incorporates technical changes to the risk assessment portions of the bill to more closely track recommendations made by the National Academy of Sciences, and to cover specific programs, not merely agencies.

These changes strengthen the bill, make it more responsible and more reasonable. If the Senate is interested in real reform and wants to pass a bill that can be signed into law then I urge my colleagues to support this substitute.

Mr. President, I know the distinguished majority leader is here. To accommodate him and allow Senators to get to the caucus, I yield the floor.

Mr. DOLE. Mr. President, I thank the Democratic leader, Senator DASCHLE. I

will take just a moment. I want to review for my colleagues. I think we made some progress on the regulatory reform bill. I think everybody would like to vote for regulatory reform.

There are some limits. We cannot accommodate everyone's request. We would have a bill that many on this side and many on that side would not vote for if we tried to accommodate every request.

There will be a cloture vote immediately after the vote on the so-called Glenn-Chafee substitute. I think there will be a third cloture vote. As I set out in the schedule, hopefully we would finish this bill today, to start on Bosnia late this evening or early tomorrow morning.

There has been a cloture petition filed. There could be a third cloture vote. I have not made that final determination. Sooner or later, we have to recognize we have just about accommodated everybody we can. We have made a number of major changes in this legislation. Some are concerned that perhaps we made too many—"we," talking about the people who manage the bill and understand the bill.

We think it is a good bill. It is real regulatory reform. It is what the American people are demanding. It is what small businessmen, farmers, ranchers, everybody else is demanding. We believe it is time to come to grips with it, and move on to something else.

We have had parts of 9 days on this bill. That seems to be a standard on the Senate side. Everything takes 9 days. Maybe this will take 10 days. I do not know that the end is in sight. I alert my colleagues, if you are for regulatory reform, vote for cloture; if you are opposed to regulation reform, vote no, as you did yesterday.

RECESS UNTIL 2:15

The PRESIDING OFFICER. Under the previous order, the Senate will now stand in recess until the hour of 2:15 p.m.

Thereupon, the Senate, at 12:53 p.m., recessed until 2:15 p.m.; whereupon, the Senate reassembled when called to order by the Presiding Officer [Mr. GRAMS].

COMPREHENSIVE REGULATORY REFORM ACT

The Senate continued with the consideration of the bill.

VOTE ON AMENDMENT NO. 1581

The PRESIDING OFFICER. Under the previous order, the question now occurs on amendment No. 1581.

Mr. SHELBY. Mr. President, I ask for the yeas and nays on the GLENN amendment.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the amendment. The clerk will call the roll.

The legislative clerk called the roll.

The PRESIDING OFFICER. Are there any other Senators in the Chamber who desire to vote?

The result was announced—yeas 48, nays 52, as follows:

[Rollcall Vote No. 310 Leg.]

YEAS—48

Akaka	Feingold	Lieberman
Baucus	Feinstein	Mikulski
Biden	Ford	Moseley-Braun
Bingaman	Glenn	Moynihan
Boxer	Graham	Murray
Bradley	Harkin	Nunn
Bryan	Hollings	Pell
Bumpers	Inouye	Pryor
Byrd	Jeffords	Reid
Chafee	Kennedy	Robb
Cohen	Kerrey	Rockefeller
Conrad	Kerry	Sarbanes
Daschle	Kohl	Simon
Dodd	Lautenberg	Snowe
Dorgan	Leahy	Specter
Exon	Levin	Wellstone

NAYS—52

Abraham	Gorton	McCain
Ashcroft	Gramm	McConnell
Bennett	Grams	Murkowski
Bond	Grassley	Nickles
Breaux	Gregg	Packwood
Brown	Hatch	Pressler
Burns	Hatfield	Roth
Campbell	Heflin	Santorum
Coats	Helms	Shelby
Cochran	Hutchison	Simpson
Coverdell	Inhofe	Smith
Craig	Johnston	Stevens
D'Amato	Kassebaum	Thomas
DeWine	Kempthorne	Thompson
Dole	Kyl	Thurmond
Domenici	Lott	Warner
Faircloth	Lugar	
Frist	Mack	

So the amendment (No. 1581) was rejected.

Mr. DOLE. I move to reconsider the vote by which the motion was rejected.

Mr. HATCH. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

CLOTURE MOTION

The PRESIDING OFFICER. Under the previous order, pursuant to rule XXII, the Chair lays before the Senate the pending cloture motion, which the clerk will state.

The legislative clerk read as follows:

CLOTURE MOTION

We, the undersigned Senators, in accordance with the provisions of rule XXII of the Standing Rules of the Senate, hereby move to bring to a close debate on the pending substitute amendment to S. 343, the Regulatory Reform Bill:

Bob Dole, Bill Roth, Fred Thompson, Spencer Abraham, Kay Bailey Hutchison, Jon Kyl, Chuck Grassley, Craig Thomas, Orrin Hatch, Larry E. Craig, Mitch McConnell, Conrad Burns, Bob Smith, Jesse Helms, Jim Inhofe, Judd Gregg.

CALL OF THE ROLL

The PRESIDING OFFICER. Under the previous order the mandatory quorum call has been waived.

VOTE

The PRESIDING OFFICER. The question is, Is it the sense of the Senate that debate on the amendment numbered 1487 to S. 343, the regulatory reform bill, shall be brought to a close?

The yeas and nays are required under the rule. The clerk will call the roll.

The bill clerk called the roll.

The PRESIDING OFFICER. Are there any other Senators in the Chamber desiring to vote?

The yeas and nays resulted—yeas 53, nays 47, as follows:

[Rollcall Vote No. 311 Leg.]

YEAS—53

Abraham	Gorton	McCain
Ashcroft	Gramm	McConnell
Bennett	Grams	Murkowski
Bond	Grassley	Nickles
Breaux	Gregg	Packwood
Brown	Hatch	Pell
Burns	Hatfield	Pressler
Campbell	Heflin	Roth
Coats	Helms	Santorum
Cochran	Hutchison	Shelby
Coverdell	Inhofe	Simpson
Craig	Johnston	Smith
D'Amato	Kassebaum	Stevens
DeWine	Kempthorne	Thomas
Dole	Kyl	Thompson
Domenici	Lott	Thurmond
Faircloth	Lugar	Warner
Frist	Mack	

NAYS—47

Akaka	Feingold	Lieberman
Baucus	Feinstein	Mikulski
Biden	Ford	Moseley-Braun
Bingaman	Glenn	Moynihan
Boxer	Graham	Murray
Bradley	Harkin	Nunn
Bryan	Hollings	Pryor
Bumpers	Inouye	Reid
Byrd	Jeffords	Robb
Chafee	Kennedy	Rockefeller
Cohen	Kerrey	Sarbanes
Conrad	Kerry	Simon
Daschle	Kohl	Snowe
Dodd	Lautenberg	Specter
Dorgan	Leahy	Wellstone
Exon	Levin	

The PRESIDING OFFICER. Three-fifths of the Senators duly chosen and sworn not having voted in the affirmative, the motion is rejected.

Mr. BRADLEY. I rise to express serious reservations about S. 343, the regulatory reform bill. After listening to over a week's debate, I remain doubtful that a vote in favor of S. 343 would serve the best interests of the American people. While I support carefully crafted regulatory reform efforts like the Glenn-Chafee substitute, S. 343 does not meet my standards nor the standards of the people of New Jersey.

I doubt whether my constituents want new red tape requirements which would delay long-awaited regulations for food safety, drinking water quality, worker protections and pollution control. Even with the changes adopted during the last week, S. 343 is still a prescription for delay, duplication, and judicial gridlock.

S. 343 is not true reform. It is full of exemptions and special interest provisions unrelated to the basic bill or which give assistance to particular industries. Its provisions will swamp

agencies with requirements for hundreds of new, costly, and time-consuming analyses and it will undermine needed health, safety and environmental regulations already on the books.

S. 343 is filled with new opportunities for endless rounds of judicial review. Yesterday, our colleague Senator JOHN KERRY stated that the bill still contained 88 new places for court intervention in the regulatory process, despite the efforts of many Senators to improve this aspect of S. 343.

S. 343 could result in the sunset of many regulations if agencies failed to review them accordingly to required time schedules. Even worse, the schedules themselves might be manipulated by special interests who could overload agency review agendas and tie them up until regulations expired.

Finally, S. 343 still includes language which favors the least cost and not the most cost-effective regulations—an affront to common sense which could result in missed opportunities for sensible regulatory revisions.

Mr. President, this country needs regulatory reform. Regulated businesses and individuals deserve the most flexible, cost-effective regulations agencies can craft while still providing the protections Congress has provided and all of us need. But it is also time for us to admit the real cause of many regulatory complaints—overly prescriptive and sloppily drafted legislation.

While this bill needs further work, I hope we can resume negotiations and produce a regulatory reform bill we all can support.

AMENDMENT NO. 1487

Mr. PRESSLER. Mr. President, today I rise to express my support for the substitute regulatory reform amendment currently pending before the Senate. I commend Senator DOLE for putting together a measure that is balanced, fair and commands bipartisan support. Certainly, we need Federal regulations to protect the public health and safety. But the rules must be reasonable. They must make sense. That is exactly what the Dole substitute amendment attempts to ensure.

Mr. President, when I talk with South Dakotans, few topics raise their blood pressure faster than when they describe their frustrating dealings with the Federal bureaucracy. Government is supposed to work for us, not against us. Yet time after time, I hear horror stories of Washington bureaucrats running amok, imposing complicated, costly and silly rules.

Our current regulatory system is too large, too complicated, too burdensome, and too expensive. Worst of all, it is rapidly growing out of control. In the first two years of the Clinton administration, almost 140,000 pages of new Federal regulations were published. This is excessive. There is no way small businesses, local governments, or farmers and ranchers in South Dakota can possibly keep up with the changes.

Our current system costs all of us dearly. According to Thomas Hopkins, an economics professor at the Rochester Institute of Technology and the former Deputy Administrator of the Office of Management and Budget, OMB, every American household spends about $4000 of their hard-earned income annually to comply with Federal regulations. As a nation, we spend between $500 and $800 billion each year.

The overwhelming majority of Americans agree the Federal bureaucracy needs an overhaul. Last November's election was a clear indication for smaller, smarter government with less redtape. This legislation takes a big step in that direction. Its main provision simply would require that before major new regulations are enacted, Federal regulators must show that the benefits justify the costs. This is simple common sense. It would force Federal regulations to be reasonable. If a Federal regulator cannot show that the costs of a proposed rule are justified by the benefits, why should we allow it be implemented? Common sense says we should not. This is a sensible hurdle that newly proposed rules should be required to clear.

Mr. President, let me give two recent examples of ridiculous Federal regulations that demonstrate the need for this legislation. The U.S. Environmental Protection Agency, EPA, is charged with enforcing our Nation's safe drinking water laws. In an effort to enforce the law, the EPA zealously over interprets congressional intent. In effect, they rewrite the law "raising the bar" for municipalities by requiring excessively burdensome water standards without comparing the costs of their rules to the benefits they hope to achieve.

Each year it seems, state and local officials are told last year's water standards are no longer good enough. They are forced by the EPA to perform costly new tests for presences in their water supply. Unfortunately, the EPA frequently relies on questionable evidence to show why the changes are necessary. For many rural communities in South Dakota, excessive drinking water standards threaten to break their small budgets.

Recently, the EPA has proposed yet another standard—one that would require communities to regulate sulfate levels in drinking water supplies. This proposed standard has been made despite the fact there is no valid scientific showing of harm resulting from higher levels of sulfate. Congress instructed the EPA to study this issue. However, instead of evaluating the health risk of sulfate in drinking water, the EPA proposed a sweeping rule to allow no more than 500 milligrams of sulfate per liter of drinking water. When promulgating the proposed rule, the EPA did not consider the costs of compliance. They have not explained or justified the supposed benefits the rule attempts to attain. They also have not given any reliable scientific basis for this rule.

The costs of enacting the proposed sulfate regulation would be enormous. It would affect roughly one-quarter of all the water systems in South Dakota—108 of the 483 water systems in the State. The South Dakota Department of Environment and Natural Resources, DENR, which opposes the EPA's proposed sulfate rule, has estimated the costs of compliance for those water systems would be $40 to $60 million. That is just the initial cost of compliance—not including operation and maintenance costs. Small, rural communities in South Dakota should not be forced to pay such a high price to enforce a regulation that has no valid scientific justification.

Let me put these figures in real terms we can all understand. The largest of the 108 affected communities is Madison, SD, with a population of 6,395 people. Currently, the average water bill for each household in Madison is $13.75 per month. According to the South Dakota DENR, if the proposed rule is enacted, the additional cost to each household would be about $10 per month. That would mean an average monthly water bill of $23.75, or a 73 percent increase over current bills. Remember, this figure is for the largest of the affected communities, which presumably would be the most able to absorb the costs of compliance.

Let us take Big Stone City, SD, as another example. With a population of 670 people, Big Stone City has the median population of the 108 communities in South Dakota affected by the proposed rule. Currently, the average monthly water bill per household in Big Stone City is $9.80. If the EPA has its way, each household in that community would see its water bill rise $27.50 for a total monthly bill of $37.30. That would be an astonishing 281 percent increase. Again, Big Stone City is the median size of the affected communities. Just imagine the impact the EPA's rule would have on communities smaller than Big Stone City.

Mr. President, what would these communities get in return for these shocking rate increases? Nothing. That is right. For years, South Dakotans have been drinking water containing sulfate with no apparent adverse health effects. The EPA has not been able to show scientifically that higher levels of sulfate in drinking water pose a real health threat to humans. The proposed rule would ensure drinking water has less sulfate, but that does not mean it is safer water. However, an EPA bureaucrat thinks the Federal Government should regulate sulfate.

These plans are being made regardless of the enormous costs involved on small communities. This situation does not make sense.

Mr. President, as I stated earlier, clearly we need to take precautions to ensure the quality of our drinking water. However, common sense says, before spending billions nationwide to comply with a new regulation, we should ensure the benefits are worth the costs. The EPA should be required to demonstrate why it now believes sulfate is dangerous to human health. They should have to show how the benefits of their new rule justify the enormous costs it would impose on small communities like Madison and Big Stone City. That is what the Dole substitute would require of the EPA. Is that too much to ask?

Mr. President, let me give another example of a ridiculous Federal regulation that, several months ago, threatened farmers and ranchers in my State. The proposed regulation concerned the Endangered Species Act. Earlier this spring, the U.S. Fish and Wildlife Service considered listing prairie dogs under the Endangered Species Act, entitling them to numerous protections under Federal law, despite the fact there are 71 times more prairie dogs than people in South Dakota. Let me repeat that: in South Dakota, there are 71 prairie dogs for every man, woman and child—yet, earlier this year, Federal bureaucrats actually considered listing them as an endangered or threatened species.

Once a species has been listed under the act, certain uses of the land inhabited by the species can be prohibited until the condition of the species has improved to the point it can be taken off the list. Virtually, the entire western half of South Dakota potentially could have been affected. Fortunately, there are no longer plans to list the prairie dog as endangered or threatened. However, it still may be listed as a "candidate species" entitled to some level of Federal protection.

There are millions of prairie dogs in South Dakota digging even more millions of holes. Their holes are a real menace to cattle and horses. Ranchers are forced to destroy livestock which step in the holes and break their legs. Prairie dogs also eat grass and other vegetation, a sparse commodity in the western half of my State.

How can anyone believe prairie dogs are a threatened species facing possible extinction? Farmers and ranchers in my home State do not understand this. I do not either. If this absurd rule had been enacted, killing prairie dogs would have been a Federal offense. Their population quickly would have grown far beyond their current numbers—causing more harm and destruction to South Dakota farmers and ranchers—all with the Federal Government's blessing. If the situation several months ago were not so serious, it would have been laughable.

These examples show why people in my home State are fed up with the Federal regulatory process. I am too. Is it any wonder why we believe the Federal bureaucracy is out of control and must be reined in? South Dakotans certainly want safe drinking water, safe food and a clean environment. But they also want Federal rules that are reasonable, understandable and flexible to allow as much compliance as possible.

That is why I support the Dole substitute amendment. If it were enacted the EPA could not implement its proposed sulfate rule until it can show that the benefits of the rule justify the enormous costs involved. Again, is that too much to ask?

In addition to benefiting consumers, this legislation also would have a positive impact on small businesses in my State. The current level of regulation from Washington puts an incredible burden on small businesses. Over-regulation chokes businesses in paperwork, stifles innovative ideas and undermines the ability of American businesses to compete in international markets. I have talked to many small businessmen and women who believe due to the sheer number of regulations, the complexity of the rules, and the different standards of enforcement between areas of the country and even between different inspectors, it is impossible for them not to be in violation of some regulation at any given time. This situation is not acceptable.

We greatly need to move the Federal bureaucracy away from the "gotcha" mentality many have toward American business. Regulators should not see themselves exclusively as "supercops," as many do, waiting to pounce on any business that violates some regulation in the most technical way. Regulators need to develop a cooperative relationship with businesses. Both should work together to find innovative and cost-effective ways to comply with the spirit of the law as intended by Congress, rather than with hypertechnical regulations.

American business is not the enemy. The vast majority of small businesses are run by fine, ethical businessmen and women who want to obey the law, not skirt it. They want to be good corporate citizens. They do not seek ways to bend or break the law. They work hard to treat their employees fairly. They spend considerable amounts of money to provide a safe workplace for them. They do this not because the Occupational Safety and Health Administration, OSHA, or the Department of Labor require such action. They do it because it makes good, sound business sense. After all, satisfied employees are productive employees.

Judging from the enormous amounts of new Federal regulations continually being issued, however, you might think each American business spends all its time devising ways to bend or break the law. Every aspect of business life increasingly is being regulated. That has to stop.

Mr. President, to conclude, let me again state my support for the Dole substitute. The country needs less regulation from Washington. No one in my home State thinks there are too few Government regulations. No small business has asked me for more Government paperwork to fill out. No farmer or rancher has requested yet more restrictions on how they can use their own land.

The country needs less regulation. South Dakotans know Washington cannot regulate away our problems. Too many rules are on the books and not enough common sense is in the system. In short: Federal rulemaking needs an overhaul. The Dole substitute amendment would help reduce the number of rules generated by Washington. It would establish a sensible hurdle for new regulations: the costs must be justified by the benefits. That is simple common sense. The regulatory system cannot continue as it has been promulgating rule after rule with little concern for their practical effect. Is that asking too much? I urge my colleagues to support and vote for this legislation.

Mr. MOYNIHAN. Mr. President, the Comprehensive Regulatory Reform Act of 1995 is a response to the belief that our executive branch agencies have become unreasonable in their regulation of the behavior of businesses and individuals. This is a powerful idea whose influence has, until recently, been underestimated. No longer. This is the third time this year that the Senate has considered legislation to restrain such Government action.

On January 27, 1995, the Senate passed S. 1, the Unfunded Mandates Reform Act, which requires Congress to acknowledge, by recorded vote, the costs imposed by Federal laws on State and local governments, as well as on the private sector. President Clinton signed the unfunded mandates on March 22, 1995.

Just 2 months later, the Senate passed S. 219, the Regulatory Transition Act, which established a 45-day review period for congressional review of regulations. Conferees are now attempting to reconcile that bill with the House-passed legislation, which places a temporary moratorium on Federal rulemaking.

The same concerns have prompted the Senate to take up the Comprehensive Regulatory Reform Act of 1995 now before us. A central element of this bill is the requirement that agencies justify their actions through risk assessment and cost-benefit analysis. This is not a new idea, although it is given unprecedented emphasis in this bill. I first introduced legislation to require risk assessment of environmental regulations in 1991, and I have introduced

similar legislation in each succeeding Congress.

All of these bills have been based on the simple proposition that decisionmaking by Federal agencies ought to be informed by the best available science. Of course, science cannot be the sole basis of agency decisions, for there are limits to scientific knowledge, and what we do know is imprecise. Yet science must be taken into account. We must have the humility to acknowledge what we don't know, but also the good sense to make use of what we do. That was the approach taken by the legislation I introduced in previous years, and it was the approach of the Johnston-Baucus-Moynihan amendment that passed the Senate as part of the Safe Drinking Water Act reauthorization bill in May 1994. That amendment would have required EPA to conduct risk assessments and cost-benefit analyses for all major regulations. EPA would have been required to certify that the benefits of a rule justify the costs and that no regulatory alternative would be more cost-effective in achieving an equivalent reduction of risk. Unlike the measure before us, last year's legislation would not have superseded existing law, and EPA's analyses would not have been subject to judicial review.

Our amendment was modest enough, but predictably it had opponents, including some members of the Clinton administration and certain representatives of the environmental community. They seemed to view the issue only in absolute terms, being of the view that requiring cost-benefit analysis and risk assessment would bring about the dismantling of environmental regulation by requiring EPA to consider risks and costs over environmental health and safety. Over the last 4 years, it has been our repeated experience—mine—to hear such complaints from environmental groups. Indeed, it is well known that opposition to risk assessment was significant enough last year to help kill the EPA Cabinet bill and the Safe Drinking Water Act reauthorization. Note well. Had the Environmental Protection Agency in 1994 accepted risk assessment and cost-benefit analysis as part of its mandate, it would be a cabinet department today.

Let me give one example of the sort of analysis some have chosen to apply to risk assessment proposals. On May 21, 1991, Joseph Thornton, a policy analyst with Greenpeace, testified before a hearing of the Environment Subcommittee of the House Committee on Science, Space, and Technology on the "Risk Assessment: Strengths and Limitations of Utilization for Policy Decisions." This is what he said:

> Greenpeace and communities who have experienced risk assessment first hand are united that risk assessment endangers the environment, public health, *and the democratic process as it is now practiced*. The major real world use of risk assessment has been to approve pollution. . . . Even when [it has] been used for the purpose of setting priorities, quantitative risk assessment is a flawed, uncertain, and subjective process that is subject to political pressures from those who have the most resources, and the most influence. (Emphasis supplied.)

This was not untypical of attitudes we encountered. The terms of the debate even began to take on a curious doctrinal cast: It became fashionable at one point to refer to risk assessment as one element of an Unholy Trinity. According to Mr. John D. Echeverria, a National Audubon Society attorney quoted in the New York Times on February 7, 1994, the Unholy Trinity is comprised of proposals on risk assessment, unfunded mandates, and Government takings of private property. And so I suppose I should not be surprised that, despite the fact that my League of Conservation Voters record has frequently risen above 90 percent, and despite having once been Chairman of the Senate Committee on Environment and Public Works, I have never, in 19 years on the committee, received a letter of commendation from the environmental community, a community not the least averse to plastering congressional walls with plaques. As an advocate of risk assessment, I am viewed with suspicion.

Not surprisingly—it is an old story—the legislation now before the Senate is far more prescriptive than anything advocated in the past by this Senator. The controversy that accompanied any discussion of risk assessment and cost-benefit analysis as recently as a year ago has all but disappeared. Today, even opponents of the Dole-Johnston bill are quick to state they favor the use of sound cost-benefit analysis and risk assessment in environmental decisionmaking. A year has passed, an election has intervened, and now we are faced with the Comprehensive Regulatory Reform Act of 1995. One wonders whether the opponents of the early efforts by the Senators from Louisiana, Montana, and New York may be a bit wistful about the opportunity they passed up last year. Clearly, the terms of the debate have changed. The Senate has changed. We never seem to learn that the failure to recognize the need for sensible, incremental change invites radical change.

Although the Dole-Johnston compromise significantly improved the earlier drafts of this legislation, it does in my view overreact. I share many of the concerns of my colleagues and hope further amendments will be accepted to improve the bill. At this point, I would like to set forth the principles that have guided my votes on this important legislation.

As I have said, I do support the appropriate use of cost-benefit analyses and risk assessments in major rulemaking. However, I recognize that risk assessment and cost-benefit analysis are imperfect tools. Even in the best analyses, significant uncertainties exist. More important, any legislation that would impose a cost-benefit test must recognize that other factors including values, equity concerns, and policy judgments are equally important or even dispositive factors in the decisionmaking process.

These points were well illustrated during our debate on the acid rain provisions of the Clean Air Amendments of 1990. Cost-benefit considerations were important elements of the debate. However, in the end Congress made policy judgments based in large measure on the unquantified and unquantifiable value we place on our natural environment. We decided, for instance, that some regions of the country, such as upstate New York, should not be forced to bear a disproportionate impact of acid rain pollution. We now know that the actual costs of the acid rain program are less than one-third of most estimates at the time, and that we still do not understand the ultimate impact of acid deposition on the environment. That experience illustrated the limitations of cost-benefit analysis as a rigid decisionmaking tool, and it ought to be a lesson to us.

Returning to the Dole-Johnston bill, we reached a consensus last week on two major issues. First, we recognized the tremendous resource burden that risk assessment and cost benefit analyses impose on agencies, and we changed the definition of major rule to $100 million rather than $50 million. This is a move in the right direction. However, the adoption of another amendment, which extends the definition to include rules that have a major effect on small business, may recreate the problem we were trying to correct. Second, we clarified our intention that the legislation should not impose a supermandate. That is, it should not override existing law. This does not mean we are entirely satisfied with existing laws, but it recognizes that we will not suddenly attain to vastly more intelligent and effective regulations by this single piece of legislation.

I disagree with those who view regulatory reform legislation as a simple answer to the problems accompanying our current health, safety, and environmental statutes. Problems do exist—with Superfund, with the current interpretation of the Delaney clause, and elsewhere. To achieve true comprehensive regulatory reform, we should move forward with current efforts to reauthorize and improve important statutes such as Superfund, the Clean Water Act, and the Safe Drinking Water Act.

I also have continuing concerns with the judicial review and lookback provisions of the Dole-Johnston bill. Regulatory reform should not provide expansive opportunities for technical and procedural challenges, as much as K

Street might wish. We should not turn the courts into arbiters of the adequacy of highly technical cost-benefit analyses and risk assessments. For example, section 634 of the Dole-Johnston bill would allow interested parties to petition agencies to review existing risk assessments and would subject agency decisions on petitions to court challenge.

Do we really expect courts to decide whether the agency or industry interpretation of the data should prevail? Do we really think we can legislate, and litigate, good science? Let us clearly and unambiguously limit judicial review only to final agency rulemaking actions.

Further, while I agree that the periodic review of existing rules is an important element of regulatory reform, the lookback process should be constrained to focus on the most significant opportunities for improvement. We need a process that is controlled by the agencies, using clearly defined criteria, with adequate opportunity for public comment—not one controlled by special interests or the courts.

I am pleased that the comparative risk principles which I have proposed on earlier occasions have been incorporated in both the Dole-Johnston bill and the Glenn-Chafee alternative. However, as I have said before, the use of comparative risk to help set agency priorities must recognize the limitations of current methods and provide for continuous development of the discipline. I therefore strongly support the recommendation in the bill that a nationally recognized scientific body be asked to evaluate the state of the science and identify opportunities for improvement of this important science policy tool.

Finally, it ought to be said that many of the problems with our current system cannot be solved by the application of cost-benefit analysis, risk assessment, or any other device. Recently, we received a major study conducted by the National Academy of Public Administration, "Setting Priorities, Getting Results." The report makes a number of recommendations for improving environmental decisionmaking. As we debate the appropriate role of risk assessment and cost-benefit analysis, we should heed this admonition:

> Risk analysis is not a cure-all. The members of Congress and other decision-makers who have displayed a strong desire for more objective and precise quantitative estimates of environmental risks and of the costs and benefits of environmental protection will be disappointed. The unfortunate reality, that EPA and Congress must confront, is that neither risk assessment nor economic analysis can answer most of their crucial questions about environmental problems. The tools can only approximate answers with varying degrees of certainty, and the answers often cannot be reduced objectively to a few numbers. The objective findings of science are essential components of EPA's decisions, but wholly insufficient as a base for environmental policy-making.

The report goes on to state, "Despite these problems, summaries of costs or benefits are useful if they encourage analysts or decision-makers to think rigorously about what impacts and values should be included."

This is the core of what we need to accomplish in regulatory reform legislation: greater scientific rigor in agency thinking and decisionmaking. Let us acknowledge that with this legislation the task of creating a more effective national effort to improve the Nation's health, safety, and environmental quality has just begun.

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. DOLE. 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. DOLE. Mr. President, we have 53 votes. We need 60. I understand tomorrow we will have an additional four votes on this side of the aisle to make 57, 3 short of the 60.

I am trying to determine whether or not we want to go with this bill, whether we want to set it aside for a period of time, or set it aside forever.

I have been talking with the distinguished Democratic leader. It is my suggestion that if nobody objects, we stand in recess until 4:15 to give the principals involved a chance to go off somewhere to see whether or not they believe any more of these major issues can be resolved, which might move the bill along.

I think, rather than just sit in a quorum call for the next hour, we will stand in recess, unless the Democratic leader has some objection to that.

Mr. DASCHLE addressed the Chair.

The PRESIDING OFFICER. The minority leader.

Mr. DASCHLE. Mr. President, I think that is a very good idea. Obviously, we are at a point where we have to work through what remains as significant differences between the two sides. I think an opportunity over the next hour to discuss those differences and determine whether or not they are reconcilable is a very good opportunity for both sides. I will encourage it and think that this is probably the best plan.

RECESS UNTIL 4:30 P.M.

Mr. DOLE. So, Mr. President, let me ask unanimous consent that we stand in recess until 4:30 p.m.

The PRESIDING OFFICER. Is there objection? Without objection, the Senate stands in recess until 4:30, this date.

Thereupon, at 3:10 p.m., the Senate recessed until 4:30 p.m.; whereupon, the Senate reassembled when called to order by the Presiding Officer (Mr. THOMPSON).

Mr. DOLE. Mr. President, let me suggest the absence of a quorum for just a moment.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

The majority leader is recognized.

RECESS UNTIL 5 P.M.

Mr. DOLE. Mr. President, I think most of our colleagues know there is a meeting in Senator DASCHLE's office underway to see if they can make headway on two or three issues on reg reform so we can make a determination whether to have the third cloture vote tomorrow or do something else, maybe Bosnia.

But the Presiding Officer is one of the principal Members of that negotiating team. And so he may go back and help the negotiation—I guess dealing with the judicial review section—I think it is in the best interest of all of us that the Senate stand in recess until 5 p.m.

I ask unanimous consent that the Senate stand in recess until 5 p.m.

There being no objection, at 4:32 p.m., the Senate recessed until 5 p.m.; whereupon, the Senate reassembled when called to order by the Presiding Officer (Mr. SANTORUM).

The PRESIDING OFFICER. The majority leader is recognized.

MORNING BUSINESS

Mr. DOLE. Mr. President, I ask unanimous consent that there now be a period for the transaction of morning business, with Members permitted to speak therein for 5 minutes each.

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

COMPREHENSIVE REGULATORY REFORM ACT

Mr. DOLE. Let me indicate that I understand a number of our colleagues are still meeting in Senator DASCHLE's office on regulation reform. We hope to find out here before too long whether we will proceed with the bill or lay it aside, or just what may be developing. We would like to, obviously, finish the bill. It may not be possible.

BOSNIA

Mr. DOLE. Mr. President, following whatever disposition of regulatory reform, we will take up the resolution on

Bosnia. We were visited today by Secretary of State Christopher and General Shalikashvili, and they made their pitch about how bad the Dole-Lieberman resolution would be on Bosnia, as far as lifting the arms embargo.

Somebody asked the question, if it is so bad, what is so good about what is happening in Bosnia now? Obviously, we did not have an answer. There is not any answer.

Today I received from Lady Margaret Thatcher a letter which I think is probably the best summation I have read about Bosnia and the tragedy there. I placed a copy on everyone's desk, but I will read it for the record.

The letter is as follows:

JULY 18, 1995

DEAR SENATOR DOLE: I am writing to express my very strong support for your attempt to have the arms embargo against Bosnia lifted.

I know that you and all members of the United States Senate share my horror at the crimes against humanity now being perpetrated by the Serbs in Bosnia. The UN and NATO have failed to enforce the Security Council Resolutions which authorized the use of force to defend the safe havens and to get humanitarian assistance through. The safe havens were never safe; now they are falling to Serb assault. Murder, ethnic cleansing, mass rape and torture are the legacy of the policy of the last three years to the people of Bosnia. It has failed utterly. We owe it to the victims at last and at least to have the weapons to defend themselves—since we ourselves are not willing to defend them.

The arms embargo was always morally wrong. Significantly, it was imposed on the (then formally intact but fragmenting) former Yugoslavia at that regime's own behest. It was then, quite unjustly and possibly illegally, applied to the successor states. Its effect—and, as regards the Surbs, its intention—was to ensure that the proponents of a Greater Serbia, who inherited the great bulk of the Yugoslav army's equipment, enjoyed overwhelming military superiority in their aggression. It is worth recalling that the democratically elected, multi-faith and multi-ethnic Bosnian Government never asked for a single UN soldier to be sent. It did ask for the arms required to defend its own people against a ruthless aggressor. That request was repeatedly denied, in spite of the wishes of the US administration and of most leading American politicians.

There is no point now in listing the failures of military policy which subsequently occurred. Suffice it to say that, instead of succeeding in enforcing the mandates the UN Security Council gave them, UNPROFOR became potential and then actual hostages. Airpower was never seriously employed either. The oft repeated arguments against lifting the arms embargo—that if it occurred UN troops would be at risk, that the enclaves like Srebrenica would fall, that the Serbs would abandon all restraint—have all now been proved worthless. For all these things have happened and the arms embargo still applies.

Two arguments are, however, still advanced by those who wish to keep the arms embargo in place. Each is demonstrably false.

First, it is said that lifting the arms embargo would prolong the war in Bosnia. This is, of course, a morally repulsive argument, for it implies that all we should care about is a quick end to the conflict without regard to the justice or otherwise of its outcome. But in any case it is based on the false assumption that the Serbs are bound to win. Over the last year the Bosnian army has grown much stronger and the Bosnian Serbs weaker. The Bosnian army has, with its Croat allies, been winning back crucial territory, while desertion and poor morale are badly affecting the over-extended Serb forces. What the Bosnian government lacks however are the tanks and artillery needed to hold the territory won and force the Serbs to negotiate. This lack of equipment is directly the result of the arms embargo. Because of it the war is being prolonged and the casualties are higher. Lifting the arms embargo would thus shorten not lengthen the war.

Second, it is said that lifting the arms embargo would lead to rifts within the UN Security Council and NATO. But are there not rifts already? And are these themselves not the result of pursuing a failed policy involving large risks to outside countries ground troops, rather than arming and training the victims to repel the aggressor? American leadership is vital to bring order out of the present chaos. No country must be allowed to veto the action required to end the present catastrophe. And if American leadership is truly evident along the lines of the policy which you and your colleagues are advancing I do not believe that any country will actually try to obstruct it.

The West has already waited too long. Time is now terribly short. All those who care about peace and justice for the tragic victims of aggression in the former Yugoslavia now have their eyes fixed on the actions of the US Senate. I hope, trust and pray that your initiative to have the arms embargo against Bosnia lifted succeeds. It will bring new hope to those who are suffering so much.

With warm regards,

Yours Sincerely,

MARGARET THATCHER.

Mr. President, having read the letter, I think it says it all. I know the administration has said we will finally have a policy. It will not be business as usual. After 30 months, we will do something.

No one is talking about committing American ground troops. In fact, just the opposite. Lifting the arms embargo keeps America out of any engagement. It seems to me that is something that should have been done a long time ago. We have waited almost a year. A year ago August we had our last vote on this important issue. Mr. President, 58 out of 100 Senators voted to lift the embargo—Democrats and Republicans, bipartisan.

This is not an initiative by Senator DOLE or Senator LIEBERMAN, though we are working together. This is an initiative of the U.S. Senate, in a bipartisan way, to address a very serious problem.

The President has made two promises. One, to commit 25,000 American forces, if, in fact, there is a peace settlement, to keep the peace. More recently, commit 25,000 Americans to extricate members of the U.N. protection forces in case of withdrawal.

I am advised by the Bosnian Foreign Minister today that only 30 U.N. protection force members are in occupied Serb territory today. And he asked the question, why would it take 25,000 Americans to extricate 30 members of the U.N. protection forces? He says very clearly that there will be no interference on the part of Muslims with any withdrawal of U.N. protection forces.

No question about it, this matter is very, very important. It is very serious, as Secretary of State Christopher told Members today at noon. It has been serious if you are the ones doing the dying—or even the killing. But one side has done nearly all the dying, and one side has done nearly all the killing.

Those doing the dying do not have tanks or heavy weapons or artillery to defend themselves. They have rifles. In many cases they surrendered their heavy weapons because they were told they would be safe in these safe havens. So they surrendered their heavy weapons, their only means to defend themselves, and notified, in the case of Zepa, Medjedja, Gorazde, that the safe havens—that Lady Thatcher points out in the letter were never safe—and now they are falling to Serb assault.

This debate will begin, if not today, hopefully tomorrow. I hope we will have broad bipartisan support, unanimous support. I know the Secretary of State told Members at the Democratic policy lunch today that timing is everything, "This is a terrible time to bring up this resolution."

We have been told that at every turn. It is always a bad time. We thought, ourselves, it was a bad time to bring up the resolution, when you had U.N. Protection Forces chained to poles and held as hostages so there would be no more air strikes, and used as human shields. So we deferred consideration of the resolution. And we have waited and waited and waited, hoping something good might happen. But nothing good has happened.

Again, the Foreign Minister of Bosnia, who will be here, I guess, for several days, and has met with a number of Senators in both parties, indicates clearly that the U.N. Protection Forces should go.

So I hope in the next 24 hours we will be able to move to the resolution. I hope my colleagues on this side will listen carefully to many on this side who are cosponsoring this resolution, and colleagues on the other side will listen carefully to Senator LIEBERMAN and others who will be leading the effort. The point I wish to make is this is not a partisan effort. It is not an effort aimed at President Clinton. I complained—or criticized the Bosnian policy during the Bush administration. So it is not something that we have discovered because we now have a Democrat in the White House.

So for 30 months, many of us originally supported Candidate Clinton, who said we ought to lift the arms embargo

and have air strikes. We supported him. I remember meeting in the White House in 1993, in the spring, and we were talking about lifting the arms embargo. Most of us there supported the President's desire at that time to lift the arms embargo.

Then, for some reason—it has never been fully understood by this Senator—it just sort of went off the radar screen. Bosnia was forgotten. It is as though the President never said anything about Bosnia, never said anything about lifting the arms embargo. Then we were told a year ago, in April, if we would just wait—and there was a resolution offered by the then Democratic leader, Senator MITCHELL, and Senator NUNN, that they would go to the United Nations and make a plea that the British and the French also lift the arms embargo. That was one way to stall any action on the other resolution.

The trouble is, they had never gone to the United Nations and asked for that, asked that the embargo be lifted. So we are back. We believe it is critical. We believe it is crucial. If anybody has any doubts, watch the television tonight, read the paper in the morning.

Again, to make it very clear to some who always feel it is going to Americanize the war, we have already Americanized the war. Scott O'Grady is an American, last time I checked. And he was shot down because we had not been notified that there were SAM sites in the area.

So American pilots are part of NATO. Lifting the arms embargo, removing the U.N. Protection Forces—and I commend the bravery and courage of all those who are engaged in the U.N. Protection Forces. But the problem is, they cannot protect themselves and they cannot protect the safe havens and they act as a buffer for the aggressors, the Serbs. Whether they intend it or not, they have been, in effect, an ally of the aggressors. And many of us do not believe that was ever intended.

Again, let me make a distinction between the Serb people and Milosevic and Karadzic and some of the others who are dedicated to ethnic cleansing, murder, butchery—whatever it takes to eliminate Bosnian Moslems. I know the Serb people are just as tired of the fighting, and the mothers are just as tired of sending their sons to face possible death, as anybody on the other side.

So we are going to be on the Bosnian resolution. I hope, on the matter of timing, it seems to me the best thing that could happen for this administration is for the Senate to pass with a big, big vote, our resolution. That would give the President and the Secretary of State or whomever they designate to negotiate with the British and the French and others a great deal of leverage. Because at that point they could say, "The Senate has acted. The House has acted. It is time to go. It is time to go."

Then we would turn the fighting over to the parties who are directly involved. Give the Bosnians a chance. They are a member of the United Nations. They are an independent nation. They have lost—70 percent of their land has been taken; 70 percent. And we are saying, "Oh, wait. Wait. We want to wait a while." Will we wait until 80 percent is taken?

All they want is a right they believe they are entitled to, which we believe in this country is an inherent right, the right of self defense. They would hope for the same as a nation, the right of self defense as a nation.

In my view, they are entitled to that right. I think most of us agree they are entitled to that right. Take a look at the casualty figures. Who has been doing the dying? Who has been doing the killing? Who has been involved in that? I must say, in some cases it is probably hard to differentiate, because there has been a lot of treachery and tragedy on all sides. But for the most part, there is no question about who the aggressors have been. I just believe it is time for us to stand up.

This is a moral issue, one that should have been addressed a long time ago. It can be addressed without committing American forces. All we need to do is say we are going to lift the arms embargo and as an independent nation you are going to have a right to defend yourself—which does not seem to me to be a very difficult decision. We are not going to defend them. If we lift the embargo, it is not we defending them. If we lift the embargo, you defend yourself.

So I hope my colleagues will be prepared for debate on this very important issue, and that we can take final action before the week is out.

Mr. President, I yield the floor.

The PRESIDING OFFICER (Mr. ABRAHAM). The Senator from Wisconsin.

THE BOSNIAN SITUATION

Mr. FEINGOLD. Mr. President, I will take just a moment to comment on the leader's remarks. I believe that the leader's remarks are totally appropriate with regard to the Bosnian situation, and I feel that this should not be a partisan issue. This is a moral issue that appeals to a strong feeling throughout the country, I think, that something has happened here in Bosnia that goes against the very nature of the way we believe countries should be treated.

In my view, what the majority leader has said about the right to self defense is the key to this issue. There are a number of arguments that are going to come up that this will Americanize the war, to lift the arms embargo; that it is better to do it multilaterally versus unilaterally. But that all is to the side of the central issue, which the majority leader has pointed out, and that is: How in the world can we say that a country cannot defend itself? What would give us that right?

A terrible mistake was made in putting an arms embargo in a situation where one side had all the armaments and the other side was very poorly armed. I think we have to do everything we can to have a debate that does not make this a partisan issue. And to reiterate what the majority leader has said, all the arguments that are made have been made time and time again to justify delaying lifting the arms embargo. But he correctly points out that there is never a good time. No matter what we do to try to lift the arms embargo, there is some excuse why it is not the right time to do it.

I say this as a person who, in his first month or two as a U.S. Senator, offered the first resolution I ever offered in this body to lift the arms embargo on the Bosnian Moslems. That was 2½ years ago.

The situation in Bosnia today would be very, very different had we lifted the arms embargo at that time. I have appreciated the fact that we have had, on many occasions, a good bipartisan effort to try to lift this arms embargo. If I can pick one issue since I have been here that really has not been partisan and should not be partisan, it would be this very issue.

So I look forward to the debate when this comes up. Nothing could be more urgent. I hope very much that we have an overwhelming vote in favor of the proposal, as at least described by the leader in his remarks.

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. ASHCROFT. 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. ASHCROFT. Mr. President, I ask unanimous consent that I may speak for as long as I need to speak on the proposal for urban regulatory relief zones in morning business.

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

URBAN REGULATORY RELIEF ZONES

Mr. ASHCROFT. Mr. President, one of the main challenges, which we face as a society, that relates to the regulatory climate in America is the condition of our urban centers.

Today, many of our cities have become hopeless arenas of decay and despair. They are places where industry used to flourish, places where productivity used to take place. But the fact

is that the number of enterprises in cities is plummeting. Just in the last 20 years, you can note that the number of businesses which inhabit our urban centers has gone down dramatically.

St. Louis, MO, has had a 32-percent decline in the number of businesses, from 3,497 businesses in 1972 to 2,386 businesses in 1992. Detroit, MI, for example, went from 6,945 businesses in 1972 to 3,448 businesses in 1992—a 50-percent decrease. So we see that one of our problems is that not only have cities become a difficult place for individuals, they have become a difficult place for businesses and industry.

As a matter of fact, it is important for us to understand, Mr. President, that this is a problem which is related to the notion that people who do not have jobs are at peril. The entirety of our regulatory framework is designed to deal with the well-being of individuals, to promote their health, their safety, and, hopefully, to extend their longevity, so that people live longer, so that they have an opportunity for a quality existence.

But the truth of the matter is at the very core of our urban societies. We have the biggest challenges that relate to health. We have the biggest challenges that relate to longevity, and the biggest challenges that relate to personal security.

America's urban areas suffer a murder every 22 minutes, a robbery every 49 seconds, an aggravated assault every 30 seconds. In a survey of the parents of first- and second-graders in Washington, DC, 31 percent of those said that they worried a lot about their children being involved in violence; almost 40 percent of the low-income urban parents worried about their children being shot. That is a quality of life issue. Thirty-one percent of the first and second graders in Washington, DC, reported witnessing shootings. One out of every three children had witnessed a shooting, and 39 percent said they had seen dead bodies. These are first and second graders.

We have a major challenge that relates to the security, the safety, and the health and well-being of our citizens in our urban centers. One out of every 24 black males in America will have his life ended by homicide. Our urban centers are so hopeless and filled with despair, and opportunity is so absent, that we find that the challenge is the challenge to stay alive. There is a death sentence for 1 out of every 24 black males.

The New England Journal of Medicine stated that a young black man living in Harlem is less likely to live to the age of 40 than a young man living in Bangladesh, which is perhaps the poorest of all of the nations on the face of the Earth. These things are startling. These things bother us. The pathologies of urban America are very challenging.

What is really stunning is the fact that the absence of work opportunity at the very heart of America's cities has been a big part of this condition. Youngsters in our urban settings are known to drop out at much higher rates than in other settings. Why? Some say it is because those youngsters in our schools do not see work opportunities, they do not see the promise or hope of doing something worthwhile with their lives upon graduation. Why persist in school if there will be nothing for you to do when you graduate? It is in that setting that we need to take a careful look at the way in which regulation has had an impact on what happens in our urban settings.

I became sensitized to this, Mr. President, when I was spending a lot of time with the people last year. I would work in a variety of settings in my campaign for the U.S. Senate. Across the State of Missouri, both in Kansas City and St. Louis, I encountered businesses that wanted to expand but could not. They wanted to grow and they wanted to offer more employment and they wanted to build the arena of opportunities. But they could not do it because of regulations—regulations that throttled them.

Just yesterday, I spoke about Anpaul Windows, a company whose employees—over half of them—were minorities. They were doing very well and the company needed to expand, but they had to leave the oppressive regulatory environment of the urban center for the green fields of suburbia because there were no contaminants in the green fields of suburbia. You could build a new factory there, and everything was in accordance with the way the factories were supposed to be, and you did not have to worry about the historic old buildings, or the prohibition about whether or not you could make a 8-foot door or a 10-foot door because of the historic designation of the factory.

What happened was the Anpaul Window Co. left the city of St. Louis, which left the city that much emptier. They are doing well. It is in Washington, MO, not Washington, DC. But it is 50 or 60 miles away from the people who need the jobs the most. They went to a new green field, but they did so because the regulatory framework really militates against jobs, industry, and development in the heart of our cities. All of those old factories and all of those old plants do not comply with all the new regulations. Lots of times, there is just a little narrowness in the door, or maybe a taint of some substance in the flooring. And the EPA comes in and says, well, grind over the floor and see if you can get the taint out, and if it does not come off, there may not be something that can be done to change it.

So what we have effectively done with our regulatory framework has been to impose the tremendous cost upon the citizens of our cities. It is a cost that not only they have to pay—higher costs for goods because our things are manufactured in plants that comply with regulations—it is an opportunity cost, because the city centers do not have the opportunities for employment. They do not have the opportunities for industrial development. Those individuals do not share in the opportunities of our culture. They are not worried so much about the lead poisoning from paint, they are worried about the lead poisoning from a .38. These are real challenges that we ought to face.

Let me tell you about the printing concern in Kansas City. The president has a publishing business which has grown over the past few years; it now employs 85 people. While business is doing well, the president wants to expand the business, but there is a problem. He could expand into more parts of the building in the downtown area, in the urban center. He wanted to move into different parts of the building, but regulations prevent such expansion. The printing company has no environmental problems. But the landlord of the building where the business is located has had a problem with trace elements of PCB's in the floor material in parts of the building. Tests have shown there are no elements of PCB's in the air. They are somehow in the material of the floor of the building.

Now, the president would probably like to expand to these other floors of the building if he could be assured that there would be no liability. As it now stands, the EPA may condemn the whole building altogether. It would cost the company about $500,000 to move and to take all these jobs out of the city. And it looks like that is what they are going to have to do. The landlord has spent over $250,000 so far in legal fees, and another $100,000 trying to grind down the floors to see if he could get through all the PCB's. I suppose he probably released more PCB's into the atmosphere than could have ever happened otherwise.

The EPA, in other parts of the country, has allowed for a covering of the floor to take care of situations like this. But the EPA cannot seem to make a decision in this Kansas City concern. Here we stand to lose 85 downtown urban center jobs—the price of regulation—saying we cannot allow you to expand in this building for technical reasons that are not uniformly applied across the country.

I repeat, there have been situations where these kinds of things have been taken care of. But as it now stands, EPA's inaction has again stalled the economic progress and job growth where it was most sorely needed. If this situation is not resolved, ultimately the printing company will have to move out of the city altogether. I just

want to say that these are real people. These are real situations.

We have children dying in drive-by shootings, we have individuals who cannot get jobs, we have despair, bad health, we have the lack of security, the lack of safety that comes with a hollow core of the inner cities of America, in part because we have had a regulatory red line around the inner cities, which have basically said you cannot develop in here because this stuff is old. These buildings were used in previous settings where we did not have the environmental requirements that we have now, and because they were used in those previous settings, they are full of liabilities for business. They are full of liabilities for industry. They are full of liabilities for producers.

As a result, if you want to be an industry, you want to be in business, you want to be a producer, you cannot be here, but have to go to suburbia, in the green fields, and we find ourselves hollowing out our cities. We find young people in despair turning to all kinds of things.

Under the guise of regulations that would abate noise, for instance, we get the noise of crack cocaine. We hear the slam of the slammer door. We hear the shot of the pistol. We hear the wail of the family in the wake of the ambulance that carries away the individual who has been wounded or killed.

It is time to recognize that this economics redlining of the inner city that results from hyperregulation is costing us our ability to deliver jobs.

Make no mistake about it, make no mistake about it, we all want to have a healthier environment. But you cannot tell somebody who has a 1 in 25 chance of being shot as an unemployed person on the street in one of the urban cores, you cannot tell someone that you are keeping the jobs out of there because there is a 1 in 1 million chance they might have some respiratory problem as a result of some kind of atmospheric nonattainment.

We have to weigh the real impacts of what we are seeing happen here. The real impact of regulations in many urban centers is a redlining against developments, a redlining against industry. It is a redlining against opportunity.

When we take development opportunities and industry out of the communities, we have joblessness, lawlessness, hopelessness. Those are conditions that are far greater threats to the safety, security and general well-being of the population than many of the things we have sought to regulate.

What is the answer? How can we address this problem? What is it that we ought to do? I am suggesting in the Urban Regulatory Relief Zone Act that we should allow mayors of urban areas to convene economic development commissions that could make application for the waiver of specific Federal regulations when those regulations preclude jobs and development, when they preclude opportunities, when they result in the hopelessness, despair, and danger in the inner city, when they really result in a lower standard of longevity, a lower standard of health, a lower standard of safety, a lower standard of security.

When the impact of regulation has an inverse consequence—instead of promoting health, security and safety, it results in the absence of jobs and opportunities in the core of our inner cities and destroys the potential for health, security and safety—the economic development commissions of these areas ought simply to be able to make application to the Federal agencies and say to those Federal agencies, we ask for a waiver, because the imposition of the requirement in our community has the anomalous effect, has the opposite effect, of what it should have. It is causing our children to be shot. It is causing our children to drop out of school when they see no opportunity. We need to waive some of these regulations when the waiver would, in fact, elevate the health, the safety, and the employment opportunities, when the waiver would help people live longer and more productive lives than the imposition.

So the Urban Regulatory Relief Zone Act which I have proposed would simply be a way of saying it is time to make good on what our intention is. If our intention in regulation is to improve the health, safety, security, and general well-being of individuals in our urban centers where the impact of regulation has frequently been the opposite, we need to say "Let's give those urban centers the chance, through economic development commissions, to make application to have those regulatory provisions waived."

I think we all understand that we do not want to have the potential for the waiver of regulatory protections just willy-nilly. If regulations are decent or good or important, we do not want to waive them lightly.

I think it is important to note if you had those kind of economic development commissions that the law provides for, and you have the kind of public notice that the law provides for, that the people who represent the affected population would only submit such applications for waiver when they were convinced that as a result of the waiver there would be an elevation of the life expectancy, an elevation of the health and safety, an elevation of the security, the quality of life of the individuals.

Finally, this application, which under the proposed enactment would go to the Office of Management and Budget and then be referred to the various agencies, would be finally acted on by the agency. If the agency concluded, in spite of the application, that there was a substantial danger to the health and safety of the occupants, it could persist in denying relief. It could say no to the waiver. It would give authority for the EPA or other areas of regulation to say, "The impact of our regulation in that community is hurting people, not helping. The impact of our regulation is shortening people's lives. It is decreasing their health, not expanding their health. It is causing hopelessness and despair. It is causing young people to drop out of school because they see no opportunity." Yes, we ought to, in this circumstance, waive these technical requirements and, as a result, bring real benefit to the citizens of that particular area.

I believe this is a real opportunity. We have discriminated dramatically against urban residents with regulation. Regulations, invariably, are designed to make things that were done in the past illegal, to make things that happened in a previous way of doing business inappropriate.

We regulate to say you cannot do things that way anymore. There are some good reasons for that. But the institutions that worked on these things in the past are in the midst of our great cities. We have basically said you cannot work there anymore. We are reaping the harvest. We are reaping the harvest because 40 percent of all adult men in our distressed inner cities did not work in a year that was studied recently, while a significant number worked only sporadically or part time.

Today, half of all the residents of the distressed neighborhoods in our big cities live below the federally defined poverty threshold. In 1993, that was $14,763 for a family of four. The reason for that is, in part, we have said to businesses, we have a regulatory framework that really provides incentives for you to get out of here, for you to go to that green field in suburbia, go to a new place, leave the city alone.

We provided incentives. We have not done it purposely. We have not done it knowingly. But we have provided real incentives for people to leave the urban centers of America. And, when we leave them empty we leave the people there empty. We leave them in peril. We leave them in distress. We leave them in despair. And ultimately we leave some of them in a situation from which they can never escape.

There are those who say, "Well, you don't want to have a standard for safety or an environment that is lower in the city than it is in some other area. There has to be environmental justice." I believe in environmental justice. I believe everyone should have an equal chance at the good life that we want to enjoy. But I believe that when our requirements are shortening the lives of individuals instead of extending them, when our requirements are pulling the rug out from under the

health of our population, we ought to think carefully about whether or not they are having the right effect.

I do not have the studies in my hand right now, but I think virtually all of us in this Chamber understand that when we have looked at health statistics people who are employed tend to be healthier than people who are unemployed, and people who are employed tend to be safer than people who are unemployed. There is very little that is more dangerous in an employment setting in this country than there is to be standing unemployed on the street corners of some of our urban centers.

I believe we ought to look hard at the way in which regulation has drawn a red line around the core of America's cities, the way regulation has basically said, "Do not invest here. Do not produce here. Do not do business here. You cannot get a job here." I think we ought to say to ourselves, let us allow these cities to make an evaluation. When they come to a conclusion that the general well-being of the people—when they come to the conclusion that the health and safety of the inner-city residents—would be benefited by a waiver, let us let them apply. And let us give the agency the authority to grant that waiver application, so we can bring jobs and opportunity and hope back to the center of our cities.

I believe one of the next items which we will be moving toward in the debate here in the U.S. Senate will be an item which is referred to as welfare reform. We desperately need welfare reform. But, frankly, as much as we need welfare reform we need opportunity for individuals, because we are going to ask people to go to work and we are going to expect them to go to work. But how can we ask people in our inner cities to go to work, how can we expect them to go to work, if we continue to develop a regulatory framework which redlines the inner city and says there cannot be jobs here, there cannot be opportunity here?

Mr. President, I believe it is time for us to grant relief to the urban centers, to give them a level playing field, to give them a chance to attract business and industry that is consistent with the health and safety, the longevity, and the security of the residents of that area. Our regulatory framework has not served them well.

They have paid the higher prices that we have all talked about in the last few weeks, talking about regulation here in this Chamber. But they have also paid a tremendously higher price than just the increased cost of goods that come from regulation. They have paid the price of joblessness and they have paid the price of hopelessness. They have paid the price of looking into the eyes of their young people who have no ambition because they cannot see an opportunity in their neighborhood. That is a substantially greater price than the $600 billion a year that it is estimated that regulation costs us in America. Oh, yes, they have paid their share of the $600 billion. But the opportunity costs—in the very heart of American urban centers has been a tremendous opportunity cost, and it is one which we can ill-afford to ignore.

So I rise this evening in the midst of the debate on regulatory reform to say we must recognize the unique circumstances of American cities. We must give these neighborhoods at the core of America, the mature cities of America, the opportunity to have relief when, as a matter of fact, the imposition of regulations now achieves a purpose absolutely contrary to the purpose for which the law was enacted which provided for regulations. It shortens lives, impairs safety, ruins health, and destroys opportunity.

It is time for the Urban Regulatory Relief Zone Act, and I hope we have an opportunity to include that in our dealings with regulatory relief during our deliberations this week.

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

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

ORDER OF PROCEDURE

Mr. DOLE. Mr. President, for about the last couple of hours, 2½ hours, a number of our colleagues on both sides of the aisle have been negotiating on S. 343, the regulatory reform bill. Those negotiations are still underway. So as not to waste time, I have suggested to the distinguished Democratic leader, Senator DASCHLE, that we now proceed to consideration of S. 21, which is the Bosnian resolution, and I am hopeful we can reach that agreement and then we would continue on S. 21 and hopefully finish it tomorrow. That would give the Members who are in the negotiations on S. 343 all day tomorrow to see if they can come to some agreement on three or four important issues.

I also have asked consent that, if they reach an agreement, that I can come back to S. 343 and maybe reach some agreement on completion of that bill or complete that measure. So as soon as I hear from the Democratic leader I can advise my colleagues on the schedule for the balance of the evening.

If we cannot get the agreement, then we will come back on S. 343. There are a number of amendments that can be offered tonight, including the pending amendment by the Senator from Missouri. Senator ASHCROFT has an amendment pending. So if we cannot reach an agreement, we will come back on S. 343 tonight and the Senator's amendment will be the pending amendment, as I understand it.

There are other amendments that can be offered tonight on S. 343, so I am not at liberty to say whether or not there will be votes. But we will advise our colleagues as soon as we can.

I suggest the absence of a quorum.

The PRESIDING OFFICER (Mr. GORTON). The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

UNANIMOUS-CONSENT AGREEMENT

Mr. LOTT. Mr. President, there has been extensive consultation between the distinguished majority leader and the Democratic leader, and we do have a unanimous-consent request to propound.

I ask unanimous consent that the pending bill, S. 343, be temporarily laid aside; that the Foreign Relations Committee be discharged from further consideration of S. 21; and that the Senate turn to its immediate consideration.

The PRESIDING OFFICER. Is there objection?

Mr. DASCHLE. Mr. President, I reserve the right to object, and it is certainly not my intention to object. Let me make one observation and note a couple of concerns, as we propound the second part of this request.

The observation is this: those who are engaged in trying to work through the remaining differences on the regulation reform bill reported to me just moments ago that real progress has been made this afternoon. I think that we have been able to report progress from time to time.

I think in all sincerity, some effort has been made on both sides to continue to narrow the differences, and we made significant progress over the course of the last several hours. The time that has been spent since about 3 o'clock this afternoon has been well spent.

As it relates to this resolution, I think the recommendation made by the majority leader and the majority whip is a good one. I think laying the bill aside will accommodate the negotiations, and I think that it is safe to assume that we are going to continue to make progress over the course of the next couple of days. We certainly do not relegate any rights to continue to object to closure on the legislation, should we find that progress has not been sufficient. But I think we need to recognize that, indeed, efforts are being made on both sides to try to accommodate the concerns. It is in that context

that we want to allow that process to continue.

Mr. LOTT. Mr. President, we certainly appreciate the comments of the distinguished Democratic leader.

I further ask unanimous consent then that the Senate resume S. 343 after the disposition of S. 21, as amended, if amended, and no call for the regular order serve to displace S. 21, except one made by the majority leader after notification of the minority leader, and if a call for the regular order is made, there be 1 hour for debate to be equally divided in the usual form to be followed by the third cloture vote on the Dole-Johnston substitute, and the mandatory quorum under rule XXII be waived.

The PRESIDING OFFICER. The Democratic leader.

Mr. DASCHLE. Mr. President, again, reserving the right to object, now I simply want to state the two concerns I mentioned a moment ago. First, we have an understanding that over the course of tomorrow morning and early afternoon that there be no votes on amendments or on the resolution itself. A number of Senators have been invited down to the White House to discuss this matter. I think it would be very helpful if that discussion can take place prior to the time we are called upon to make any decisions.

Second, should we find the need to come back to S. 21, it would be very helpful if we had plenty of notice. The majority leader and the majority whip have both indicated that, indeed, it would be their desire to give us plenty of notice.

So it is with those two understandings that we have no objection and encourage Senators to comply with this unanimous-consent agreement and get on with the debate relating to the Dole resolution.

The PRESIDING OFFICER. Is the entire request proposed?

Mr. LOTT. It has been propounded, and if the Chair would like to go ahead and do the ruling, I have one further comment I would like to make.

The PRESIDING OFFICER. Is there objection to the entire unanimous-consent request?

Mr. FEINGOLD. Mr. President, reserving the right to object. I suggest the absence of a quorum.

The PRESIDING OFFICER. The Senator from Mississippi has the floor. Does he yield for the purpose of——

Mr. LOTT. First, I was not aware that the Senator had a problem that he wanted to discuss with the minority leader. While that is being done, I would like to respond to a couple of points that the minority leader made.

First, as is always the custom, the majority leader would certainly give notice to the other side, to the minority leader, before any votes would occur. That is always done. Certainly, they would give them the usual courtesy that would be expected in that regard.

Second, I know, also, that the majority leader—while I have not discussed it with him—would want to honor any request for consideration of a meeting that might be occurring on this particular matter with the administration. So I know that the minority leader has already been assured of that. I would like to reconfirm that.

Also, I would like to note, before the Chair rules, that I have been notified that we do not expect any more recorded votes tonight. The majority leader has sent that word. We had discussed that earlier with him and with the minority leader. So the Members should be on notice that there will be no more recorded votes tonight.

I have no further requests. I thank the minority leader for his indulgence. I would like to see if we can get a ruling on the unanimous-consent request.

Mr. FEINGOLD. Mr. President, I object.

The PRESIDING OFFICER. Objection is heard.

Mr. LOTT. Mr. President, I want to notify the membership that if this agreement cannot be reached, it would be the intent of the leader to go on with the pending legislation, and then we could expect additional recorded votes tonight. I will be glad to yield to the minority leader.

Mr. DASCHLE. Mr. President, I was not aware of the concern of the distinguished Senator from Wisconsin with regard to the regulatory reform bill. We have an hour prior to the time we would go to the third cloture motion under this unanimous consent agreement. He would like to be protected to offer a nongermane amendment relating to a sense-of-the-Senate resolution prior to that time. I think if we could accommodate the Senator from Wisconsin, perhaps we could accommodate this unanimous-consent agreement.

Mr. LOTT. Mr. President, in view of this development and seeing the Senator from North Carolina seeking recognition, while some further discussion takes place, I will withhold that unanimous consent request for now and yield the floor.

Mr. HELMS addressed the Chair.

The PRESIDING OFFICER. The Senator from North Carolina is recognized.

THE ARMS EMBARGO AGAINST BOSNIA

Mr. HELMS. Mr. President, my reaction to this agreement which may soon be entered into is: At long last. On the first day that the Senate this year accepted bills and resolutions to be introduced, this resolution was introduced by the distinguished majority leader with some of the rest of us as cosponsors. The Foreign Relations Committee, of which I am chairman, has not acted on this resolution, at the specific request of the majority leader and others. But I am delighted that finally we are confronting the questions that have been raised about the delay in the resolution.

In short, Mr. President, it is high time for the Senate to acknowledge what is already perfectly clear to any objective observer: The U.N. peacekeeping effort in Bosnia is an abject failure.

The Bosnian Serbs have certainly known this for a long time, as has the beleaguered Bosnian Muslim government. Yet, the United Nations persists in a policy that, at best, has given the appearance of action while, in fact, allowing the slow-motion genocide of Bosnian Muslims.

Lest the President of the United States need reminding, along with the leaders of our European allies, Bosnia was recognized as an independent nation 3 years ago. Commensurate with that status is the explicit right of self-defense. For 3 years, the Bosnian Serbs have pursued an aggressive campaign, aided and abetted by the Government of Serbia. Irrefutable evidence, such as the integrated air defense of these two brutal forces, demonstrates that this is truly a war of aggression being waged by Serbia. How any democratic government can continue to justify the arms embargo against Bosnia on either moral or legal grounds escapes me. It absolutely escapes me.

So-called safe areas are being overrun, U.N. peacekeepers have been taken hostage, humanitarian assistance convoys are either blocked or being looted by Bosnian Serb fighters, and Sarajevo airport has been closed for 3 months. Despite this deteriorating situation, the U.S. Government persists in supporting the illusion of peacekeeping—as if there is any peace to keep in that part of the world. Most recently, President Clinton has stated his intention to spend an additional $95 million on the U.N. so-called rapid reaction force in order to perpetuate this failed policy. Under the current rules of engagement, that force will do nothing to confront Serb aggression.

Mr. President, it would be an exaggeration to suggest that the situation in Bosnia is at a diplomatic standstill. It is moving backward. It appears that the closest the Western Powers can get to a negotiated solution is to reward the Serbian dictator who started this entire war by easing the sanctions against his country. Even this effort—which is an embarrassment to the United States—has fallen short.

So in recognition of this failure, and as chairman of the Senate Foreign Relations Committee, I declare that it is time for us to take a step which should have happened 3 years ago. We must approve this legislation to lift the arms embargo against the Bosnians and allow those people to defend themselves.

I thank the Chair and I yield the floor.

The PRESIDING OFFICER. Who seeks recognition?

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

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

UNANIMOUS-CONSENT AGREEMENT

Mr. LOTT. Mr. President, I will repeat my earlier unanimous consent request. I understand that we need to start this whole routine over again. I am going to have two unanimous-consent requests.

First, I ask unanimous consent that the pending bill, S. 343, be temporarily laid aside and the Foreign Relations Committee be discharged from further consideration of S. 21, and the Senate turn to its immediate consideration.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

Mr. LOTT. Mr. President, I further ask that the Senate resume S. 343 after the disposition of S. 21, as amended, if amended, and no call for the regular order serve to displace S. 21, except one made by the majority leader, after notification of the minority leader—and he can be assured that he would get proper notification on that—and if a call for the regular order is made, there be 1 hour for debate, to be equally divided in the usual form, to be followed by the third cloture vote on the Dole-Johnston substitute, and the mandatory quorum under rule XXII be waived.

The PRESIDING OFFICER (Mr. SANTORUM). Is there objection?

Without objection, it is so ordered.

Mr. DASCHLE. Mr. President, I do not want to confuse the matter any more, so I waited until after the unanimous consent request was proffered.

Let me make sure my colleagues are clear as to what the circumstances are now. I have had the opportunity to consult with the distinguished Senator from Wisconsin. It is my intention to protect his right to offer a sense-of-the-Senate resolution either before cloture or after cloture, if a cloture motion is required; or if no cloture motion is required, we will negotiate with the majority to ensure that the distinguished Senator from Wisconsin has an opportunity to raise the issue that he hopes to address through this sense-of-the-Senate resolution. I appreciate his cooperation in this regard, and as a result, we are now able to go forward.

I think this is a good solution to the matter, and I appreciate everyone's consideration and cooperation.

Mr. LOTT. Mr. President, I want to reiterate, in view of the unanimous consent agreement that we did reach, that was the last issue of the day in terms of recorded votes. There will be no recorded votes until tomorrow when an agreement is reached on when the next vote will be scheduled. There will be no further recorded votes tonight.

I yield the floor.

BOSNIA AND HERZEGOVINA SELF-DEFENSE ACT

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

A bill (S. 21) to terminate the United States arms embargo applicable to the government of Bosnia and Herzegovina.

The Senate proceeded to consider the bill.

Mr. FEINGOLD. Mr. President, let me take this opportunity to thank the Senator from Mississippi and the Democratic leader for their help on resolving the issue.

I did not want to offer the sense-of-the-Senate resolution during the core of the debate on the substance of the bill. I do think it is relevant to this bill. I want to thank them for their cooperation.

Mr. LOTT. 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. GORTON. 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. GORTON. Mr. President, I should like to take this occasion to speak strongly in favor of S. 21, the majority leader's resolution on Bosnia.

Mr. President, we have now, for more than 3 years, watched—and I use that word advisedly "watched"—the ongoing tragedy of Bosnia. The aggressions, the rapes, the cold-blooded murders, the ethnic cleansing, which has accompanied the dismemberment of a nation, recognized as a nation, and a member of the United Nations.

We have an administration which has constantly threatened action, and every bit as constantly walked away from that action when its bluff was called.

We have a U.N. protective force which has protected no one but the aggressors. A force dispatched to Bosnia to provide some kind of safety for the victims of aggression has shown itself unable to do so time after time and place after place. Whether around Sarajevo, whether in the isolated areas of refuge, whether in the northwest part of the country—its fate has been the same.

Its fate has either been to protect the Bosnian Serb aggressors against any kind of military action on the part of the United Nations, no matter how modest and ineffective by its very presence and by the ease with which the Bosnian Serbs can take the U.N. personnel as hostage; or alternatively, as was the case just 10 days ago, as an entity which disarmed the defenders of these enclaves and then provided absolutely no defense or support for essentially unarmed victims who now, themselves, are the latest example of the victims of the Serbs' ethnic cleansing.

Mr. President, the former President of the United States, George Bush, was wrong in enforcing an arms embargo against the Bosnians. President Clinton has repeated that and has been wrong to enforce that arms embargo against the Bosnians.

As recently as lunch time today, the caucuses of both parties listened to the same tired presentation from the Secretary of State, and in this case from the Chairman of the Joint Chiefs of Staff, that we have heard for this entire 3 years. That somehow or another to do something, change our policy, to allow those who wish to defend themselves to do so, would lead to some even worse disaster, the taking of more hostages among the U.N. forces, to more deaths and ethnic displacement on the part of the Bosnians.

Yet, the use of this excuse, Mr. President, has resulted in 3 years of violence and displacement and ethnic cleansing and an end to the belief of the United Nations to act effectively in connection with a catastrophe of this sort, and undercutting of the ability of NATO, and most significantly, a lack of belief in the United States of America.

Mr. President, it is simply time to end that bankrupt policy. The proposal that the majority leader has brought to the Senate ends the embargo on one of two conditions: a decision by the United Nations or by the countries supplying troops to the United Nations in Bosnia to withdraw; or a request from the legal Government of Bosnia that the United States lift the arms embargo and a notification to the U.N. Security Council that it has requested that those forces leave.

Mr. President, that is putting the ultimate fate of the Republic of Bosnia squarely in the hands of its own elected Government, which is exactly where it should be. There is a very real possibility that if the troops of that Government can obtain arms even remotely equivalent to those possessed by the aggressors, that they can defend their independence and recover some of the country wrongfully lost to them. And it is way past time, way past time that we allow that decision to be made by the people who have been the victims of this aggression for 3 long years.

The U.N. protective force is not protecting anyone, including itself. It should be gone. Our arms embargo punishes no one except for the victims of

aggression. It is simply time that it be brought to a close. The partial and midlevel threats that are being made by this administration will risk the loss of American lives but will not, under any circumstances, change the situation on the ground. What could be more clear, Mr. President, than the proposition that we should not risk the lives of our own men and women in uniform unless their goal is important to the United States and has some definite and worthy policy to be defended?

Nothing that we have heard from the administration about its plans meets those simple tests. If we are willing to do nothing to end this aggression ourselves, we at least should no longer be complicit to its continued success. We should be willing to allow the victims to defend themselves. We should end the arms embargo. We should encourage the present forces from the United Nations to leave. We should arm the Bosnians. And I am convinced, under those circumstances, their chances of regaining the semblance of a country and reaching a peace through some kind of strength will be greatly enhanced.

There is no perfect solution to this catastrophe. But the solution of allowing the victims to defend themselves, to fight for their own freedom, is the least bad of all the solutions before us. And I am profoundly convinced it is the only moral answer to this question.

I yield the floor.

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

Mr. DOLE. Mr. President, I thank the Senator from Washington for his statement and for his support.

Mr. President, I am pleased to be joined by the distinguished Senator from Connecticut, Senator LIEBERMAN, and a long list of bipartisan cosponsors as we again try to lift the illegal and unjust arms embargo on Bosnia and Herzegovina. The legislation we are bringing up today is a modified version of the bill we introduced in January of this year. S. 21 is the number. This bill lifts the United States arms embargo after the withdrawal of United Nations troops from Bosnia and Herzegovina.

Before we start to discuss this legislation I want to make clear: This debate is not just about Bosnia. This is not just about a small European country under attack. This debate is about American leadership and American principles, about NATO strength and credibility, about our place in history.

It was just about a year ago that the Senate last voted to lift the arms embargo on Bosnia. That vote was 58–42. However, in conference a compromise was worked out by the distinguished Senator from Georgia, Senator NUNN, and the administration's representative Chuck Redman. It urged the President to introduce a resolution to lift the arms embargo in the U.N. Security Council if the Bosnian Serbs did not sign the July 1994 contact group plan by October 15. The compromise language also provided that if the Serbs did not sign the plan by November 15, the United States would cease enforcing the arms embargo. Finally, the compromise urged that in the event of Bosnian Serb attacks on U.N. safe areas, the President introduce and support a resolution in the Security Council to provide the Bosnians with defensive weapons to defend these areas.

Now it is a year later. The Bosnian Serbs have still not signed the July 1994 contact group peace plan; the administration has still not taken up a resolution in the U.N. Security Council to lift the arms embargo; and the Bosnian Serbs are about to run over another U.N. safe haven—the second in 2 weeks.

Mr. President, the administration argued last year that lifting the arms embargo would lead to the fall of the three safe havens in the east. The first of these three enclaves has fallen under U.N. watch—with NATO planes overhead. Today NATO planes are buzzing above Zepa, which is about to fall.

Mr. President, all this has occurred in the absence of lifting the arms embargo. Indeed, it has occurred because the arms embargo is preventing the only people willing to fight to defend the Bosnian people from being able to do so—and that is the Bosnians themselves; not the U.N. forces, but the Bosnian Government Forces—Moslems, Croats, and Serbs are willing to die to defend their families, their homes, and their multi-ethnic country.

Last year the administration also made the argument that lifting the arms embargo immediately would endanger allied forces. In this modified Dole-Lieberman legislation we are not lifting the United States embargo until after those countries contributing to UNPROFOR who want to leave, have left.

The administration has also claimed that lifting the embargo would Americanize the war. This is the most difficult argument to understand. The Clinton administration has pledged 25,000 American troops for Bosnia if there is peace. The Clinton administration has pledged 25,000 American troops for Bosnia if there is withdrawal. And the Clinton administration is considering escalating the American involvement for transport and close air support of UNPROFOR forces. Let us not forget, and American Air Force pilot, Scott O'Grady, was recently shot down. In light of such commitments, it is hard to take administration arguments over Americanization seriously. As the Prime Minister of Bosnia said, lifting the arms embargo will not Americanize the war, it will Bosnianize the war—by putting the future of Bosnia back in Bosnian hands, where it should have been for the last couple of years or more.

A more recent concern raised by some is that the withdrawal may take more than 12 weeks. In that regard, this legislation includes a renewable Presidential waiver providing for an additional 30 days should additional time be necessary for the safety and successful completion of the withdrawal operation.

As I mentioned earlier, each time the Senate has taken up this legislation we have been told by the administration that this is not the right time. We have waited. The Bosnians have waited—and they have died.

The bottom line is that the approach pursued by the administration, like that of the Bush administration, is a total failure. The question is whether or not we will continue to contribute U.S. dollars, prestige, and credibility to this catastrophe or change course.

Mr. President, there are no perfect options. There are no easy answers. We now know what has not worked—relying on the U.N. forces to protect the Bosnians. It seems to me that we owe it to the Bosnians and our own American principles of justice and fairness to let the Bosnians defend themselves, and I believe the American people understand this and will support it.

Let me make it clear, as I attempted to do earlier today, we are not talking about more American involvement. We are not talking about American ground troops. We are talking about lifting the arms embargo—maybe helping to train Bosnians, maybe helping to supply weapons, but that could be done in safe areas. And if they secure Russian weapons, which they are already familiar with, there will be very little training necessary.

Also keep in mind that in many cases the Bosnians surrendered the only heavy weapons they had because they were going to be in safe havens. As I suggested, one of the safe havens has been overrun, and another about to be overrun, and the third, Gorazde, is in peril.

I also want to make it clear, because I think there is always a tendency for some to say: Oh, this is politics, this is BOB DOLE, Republican, because we have a Democratic President, the record will reflect that during the Bush administration I think the same two Senators raised this question. We were critical of the Bush administration. I remember talking to Ambassador Zimmerman time after time. I remember calling him and discussing it with him when he was in Yugoslavia, because we were told then that if we did not do something—and I am not talking again about military force; I am talking about sending a word of caution to Mr. Milosevic, the leader of the Serbs, the President of Serbia—this is precisely what would happen.

So this is not a Dole resolution. This is not a Lieberman resolution. This is an action by the Senate, Republicans

and Democrats, such as the two of us, Mr. HELMS, Mr. THURMOND, Mr. BIDEN, Mr. D'AMATO, Mr. MCCAIN, Mr. FEINGOLD, Mr. WARNER, Mr. HATCH, Mr. KYL, Mr. MOYNIHAN, Mr. STEVENS, Mr. COCHRAN, Mrs. HUTCHISON, Mr. MACK, Mr. COVERDELL, Mr. PACKWOOD, Mr. MURKOWSKI, Mr. SPECTER, and others, so there is strong, broad bipartisan support.

It is not a conservative matter. It is not a liberal matter. It is a moral issue of whether we will again in this century witness ethnic cleansing, genocide, call it what you will, and do nothing. In this case, all we need to do, as we were reminded again by the Bosnian Foreign Minister today, is to lift the arms embargo. As he said, "We are willing to die for our country." They are not asking us to do that, not asking anybody else to do that. And I know the British do not want to lift the arms embargo. I know President Chirac, the new French President, has other ideas. The British and French cannot seem to get together.

I know the Secretary of State told the Democrat policy luncheon today this is not the time, timing is terrible. Well, that is always the case. It is never the time. It seems to me just the opposite. This is a perfect time. It would seem to me the administration would want us to pass this resolution. It has to go to conference, has to be worked out. It is going to take quite a while—10 days, 30 days, who knows—before it comes back and before it becomes law. And then the President could tell the French and the British that the options are fewer and fewer as far as America is concerned and our involvement is concerned.

So I really hope that we can complete action on this resolution tomorrow. I know the White House will want to try to dissuade some from voting for the resolution. That is certainly a right they have. But I would also suggest this is precisely the very same action the President advocated when he first came to the White House—even before he came to the White House—lift the arms embargo. He also was supporting air strikes.

So it is not that we have figured out some way to be on the other side of President Clinton and have brought this issue to the floor to embarrass the President. We are precisely where the President was before he was elected President, as a candidate, and where he was after he was elected. And I recall a meeting in the White House in the spring of 1993 where Democrats and Republicans came together and we talked about lifting the arms embargo and air strikes.

That has been a long, long time. I do not know how many thousands of people have suffered, how many thousands have died, how many murdered and raped, how many children have gone without food because we did nothing. And then we said, well, this is a European problem; let the Europeans handle it. And then we had the U.N. Protection Forces.

Again, I commend the courage and bravery of every one of those young men, and maybe women in some cases, from all the different countries who are there as U.N. Protection Forces. They are there with good intent. Unfortunately, their good intent has turned into in effect being a buffer for the Serbs. Now the U.N. Protection Forces have found they cannot protect themselves, and they cannot protect the people in the safe havens, and they cannot protect the refugees. In fact, if you watched television the other night, they had a barbed wire entanglement separating the U.N. forces from the refugees so they would not come together.

It seems to me that it is pretty clear. My own view is the British do not want to be humiliated by withdrawing. I have talked to John Major in his office. He is very persuasive. Somehow he believes if we just continue to stay there, this is going to end. And with a new French President, he is being a bit more aggressive. He thinks they ought to do something. So now he wants us to become involved with helicopter gunships and other ways we transport French and other U.N. Protection Forces into the area.

In my view, that would be a mistake, but that may be debated. There may be an amendment to do that before we complete action on the bill.

Finally, it just seems to me it is the right thing to do. It was a year ago. It was before that. The House passed this—not the same legislation—by a vote of 318 to 99, over 3 to 1. I hope we have at least 70 votes or more in the Senate; bipartisan votes, nonpartisan, whatever you like.

I believe we have made progress because we have been cautious. We have respected the timing, and we have delayed from time to time to see if they could not complete negotiation, they could not reach some agreement. But I believe now is the time for us to proceed and to send a signal to the Serbs and, yes, to the British, to the French, but more particularly the Bosnians, that somebody in America, in this case the Senate and the House of Representatives, understands their concerns, and we are willing to support their request that an independent nation, a member of the United Nations, has the right of self-defense as spelled out in article 51 of the U.N. Charter.

That is all this is about. It is not complicated. You can raise all the horror stories. You can give us all the scenarios that might happen. We were told by the foreign minister today there will be no effort by the Moslems to stop the U.N. Protection Forces from leaving. We were also told that there are only 30 U.N. personnel in Serb occupied areas, so it should not take 25,000 American troops to help extricate members of the U.N. Protection Forces.

So as we begin the debate, I again commend my colleagues. I hope that the distinguished Senator from Rhode Island, who I know maybe supports us in his heart, would find it in his heart to support us all the way because he is a very important Member of this body, and I know he feels, as some, maybe he has some reservations, but this is, as he certainly knows, not a partisan effort on behalf of the majority leader in this instance.

AMENDMENT NO. 1801

Mr. DOLE. Mr. President, I send the amendment to the desk in the nature of a substitute.

The PRESIDING OFFICER. The clerk will report the amendment.

The assistant legislative clerk read as follows:

The Senator from Kansas [Mr. DOLE], for himself, Mr. HELMS, Mr. THURMOND, Mr. BIDEN, Mr. D'AMATO, Mr. MCCAIN, Mr. FEINGOLD, Mr. WARNER, Mr. HATCH, Mr. KYL, Mr. MOYNIHAN, Mr. STEVENS, Mr. COCHRAN, Mrs. HUTCHISON, Mr. MACK, Mr. COVERDELL, Mr. PACKWOOD, Mr. MURKOWSKI, and Mr. SPECTER, proposes an amendment numbered 1801.

Mr. DOLE. 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:

Strike all after the enacting clause and insert the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the "Bosnia and Herzegovina Self-Defense Act of 1995".

SEC. 2. FINDINGS.

The Congress makes the following findings:

(1) For the reasons stated in section 520 of the Foreign Relations Authorization Act, Fiscal Years 1994 and 1995 (Public Law 103-236), the Congress has found that continued application of an international arms embargo to the Government of Bosnia and Herzegovina contravenes that Government's inherent right of individual or collective self-defense under Article 51 of the United National Charter and therefore is inconsistent with international law.

(2) The United States has not formally sought multilateral support for terminating the arms embargo against Bosnia and Herzegovina through a vote on a United Nations Security Council resolution since the enactment of section 1404 of the National Defense Authorization Act for Fiscal Year 1995 (Public Law 103-337).

(3) The United Nations Security Council has not taken measures necessary to maintain international peace and security in Bosnia and Herzegovina since the aggression against that country began in April 1992.

SEC. 3. STATEMENT OF SUPPORT.

The Congress supports the efforts of the Government of the Republic of Bosnia and Herzegovina—

(1) to defend its people and the territory of the Republic;

(2) to preserve the sovereignty, independence, and territorial integrity of the Republic; and

(3) to bring about a peaceful, just, fair, viable, and sustainable settlement of the conflict in Bosnia and Herzegovina.

SEC. 4. TERMINATION OF ARMS EMBARGO.

(a) TERMINATION.—The President shall terminate the United States arms embargo of the Government of Bosnia and Herzegovina, as provided in subsection (b), following—

(1) receipt by the United States Government of a request from the Government of Bosnia and Herzegovina for termination of the United States arms embargo and submission by the Government of Bosnia and Herzegovina, in exercise of its sovereign rights as a nation, of a request to the United Nations Security Council for the departure of UNPROFOR from Bosnia and Herzegovina; or

(2) a decision by the United Nations Security Council, or decisions by countries contributing forces to UNPROFOR, to withdraw UNPROFOR from Bosnia and Herzegovina.

(b) IMPLEMENTATION OF TERMINATION.—The President may implement termination of the United States arms embargo of the Government of Bosnia and Herzegovina pursuant to subsection (a) prior to the date of completion of the withdrawal of UNPROFOR personnel from Bosnia and Herzegovina, but shall, subject to subsection (c), implement termination of the embargo pursuant to that subsection no later than the earlier of—

(1) the date of completion of the withdrawal of UNPROFOR personnel from Bosnia and Herzegovina; or

(2) the date which is 12 weeks after the date of submission by the Government of Bosnia and Herzegovina of a request to the United Nations Security Council for the departure of UNPROFOR from Bosnia and Herzegovina.

(c) PRESIDENTIAL WAIVER AUTHORITY.—If the President determines and reports in advance to Congress that the safety, security, and successful completion of the withdrawal of UNPROFOR personnel from Bosnia and Herzegovina in accordance with subsection (b)(2) requires more time than the period provided for in that subsection, the President may extend the time period available under subsection (b)(2) for implementing termination of the United States arms embargo of the Government of Bosnia and Herzegovina for a period of up to 30 days. The authority in this subsection may be exercised to extend the time period available under subsection (b)(2) for more than one 30-day period.

(d) PRESIDENTIAL REPORTS.—Within 7 days of the commencement of the withdrawal of UNPROFOR from Bosnia and Herzegovina, and every 14 days thereafter, the President shall report in writing to the President pro tempore of the Senate and the Speaker of the House of Representatives on the status and estimated date of completion of the withdrawal operation. If any such report includes an estimated date of completion of the withdrawal which is later than 12 weeks after commencement of the withdrawal operation, the report shall include the operational reasons which prevent the completion of the withdrawal within 12 weeks of commencement.

(e) RULE OF CONSTRUCTION.—Nothing in this section shall be interpreted as authorization for deployment of United States forces in the territory of Bosnia and Herzegovina for any purpose, including training, support, or delivery of military equipment.

(f) DEFINITIONS.—As used in this section—

(1) the term "United States arms embargo of the Government of Bosnia and Herzegovina" means the application to the Government of Bosnia and Herzegovina of—

(A) the policy adopted July 10, 1991, and published in the Federal Register of July 19, 1991 (58 FR 33322) under the heading "Suspension of Munitions Export Licenses to Yugoslavia"; and

(B) any similar policy being applied by the United States Government as of the date of completion of withdrawal of UNPROFOR personnel from Bosnia and Herzegovina, pursuant to which approval is denied for transfers of defense articles and defense services to the former Yugoslavia; and

(2) the term "completion of the withdrawal of UNPROFOR personnel from Bosnia and Herzegovina" means the departure from the territory of Bosnia and Herzegovina of substantially all personnel participating in UNPROFOR and substantially all other personnel assisting in their withdrawal, within a reasonable period of time, without regard to whether the withdrawal was initiated pursuant to a request by the Government of Bosnia and Herzegovina, a decision by the United Nations Security Council, or decisions by countries contributing forces to UNPROFOR, but the term does not include such personnel as may remain in Bosnia and Herzegovina pursuant to an agreement between the Government of Bosnia and Herzegovina and the government of any country providing such personnel.

PRIVILEGE OF THE FLOOR

Mr. DOLE. Mr. President, I also ask unanimous consent that a legislative fellow in my office, Mr. Ronald A. Marks, be allowed on the Senate floor for the duration of the Senate action on S. 21, the Bosnia and Herzegovina Self-Defense Act of 1995.

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

I yield the floor.

Mr. PELL addressed the Chair.

The PRESIDING OFFICER. The Senator from Rhode Island.

Mr. PELL. Mr. President, I thank the majority leader for his kind words.

Mr. President, once again, the Senate is debating legislation to lift the arms embargo against Bosnia-Herzegovina. Since the Senate first took up this issue in January 1994, I have voted against every attempt to force the United States to lift the embargo unilaterally. I must say that I now find this would be an extremely difficult vote to cast.

The fall of a U.N. protected safe haven—and the impending fall of a second—is a dreadful human tragedy. The terrible images of tens of thousands of Moslem refugees fleeing Serb aggression make us want to find a quick and easy solution to the crisis, but I am afraid there are no easy answers. A Senate vote to lift the arms embargo unilaterally may seem cost-free, but I believe there are serious downsides that could actually make the situation worse.

The legislation before us says that the lifting of the embargo shall occur after UNPROFOR personnel have withdrawn or 12 weeks after the Bosnian Government asks U.N. troops to leave, whichever comes first. We should be honest about what we are debating here. This bill, if passed, will actually trigger a U.N. withdrawal from Bosnia. I would remind my colleagues that the United States has committed to helping our allies withdraw from Bosnia as part of a NATO effort. So, in essence, by passing this bill, we are precipitating the commitment of up to 25,000 United States troops to Bosnia to help with that withdrawal.

It is indeed time for our President, along with our U.N. and NATO allies to consider the future of the United Nations in Bosnia. They know that if the United Nations were to pull out altogether, many areas of Bosnia which are now stable and well supplied due to the U.N. presence would likely face a humanitarian disaster. This is particularly true in central Bosnia where the U.N. presence has fostered a peaceful federation between the Bosnian Croats and Moslems, who until February 1994, had been engaged in a fierce war. The President and our NATO allies must balance that potential catastrophe against the current tragedy which has led many to call for a complete U.N. pullout.

As we speak, the administration and our allies are grappling with that difficult issue. General Shalikashvili met with his counterparts in London regarding this matter this past weekend; British Foreign Secretary Malcolm Rifkind is in Washington today to discuss this issue; and later this week, Secretary Christopher and Secretary Perry will travel to London for negotiations with their European counterparts.

Clearly, I would have hoped we would wait to know the results of these important meetings and await our President's recommendation on the future of UNPROFOR and the role of the United States before embarking on this debate. I believe that Europe bears the brunt of the burden for dealing with the Bosnia crisis. Indeed the Europeans acknowledge this fact and are contributing the bulk of the troops to the U.N. effort. We have no troops on the ground, and that is as it should be. The U.S. Senate, therefore should not take unilateral action that would actually precipitate a U.N. withdrawal. In the end, a decision may have to be made to withdraw U.N. troops, but I do not believe the Senate should make that decision.

I would add that the Bosnian Government, if it wished, could ask the United Nations to leave at any time. But it has not done so. Yet this bill would put the U.S. Senate on record as endorsing, indeed hastening a withdrawal.

A unilateral lifting of the arms embargo after U.N. troops are withdrawn will inevitably be perceived as the beginning of a United States decision to go it alone in Bosnia. It is naive to think we can unilaterally lift the arms embargo, and then walk away. We instead would assume responsibility for Bosnia not only in terms of our moral obligation, but in practical terms as well. If we lift the embargo, who will

supply the weapons? How will weapons be delivered? Who will train the Bosnians in using the weapons? The proponents of this bill will argue that it places no obligations on the United States, but everyone knows the Bosnian Government will look to us.

Lifting the embargo without international support would increase American responsibility for the outcome of the conflict. Delivering weapons to Bosnia would likely require sending in United States personnel. Granted, this legislation states that nothing should be construed as authorizing the deployment of United States forces to Bosnia-Herzegovina for any purpose. But I want to emphasize that this would be a U.S. decision to dismantle the embargo. I do not see how we can lift the embargo on our own without sending in the personnel and without providing the wherewithal to carry out the policy.

A unilateral lifting of the embargo—be it now or after U.N. troops are withdrawn—would put the United States in the position of abrogating a U.N. Security Council resolution, and in essence, breaking international law. The embargo is in place as a result of a binding U.N. Security Council resolution and can only be abrogated by a subsequent U.N. Security Council action. A unilateral lifting of the arms embargo would set a dangerous precedent. Other countries could choose to ignore Security Council resolutions that we consider important—such as the embargo against Iraq and sanctions against Libya and Serbia.

In April, the Washington Post reported that Iran was engaging in embargo-busting by supplying plane loads of weapons and military supplies to Bosnian Government forces. If the United States were to lift the embargo unilaterally, we would joint Iran in embargo busting. I would ask my colleagues: Do you want to be in that company? Is Iran a responsible player in the international community?

The answer, of course, is no. If the United States were to break the embargo on its own, we would destroy our credibility as a trustworthy leader in international affairs. A unilateral lifting of the arms embargo would undoubtedly strain our relations with our NATO allies and undermine our standing in other international negotiations completely unrelated to the Bosnian tragedy.

After U.N. troops are safely withdrawn, lifting the embargo multilaterally may indeed be the best course of action. If and when UNPROFOR does withdraw, I believe we should make sure we know where our allies stand on lifting the embargo. Whether or not to lift the embargo should be a multilateral decision. We should not go it alone.

I acknowledge that I see merit in some of the arguments of the amendment's proponents. This is a difficult problem that cuts across partisan lines and that slices to the heart of issues related to U.S. influence and power abroad. We all want to do something in response to the terrible pictures of the old people being wheeled out of eastern Bosnia in wheelbarrows or the frightful sight of the 20-year-old Bosnian hanging from a tree. I am just not convinced, however that voting for this bill will alleviate that suffering. Indeed, I am afraid that we might make matters worse.

We are, as public servants, called upon to exercise our best judgment on this very difficult issue and this is what I intend to do.

I yield the floor.

Mr. LIEBERMAN addressed the Chair.

The PRESIDING OFFICER. The Senator from Connecticut.

Mr. LIEBERMAN. Mr. President, I thank the chair.

Mr. President, first I would like to request unanimous consent that Frederic S. Baron, a Pearson Fellow in my office, be permitted floor privileges for the duration of the debate on S. 21?

The PRESIDING OFFICER. Without objection, so ordered.

Mr. LIEBERMAN. I thank the Chair.

Mr. President, I am honored to join with the distinguished majority leader, the Senator from Kansas [Mr. DOLE], and many others in both parties in introducing this substitute, S. 21.

I do want to indicate at the outset, though, this has been a frustrating path that we have walked together. It has been an honor to walk it with Senator DOLE and to say that this is a path we have walked together in the interest of a strong policy in Bosnia and a fair policy, which is to say one that will arm the Bosnians who have been deprived of their right of self-defense by international action, in which we have participated. This effort, together with Senator DOLE and others, has been done, as he said a few moments ago, on a totally bipartisan, which is to say, nonpartisan, basis, which is the way in which American foreign policy has been at its finest hours.

I specifically point out that Senator DOLE and I began this effort during the previous Republican administration of President Bush, expressing our frustration and opposition to the failure of leadership and the continued imposition of the arms embargo.

Mr. President, we have been here before. By my calculation, we have been here at least seven times before. Each time, excuses are given why this is the wrong time to lift the arms embargo against the Bosnian Government. Explanations are given about what the consequences might be, let alone why the whole idea of lifting the embargo is wrong.

We have continued to believe that the heart of any equitable policy in the former Yugoslavia is to allow both sides to be able to defend themselves. History divided the former Yugoslavia in such a way that only one side, namely, Serbia and its clients, its agents in Croatia and in Bosnia, were left with the warmaking capacity of the former Yugoslavia. Bosnia was left with nothing.

This denial of this fundamental right of self-defense, which each of us can feel in a personal sense, certainly, as we watch the horrors, the atrocities that have gone on once again in Bosnia in the last couple of weeks and see families divided—mothers separated from children, husbands from wives, see women taken off without explanation with God knows what being done to them, men being herded away, young men, men of military age being herded away. These are the human horrific results of this policy.

People have argued against the idea of raising the arms embargo each time we have brought it to this floor, arguing more against it than for an alternative policy. Today we come back, as Senator DOLE has said, not saying that this is the perfect policy, not saying that any policy in a complicated situation is perfect or guaranteed to succeed, but saying with clarity that the current policy has been a terrible failure, has brought suffering and pain and death to the people of Bosnia. But more than that, it has victimized, along with the people of Bosnia, the world's best hopes for order and morality—the United States, NATO, and the United Nations, each suffering significant, deep damage to our credibility, to our status, to our legitimacy in the world.

When the voices and institutions and nations of strength and authority fail to act or act with ambivalence in a way that sends a message of weakness and outlaws continue to be aggressors, then the results are obvious, and you do not have to be a Ph.D. in diplomacy to understand this. If outlaws are marauding in a city in our country and forces of law do not stop them, they will keep marauding until they reach each one of us. And that, in essence, I fear, is what has happened over the last 3 years of inaction by the world communities in Bosnia.

Mr. President, I have a point of view which I feel very strongly about what Bosnia was before this conflict and what has brought us to this point. I have spoken of it before on this floor, and I will just speak to it briefly today.

There are those who like to dismiss or diminish the conflict in the former Yugoslavia and, in some sense, thereby to wash our hands of any responsibility, remove us from any involvement on the basis of this allegation: "These people have been fighting for centuries." There is a hint here that these people are somehow slightly less than human. "They continue to fight; why should we get involved?"

There are two realities. One is that civilizations, cultural and religious, have met in the Balkans. That is the history over the centuries, and there have been conflicts. But the reality is that, in Bosnia particularly, a strong and healthy multiethnic culture and nationality developed.

Somebody said to me, in Sarajevo before this terrible war, it was thought to be offensive for one person to ask another in Sarajevo what their ethnic origin was: Are you a Moslem? Are you a Serb? Are you a Croat? No, they were Bosnians. This was a great, flourishing multiethnic culture.

Second, there is a clear course that I see as I look at the history of this region over the last 6 or 7 years, and that is of an intentional, concerted effort through aggression by Serbians operating out of Belgrade under the leadership of Slobodan Milosevic to create a greater Serbia.

Since 1988, beginning with the takeover of the political machinery in Montenegro and Vojvodina, the illegal suppression of the legal Government of Kosova, which has a large Albanian majority, suppressed, continuing to be victims of harassment and abuse and worse. That occurred in 1989.

Then the mobilization of nationalist feelings in Serbian public polls;

The slow-moving constitutional coup against the Federal Presidency;

The Serbian economic blockade against Croatia and Slovenia in late 1990;

The theft by Serbia that year of billions of dinars from the Federal budget, destroying the Federal economic reform program;

And then the incitement and arming by Serbia out of Belgrade of Serb minorities in Croatia and Bosnia during 1990 and 1991.

That is how we got to where we are. This is no accident. This is no continuation of centuries and centuries of constant fighting. This is a decision made in Belgrade by a leader and a group around him to incite nationalism, to destroy the multicultural, multiethnic society in Bosnia and to take advantage of the instability that existed after the cold war to create a greater Serbia.

What about the embargo that we are debating? Where did that come from? Mr. President, this is not, as some may think, an act of international law. It is an act of policy created and adopted by the Security Council of the United Nations.

The resolution introduced creating an arms embargo, No. 713, was considered by the Security Council at Belgrade's request. Why? Well, I believe it is obvious. Because the forces in Belgrade knew that they had the monopoly and the warmaking capacity, the arms factories, and the weapons that had already been constructed of the former Yugoslavia. Applying an arms embargo put their enemies, the targets of their aggression, at a profound disadvantage.

So at Belgrade's request, in September 1991, the United Nations Security Council adopted this arms embargo, later to be carried out by the member nations, including our own—in this case, by an Executive order issued by President Bush. The world satisfied itself that this was a means to limit the conflict in the former Yugoslavia by stopping the flow of arms. What innocence. What naivete.

In April 1992, Bosnia was recognized as a new state, independent and separate from Yugoslavia. And on May 22, 1992, it was admitted as a member state to the United Nations. Yet, still the embargo that had been applied on the former Yugoslavia, despite the glaring conflict between this application and Bosnia's right of self defense under international law, was applied to Bosnia. That is how we got on the road to where we are now.

In 1992, international television crews gained access to what I could only describe as concentration camps that were being operated by the Serbs, where they were herding Moslems into the camps. We witnessed the emaciated bodies, and we saw evidence of this incredible phrase—"ethnic cleansing." There were 200,000 killed in this war. A couple of million refugees. The world rolls up in horror at the sight of these figures in the concentration camps and the stories of systematic rape—rape as an instrument of war. Serbs were coming into towns not only clearing them out of the Moslems, but grabbing women and raping them, and taking men off to the camps, or slaughtering them on sight.

The world cried out for a response. The Western nations were not prepared to really stand up to the aggression. So what did we do? We sent in the United Nations—which was not good, ultimately, for the people of Bosnia, not good for the United Nations—presumably to perform a humanitarian role. But little by little, that mission crept, to enforce the denied flight zone, enforce and protect the safe havens, sending these brave soldiers wearing the blue helmets of the United Nations in to keep a peace that never was, and putting them into combat positions without the weapons with which to defend themselves.

I heard the other day—and I have not had a chance to check this, but I believe it—that more soldiers wearing U.N. uniforms have been killed in Bosnia than in the gulf war. They are heroes. We sent them effectively on a mission impossible. Several times, confronting the failure of this policy, the increasing way in which the U.N. troops began to be not only an excuse for Western inaction in the face of Serbian aggression, but began to be a cover for Serbian aggression within Bosnia. Every time we would come here in the early years in this effort to lift the embargo, people would say: You cannot do it. If we lift the embargo, the Serbs will seize the U.N. personnel as hostages.

Well, we have not lifted the embargo, and the Serbs have seized U.N. personnel as hostages, and the killing of the Moslems in Bosnia continues.

Mr. President, when we came to the floor January 27, 1994, we passed a sense-of-the-Senate resolution calling on the President to terminate the arms embargo. That measure passed 87 to 9. It was only a sense of the Senate. But the Senate spoke. The world sat idly by, the arms embargo was not lifted, and the people of Bosnia continued to be—using that dreadfully sanitized term—ethnically cleansed, which is to say ripped from their homes, raped, and murdered.

In May 1994, the Senate again considered, and this time passed, two measures. One was a measure that I cosponsored with Senator DOLE, requiring the United States to unilaterally terminate the arms embargo upon the request of the Bosnian Government. That passed 50 to 49. On that day—I suppose in a way that only the Senate of the United States could do—we also passed an amendment offered by Senator NUNN and the previous majority leader, Senator MITCHELL, requiring the President to solicit a multilateral lift of the embargo and to consult with Congress if that did not occur. Again, the Senate spoke. The world sat idly by, the arms embargo was not lifted, and the people of Bosnia were ethnically cleansed, ripped from their homes, raped, and murdered.

Again, in July and August 1994, the Senate addressed the issue of lifting the arms embargo, voted and passed measures calling for its termination. This time the votes rose. The last of these votes was 58 to 42, passing an amendment offered by Senator DOLE and myself to the defense appropriations bill, which called for the lifting of the embargo no later than November 15, 1994. On each of those occasions, the Senate spoke. The world sat idly by, the arms embargo was not lifted, and the people of Bosnia were ethnically cleansed, ripped from their homes, raped, and murdered.

Here we are. It is July 1995. One of the other arguments that was made to us in these many debates I have just described is that if we lifted the arms embargo, the Serbs would seize the safe havens, particularly in the east of Bosnia. Well, we have not lifted the arms embargo and, as we know, the Serbs have seized the safe havens—at a dreadful human cost for the Bosnians.

Srebrenica has fallen. Zepa is under siege now. Failure of our policy could not be clearer. It is time, finally, to act. Again, as in 1992 when the concentration camps were discovered, the

world is aroused by these painful sights of human suffering from Bosnia. This is the moment for us, finally, to act—to act against aggression, against immorality, to give the people of this country—the victims—the weapons with which to defend themselves.

Mr. President, the Bosnians have been the greatest victims of the current policy that the West has followed for the last 3½ years, a policy of irresoluteness, at best, a policy of weakness, at worst.

But the Bosnians are not the only victims. We have suffered, as well. When aggression is met by ambivalence, and aggression is met by no response—which has been the case throughout the war in Bosnia—ultimately, we are all going to suffer. We saw it happen just a short while ago directly to America, when Captain O'Grady's F-16 was shot down.

I have gone over this event in some detail with the folks at the Pentagon just to make clear that I understood exactly what happened. Here is what I have learned. We know that the Serbs in Bosnia were able to pick up the F-16 flying over Bosnia on an integrated radar air defense system that has installations in Bosnia, controlled by the Bosnian Serbs, but goes back to Belgrade and Serbia, as well. But what is most infuriating about this is that it is clear to those who are in a position to know that when the Serbian air defense system sighted Captain O'Grady's F-16, they knew it was an American F-16. This may not be known to those who are not involved, and Members of the Chamber, and those who may be watching this debate, but this is a sophisticated air defense system which can look at this plane and determine that it is an American F-16. And not just that. It was able to determine—the Serbs on the ground—that this F-16 was not flying an aggressive flight mission. It was not out to drop weapons, bombs, on Serbian targets, as has happened all too infrequently in this conflict. But that this plane was on a nonaggressive patrol mission, part of Operation Deny Flight, to keep Serb planes on the ground, not in the air.

Seeing it was an American plane, knowing it was on a nonaggressive mission, the Bosnian Serbs intentionally shot it down. It is only by the grace of God and by the depth of his own extraordinary courage that Captain O'Grady is alive today.

Understand the outrageous arrogance, the disrespect for law, the disrespect for the greatest power in the world, the United States, that they showed. These Bosnian Serbs shot down our plane.

What have they paid for that aggression? Nothing. What does that invite? It invites them to attack and overrun a safe haven. Meanwhile Bosnian Army weapons are being held in a U.N. compound. U.N. Dutch soldiers—courageous, effectively unarmed—light arms is all they had. Then the Serbs followed with atrocities against the civilian population.

So we have suffered. We have suffered in the United States. We will continue to suffer, as will the rule of law and the rule of morality, if we stand by and allow this aggression of the Serbs to go unresponded to. Mr. President, that is what this S. 21 proposal is all about.

In 1992, President Clinton supported a policy of lifting the arms embargo and striking from the air. In 1993, Secretary Christopher, in the spring of that year, May I believe, went to Europe to advocate this policy. Apparently, our allies and Britain and France argued against it. That was the end of it.

I honestly believe if we implemented that policy at that point and employed NATO air power, which we could have done against the Serbs with minimal risk to NATO and American personnel, this war would have been over and there would have been a reasonable peace that both sides could have accepted. That is history. It has not happened.

But now, though the hour is late in Bosnia and the situation ever more difficult and complicated, there is no opportunity to get the warring parties to the peace table, unless the Serbs pay some price for their aggression.

It seems to me that our last hope here, our last best hope, is to lift the arms embargo, give the Bosnians the weapons with which to defend themselves, their families, their country, and use NATO air power to strike at Serbian targets. I would not rule anything out.

Let the Serbs worry about where and when we will strike. In Bosnia against Serbian targets or in Serbia, which continues to arm, equip, and actually send Serbian regular soldiers into Bosnia alongside the Bosnian Serbs.

There is strong evidence that in the fall of Srebrenica there were special forces from the Serbian Army, the so-called Serbian Army fighting side by side with the Bosnian Serbs.

This is our last best hope, not just for the people of Bosnia who paid a terrible price, but for the rule of law and order in Europe and throughout the world.

It is the last best hope for NATO to show that in a situation that is complicated and yet where aggression is clear, it will act outside the context of the Soviet-American cold war conflict; that there is still meaning to NATO in this great alliance.

It is the last best hope for the United Nations to restore some measure of credibility to itself as an instrument of hope to victims of aggression and oppression throughout the world.

Mr. President, there will be an extended debate tomorrow, I am sure, on this amendment. I hope and pray that what we will have is the resounding bipartisan majority, the overwhelming majority that Senator DOLE referred to earlier.

Of itself, this is an event that occurs here on the floor of the Senate, far removed from the suffering on the ground in Bosnia, unable effectively to immediately, even it is passed overwhelmingly, bring assistance to the Bosnians, but it will bring them hope.

More than that, I hope that it will combine with what is happening on the ground, which is to say the failure of the U.N. mission, to either lead to a more aggressive use of air power by NATO, as Secretary Perry has spoken of, hopefully, encouragingly to me, in the last 3 or 4 days. If not, then the withdrawal of the U.N. forces, the arming of the Bosnians, and the continued use of NATO air power.

Mr. President, I thank the Chair for his patience. I yield the floor.

I suggest the absence of a quorum.

The PRESIDING OFFICER (Mr. FRIST). The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. SPECTER. 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. SPECTER. Mr. President, when we see a photograph of a young woman who has hanged herself in a forest in Bosnia, because she prefers death to the kind of violations which the Bosnian Serbs are inflicting on young women like herself who are Bosnian Moslems; and where we see confirmed reports where the Bosnian Serbs walk into safe havens and root out 11-year-old children who are males, and slit their throats and pile them in heaps; and when we see documents filed by the International Criminal Tribunal for the former Yugoslavia where the indictments read—horrifying prose—about torture and sexual mutilation, in which a prisoner is forced to "bite off the prisoner's testicle," resulting in his death; as horrible as these events are to recite, they are minuscule compared to the horror of what is going on in Bosnia today, and the acts of savagery, brutality, and atrocities being committed by the Bosnian Serbs on the Bosnian Moslems.

The words "ethnic cleansing" hardly begin to describe what is going on in that atrocious situation.

Meanwhile, the democracies of the world, the West, have permitted this atrocious situation to continue. I believe that the time has long passed when there has to be a change in United States policy on how we deal with Bosnia. The time has long passed when there has to be a change in NATO policy on how we deal with Bosnia. And the time has long passed when there has to be a change in U.N. policy, on how we deal with Bosnia.

I believe that the resolution offered tonight is a minimal step forward to

try to implement a new policy which is urgently required. It is a minimal step to lift the arms embargo, to let the Bosnian Moslems defend themselves, as they have every right to do under article 51 of the U.N. Charter.

Action by the Senate, by the Congress, by the Government of the United States—depending upon what happens here in the House, the President's reaction, the veto, a possible override or perhaps the impetus of a strong statement by the U.S. Senate—will cause a marked change in U.S. policy and what has to be U.S. leadership. There has been a vacuum in U.S. leadership and I think that is conceded on all sides. It is not a political matter. Republicans were critical of President Bush for the arms embargo. The Senator from Connecticut, Senator LIEBERMAN, has been critical of the President, of his own party. Senator KERREY, of Nebraska, who is vice chairman of the Senate Intelligence Committee, a committee which I chair, has been critical of his own President and is quoted, "The President's leadership has been awful. He campaigned criticizing President George Bush for not doing enough and implied that we were going to take the side of the Bosnian Moslems."

I ask unanimous consent that this newsclip be printed in the RECORD at the conclusion of my remarks.

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

(See exhibit 1.)

Mr. SPECTER. So we are not talking about a matter that is political. The reality is that our President is inexperienced and inattentive and indecisive and ineffective. It is time that leadership came from the United States Senate, as this body had to start the leadership to get the United States forces out of Somalia when we passed a resolution cutting off the funds, as we have the authority to do under our appropriations power.

I submit that leadership by the U.S. Senate may well have the effect of profoundly changing, not only U.S. policy but NATO policy and U.N. policy as well. U.N. peacekeepers have had a "Mission Impossible" in Bosnia, because there is no peace to keep. I submit the U.N. peacekeepers ought to be withdrawn. That is indispensable before the arms embargo is lifted, so that the UN peacekeepers are out of harm's way.

That would then put us in a position to have an option of massive bombing. There are arguments both ways, as to whether the bombing would be sufficient. There is a substantial basis for saying if the bombing were sufficiently intense and if the Bosnian Moslems were armed, that a balance of power could be restored there. We subjected Baghdad to relentless bombing during the gulf war, for months in advance of the invasion.

A question is raised as to whether there ought to be consideration to retaliating against the cities of the Bosnian Serbs. I am not prepared to answer that question. That issue has been raised, as to whether the doctrine of proportionality makes any sense when the only reaction to the attacks of the Bosnian Serbs is a proportional counterattack. That leaves them to call the shots at every turn, because, under the doctrine of proportionality, which has been adopted by the United Nations, the Bosnian Serbs are not at risk. And there is a real question as to whether that policy ought to be abandoned.

Then you have the dual key issue, where every decision has to be approved by the United Nations and NATO. There is very strong reason to believe that the decisions ought not to be made by the United Nations from their record up to the present time. You have the courageous leadership of the French President, Chirac, who says he is prepared to act and he is prepared to take some forceful steps. He asks for support from the United States, with helicopters, for some air cover. I am not sure whether that is a wise course, but that is a request which ought to be considered.

I am opposed to United States participation in a ground war in Bosnia. I do not think we should lend U.S. troops to any such effort. But in terms of air strikes, which are not entirely without risk as we know—one pilot, Captain O'Grady, was downed there—helicopters may or may not be committed. There are also risks involved. But it is something which ought to be considered.

I believe, Mr. President, if we have forceful leadership coming from the United States—and when I say "Mr. President," those who may be watching on C-SPAN2 should know that is our formal way of addressing the Presiding Officer of this body, not the President of the United States—but, if the Senate takes a forceful stand, that could have an impact on leading President Clinton to change his position and it may well be with leadership which comes out of the U.S. Senate that we will change the policy of President Clinton and together we can change the policy of NATO. We can change the policy of the United Nations. We can change the policy of France and Britain, if we undertake what French President Chirac has wanted to accomplish.

Mr. President, when we see the genocide and the atrocities that are going on in Bosnia, we really wonder about America's response in another era. I recall vividly my father recounting his experiences as an American doughboy in the American Expeditionary Force in France in World War I. My father came to this country from Russia to escape the czar's heel. He was not willing to go to Siberia to fight for the czar. But he was ready, willing, able, and really anxious to go to France to fight for America, as he put it, as I remember hearing him talk about it growing up, "to make the world safe for democracy." I know my brother and brother-in-law served in World War II against the scourge of the Nazis and the Japanese after the attack on Pearl Harbor. And I served stateside during the Korean war.

We have a different attitude today, Mr. President, in the United States, as to the extent we are willing to stand up for honor and for values and to stop the kind of atrocities which are going on in Bosnia. But I do believe that the entire policy of the Clinton administration needs reevaluation from top to bottom, and the resolution which is pending right now, to lift the arms embargo, is a step in the right direction. I hope that this will start a debate in the United States Senate so that we can consider the very serious questions which are in issue here, and we can consider the values of the United States, which we so proudly proclaim, and consider acting upon those values and supporting them when we see the kind of atrocities which are going on in Bosnia. And we know the values articulated by the NATO alliance, and we know the values articulated by the United Nations. And it is time we put some action behind those words.

The first step on the action is a step to unilaterally lift the arms embargo. If we move ahead with consultation—and it will take some time—and there is a real question as to whether there would be sufficient votes to pass the resolution and a greater question as to whether there would be sufficient votes to override a Presidential veto, perhaps we will find that we can change the policy of the United Nations and that we will end up acting in concert with France, Great Britain, and the other NATO powers.

But there is a very important issue, Mr. President, which we cannot duck any longer. I am glad to see the resolution offered because I think it is time we took a look at what is going on in Bosnia and look in the mirror to see how we feel about the kinds of values we articulate and the kinds of actions we are prepared to back up.

It is a matter which cries out for leadership. But it is a very difficult matter because of the obvious reluctance and reticence of anyone to see ground troops deployed in Bosnia or to see any casualties inflicted on American fighting men and women. But these are issues which need to be considered. And the American people need to know what is going on there so there can be a public reaction to the kinds of atrocities which are going on—where young women are hanging themselves rather than to be subjected to the atrocities of the Bosnian Serbs and lads taken out in great numbers and having their throats slit apparently so

that they will not grow into another generation to pose some theoretical problem for the Serbs; to have the ethnic cleansing, and to have an entire genocide of an entire people.

So I support the pending resolution.

EXHIBIT 1

KERREY CRITICIZES THE PRESIDENT

(By David C. Beeder)

WASHINGTON.—Sen. Bob Kerrey, D-Neb., accused President Clinton Tuesday of a lack of leadership in Bosnia's civil war.

"The president's leadership has been awful," Kerrey said in an interview. "He campaigned criticizing (President George) Bush for not doing enough and implied we were going to take the side of the Bosnian Muslims." Since then, Kerrey said, Clinton has been "sending a message that's pretty strong that the cavalry is coming up over the hill."

In a press conference later, Kerrey said Senate Majority Leader Bob Dole, R-Kan., "is closer to being right" with his plan to disregard a U.N. arms embargo that has handicapped the Bosnian government.

Kerrey said he could support such a plan if it required other countries' approval and if it first called for withdrawal of all U.N. peacekeepers.

At the same time, Kerrey said, the United States must be "careful not to respond emotionally to scenes of violence and atrocities" against one side or the other in the civil war, saying the conflict did not consist of "a single issue where the Muslims are right and the Serbs are wrong."

Kerrey's fellow Nebraska senator, Democrat J.J. Exon, urged caution in responding to events in Bosnia.

"With all the atrocities that are taking place over there, there is a tendency to come unglued," he said.

Exon said he was concerned about a request that the United States send helicopters into combat zones to deliver U.N. reinforcement troops.

"The more people they put in there the more difficult it will be to extricate them," Exon said, noting that Clinton has pledged to send U.S. ground troops to help if the U.N. decides it must withdraw from Bosnia.

Exon said he has always opposed sending U.S. ground troops.

MORNING BUSINESS

REPORT ON THE NATIONAL EMERGENCY WITH SERBIA AND MONTENEGRO—MESSAGE FROM THE PRESIDENT—PM 67

THE PRESIDING OFFICER laid before the Senate the following message from the President of the United States, together with an accompanying report; which was referred to the Committee on Banking, Housing, and Urban Affairs.

To the Congress of the United States:

On May 30, 1992, in Executive Order No. 12808, the President declared a national emergency to deal with the threat to the national security, foreign policy, and economy of the United States arising from actions and policies of the Governments of Serbia and Montenegro, acting under the name of the Socialist Federal Republic of Yugoslavia or the Federal Republic of Yugoslavia, in their involvement in and support for groups attempting to seize territory in Croatia and the Republic of Bosnia and Herzegovina by force and violence utilizing, in part, the forces of the so-called Yugoslav National Army (57 FR 23299, June 2, 1992). I expanded the national emergency in Executive Order No. 12934 of October 25, 1994, to address the actions and policies of the Bosnian Serb forces and the authorities in the territory of the Republic of Bosnia and Herzegovina that they control. The present report is submitted pursuant to 50 U.S.C. 1641(c) and 1703(c). It discusses Administration actions and expenses directly related to the exercise of powers and authorities conferred by the declaration of a national emergency in Executive Order No. 12808 and Executive Order No. 12934 and to expanded sanctions against the Federal Republic of Yugoslavia (Serbia and Montenegro) (the "FRY (S/M)") and the Bosnian Serbs contained in Executive Order No. 12810 of June 5, 1992 (57 FR 24347, June 9, 1992), Executive Order No. 12831 of January 15, 1993 (58 FR 5253, Jan. 21, 1993), Executive Order No. 12846 of April 25, 1993 (58 FR 25771, April 27, 1993), and Executive Order No. 12934 of October 25, 1994 (59 FR 54117, October 27, 1994).

1. Executive Order No. 12808 blocked all property and interests in property of the Governments of Serbia and Montenegro, or held in the name of the former Government of the Socialist Federal Republic of Yugoslavia or the Government of the Federal Republic of Yugoslavia, then or thereafter located in the United States or within the possession or control of U.S. persons, including their overseas branches.

Subsequently, Executive Order No. 12810 expanded U.S. actions to implement in the United States the United Nations sanctions against the FRY (S/M) adopted in United Nations Security Council ("UNSC") Resolution 757 of May 30, 1992. In addition to reaffirming the blocking of FRY (S/M) Government property, this order prohibited transactions with respect to the FRY (S/M) involving imports, exports, dealing in FRY-origin property, air and sea transportation, contract performance, funds transfers, activity promoting importation or exportation or dealings in property, and official sports, scientific, technical, or other cultural representation of, or sponsorship by, the FRY (S/M) in the United States.

Executive Order No. 12810 exempted from trade restrictions (1) transshipments through the FRY (S/M), and (2) activities related to the United Nations Protection Force ("UNPROFOR"), the Conference on Yugoslavia, or the European Community Monitor Mission.

On January 15, 1993, President Bush issued Executive Order No. 12831 to implement new sanctions contained in U.N. Security Council Resolution 787 of November 16, 1992. The order revoked the exemption for transshipments through the FRY (S/M) contained in Executive Order No. 12810, prohibited transactions within the United States or by a U.S. person relating to FRY (S/M) vessels and vessels in which a majority or controlling interest is held by a person or entity in, or operating from, the FRY (S/M), and stated that all such vessels shall be considered as vessels of the FRY (S/M), regardless of the flag under which they sail.

On April 25, 1993, I issued Executive Order No. 12846 to implement in the United States the sanctions adopted in UNSC Resolution 820 of April 17, 1993. That resolution called on the Bosnian Serbs to accept the Vance-Owen peace plan for the Republic of Bosnia and Herzegovina and, if they failed to do so by April 26, called on member states to take additional measures to tighten the embargo against the FRY (S/M) and Serbian controlled areas of the Republic of Bosnia and Herzegovina and the United Nations Protected Areas in Croatia. Effective April 26, 1993, the order blocked all property and interests in property of commercial, industrial, or public utility undertakings or entities organized or located in the FRY (S/M), including property and interests in property of entities (wherever organized or located) owned or controlled by such undertakings or entities, that are or thereafter come within the possession or control of U.S. persons.

On October 25, 1994, in view of UNSC Resolution 942 of September 23, 1994, I issued Executive Order No. 12934 in order to take additional steps with respect to the crisis in the former Yugoslavia. (59 FR 54117, October 27, 1994.) Executive Order No. 12934 expands the scope of the national emergency declared in Executive Order No. 12808 to address the unusual and extraordinary threat to the national security, foreign policy, and economy of the United States posed by the actions and policies of the Bosnian Serb forces and the authorities in the territory in the Republic of Bosnia and Herzegovina that they control, including their refusal to accept the proposed territorial settlement of the conflict in the Republic of Bosnia and Herzegovina.

The Executive order blocks all property and interests in property that are in the United States, that hereafter come within the United States, or that are or hereafter come within the possession or control of United States persons (including their overseas branches) of: (1) the Bosnian Serb military and paramilitary forces and the authorities in areas of the Republic of Bosnia and Herzegovina under the control of those forces; (2) any entity, including any commercial, industrial, or public utility undertaking, organized

or located in those areas of the Republic of Bosnia and Herzegovina under the control of Bosnian Serb forces; (3) any entity, wherever organized or located, which is owned or controlled directly or indirectly by any person in, or resident in, those areas of the Republic of Bosnia and Herzegovina under the control of Bosnian Serb forces; and (4) any person acting for or on behalf of any person within the scope of the above definitions.

The Executive order also prohibits the provision or exportation of services to those areas of the Republic of Bosnia and Herzegovina under the control of Bosnian Serb forces, or to any person for the purpose of any business carried on in those areas, either from the United States or by a U.S. person. The order also prohibits the entry of any U.S.-flagged vessel, other than a U.S. naval vessel, into the riverine ports of those areas of the Republic of Bosnia and Herzegovina under the control of Bosnia Serb forces. Finally, any transaction by any U.S. person that evades or avoids, or has the purpose of evading or avoiding, or attempts to violate any of the prohibitions set forth in the order is prohibited. Executive Order No. 12934 became effective at 11:59 p.m., e.d.t., on October 25, 1994.

2. The declaration of the national emergency on May 30, 1992, was made pursuant to the authority vested in the President by the Constitution and laws of the United States, including the International Emergency Economic Powers Act (50 U.S.C. 1701 et seq.), the National Emergencies Act (50 U.S.C. 1601 et seq.), and section 301 of title 3 of the United States Code. The emergency declaration was reported to the Congress on May 30, 1992, pursuant to section 204(b) of the International Emergency Economic Powers Act (50 U.S.C. 1703(b)) and the expansion of that National Emergency under the same authorities was reported to the Congress on October 25, 1994. The additional sanctions set forth in related Executive orders were imposed pursuant to the authority vested in the President by the Constitution and laws of the United States, including the statutes cited above, section 1114 of the Federal Aviation Act (49 U.S.C. App. 1514), and section 5 of the United Nations Participation Act (22 U.S.C. 287c).

3. There have been no amendments to the Federal Republic of Yugoslavia (Serbia and Montenegro) Sanctions Regulations (the "Regulations"), 31 C.F.R. Part 585, since the last report. The Treasury Department had previously published 853 names in the Federal Register on November 17, 1994 (59 FR 59460), as part of a comprehensive listing of all blocked persons and specially designated nationals ("SDNs") of the FRY (S/M). This list identified individuals and entities determined by the Department of the Treasury to be owned or controlled by or acting for or on behalf of the Government of the FRY (S/M), persons in the FRY (S/M), or entities located or organized in or controlled from the FRY (S/M). All prohibitions in the Regulations pertaining to the Government of the FRY (S/M) apply to the entities and individuals identified. U.S. persons, on notice of the status of such blocked persons and specially designated nationals, are prohibited from entering into transactions with them, or transactions in which they have an interest, unless otherwise exempted or authorized pursuant to the Regulations.

On February 22, 1995, pursuant to Executive Order 12934 and the Regulations, Treasury identified 85 individuals as leaders of the Bosnian Serb forces or civilian authorities in the territories in the Republic of Bosnia and Herzegovina that they control. Also on February 22, Treasury designated 19 individuals and 23 companies as SDNs of the FRY (S/M). These designations include FRY (S/M)-connected companies around the world that are being directed from Cyprus, two Cypriot-owned firms that have had a central role in helping establish and sustain sanctions-evading FRY (S/M) front companies in Cyprus, and the head of the FRY (S/M)'s Central Bank who is also the architect of the FRY (S/M) economic program.

Additionally, on March 13, 1995, Treasury named 32 firms and eight individuals that are part of the Karic Brothers' family network of companies as SDNs of the FRY (S/M). Their enterprises span the globe and are especially active in former East Bloc countries. These additions and amendments, published in the Federal Register on April 18, 1995 (60 FR 19448), bring the current total of Blocked Entities and SDNs of the FRY (S/M) to 938 and the total number of individuals identified as leaders of the Bosnian Serb military or paramilitary forces or civilian authorities in the territories in the Republic of Bosnia and Herzegovina that they control to 85. A copy of the notice is attached.

Treasury's blocking authority as applied to FRY (S/M) subsidiaries and vessels in the United States has been challenged in court. In *Milena Ship Management Company, Ltd.* v. *Newcomb*, 804 F Supp. 846, 855, and 859 (E.D.L.A. 1992) *aff'd*, 995 F.2d 620 (5th Cir. 1993), *cert.* denied, 114 S.Ct. 877 (1994), involving five ships owned or controlled by FRY (S/M) entities blocked in various U.S. ports, the blocking authority as applied to these vessels was upheld. In *IPT Company, Inc.* v. *United States Department of the Treasury*, No. 92 CIV 5542 (S.D.N.Y. 1994), the district court also upheld the blocking authority as applied to the property of a Yugoslav subsidiary located in the United States. The latter case is currently on appeal to the Second Circuit.

4. Over the past 6 months, the Departments of State and Treasury have worked closely with European Union (the "EU") member states and other U.N. member nations to coordinate implementation of the U.N. sanctions against the FRY (S/M). This has included visits by assessment teams formed under the auspices of the United States, the EU, and the Organization for Security and Cooperation in Europe (the "OSCE") to states bordering on Serbia and Montenegro; continued deployment of OSCE sanctions assistance missions ("SAMs") to Albania, Bulgaria, Croatia, the former Yugoslav Republic of Macedonia, Hungary, Romania, and Ukraine to assist in monitoring land and Danube River traffic; support for the International Conference on the Former Yugoslavia ("ICFY") monitoring missions along the Serbia-Montenegro-Bosnia border; bilateral contacts between the United States and other countries for the purpose of tightening financial and trade restrictions on the FRY (S/M); and ongoing multilateral meetings by financial sanctions enforcement authorities from various countries to coordinate enforcement efforts and to exchange technical information.

5. In accordance with licensing policy and the Regulations, FAC has exercised its authority to license certain specific transactions with respect to the FRY (S/M) that are consistent with U.S. foreign policy and the Security Council sanctions. During the reporting period, FAC has issued 109 specific licenses regarding transactions pertaining to the FRY (S/M) or assets it owns or controls, bringing the total as of April 25, 1995, to 930. Specific licenses have been issued (1) for payment to U.S. or third-country secured creditors, under certain narrowly-defined circumstances, for pre-embargo import and export transactions; (2) for legal representation or advice to the Government of the FRY (S/M) or FRY (S/M)—located or controlled entities; (3) for the liquidation or protection of tangible assets of subsidiaries of FRY (S/M)—located or controlled firms located in the U.S.; (4) for limited transactions related to FRY (S/M) diplomatic representation in Washington and New York; (S) for patent, trademark and copyright protection in the FRY (S/M) not involving payment to the FRY (S/M) Government; (6) for certain communications, news media, and travel-related transactions; (7) for the payment of crews' wages, vessel maintenance, and emergency supplies for FRY (S/M) controlled ships blocked in the United States; (8) for the removal from the FRY (S/M), or protection within the FRY (S/M), of certain property owned and controlled by U.S. entities; (9) to assist the United Nations in its relief operations and the activities of the U.N. Protection Force; and (10) for payment from funds outside the United States where a third country has licensed the transaction in accordance

with U.N. sanctions. Pursuant to U.S. regulations implementing UNSC Resolutions, specific licenses have also been issued to authorize exportation of food, medicine, and supplies intended for humanitarian purposes in the FRY (S/M).

During the past 6 months, FAC has continued to oversee the liquidation of tangible assets of the 15 U.S. subsidiaries of entities organized in the FRY (S/M). Subsequent to the issuance of Executive Order No. 12846, all operating licenses issued for these U.S.-located Serbian or Montenegrin subsidiaries or joint ventures were revoked, and the net proceeds of the liquidation of their assets placed in blocked accounts.

In order to reduce the drain on blocked assets caused by continuing to rent commercial space, FAC arranged to have the blocked personality, files, and records of the two Serbian banking institutions in New York moved to secure storage. The personality is being liquidated, with the net proceeds placed in blocked accounts.

Following the sale of the M/V Kapetan Martinovic in January 1995, five Yugoslav-owned vessels remain blocked in the United States. Approval of the UNSC's Serbian sanctions Committee was sought and obtained for the sale of the M/V Kapetan Martinovic (and the M/V Bor, which was sold in June 1994) based on U.S. assurances that the sale would comply with four basic conditions, which assure that both U.S. and U.N. sanctions objectives with respect to the FRY (S/M) are met: (1) the sale will be for fair market value; (2) the sale will result in a complete divestiture of any interest of the FRY (S/M) (or of commercial interests located in or controlled from the FRY (S/M) in the vessel; (3) the sale would result in no economic benefit to the FRY (S/M) (or commercial interests located in or controlled from the FRY (S/M)); and (4) the net proceeds of the sale (the gross proceeds less the costs of sale normally paid by the seller) will be placed in a blocked account in the United States. Negotiations for the sale of the M/V Bar, now blocked in New Orleans, are underway and are likely to be concluded prior to my next report.

Other than the M/V Bar, the four remaining Yugoslav-owned vessels are beneficially owned by Jugooceanija, Plovidba of Kotor, Montenegro, and managed by Milena Ship Management Co. Ltd. in Malta. These vessels have many unpaid U.S. creditors for services and supplies furnished during the time they have been blocked in the United States; moreover, the owner appears to have insufficient resources to provide for the future upkeep and maintenance needs of these vessels and their crews. The United States is notifying the UNSC's Serbian Sanctions Committee of the United States's intention to license some or all of these remaining four vessels upon the owner's request.

With the FAC-licensed sales of the M/V Kapetan Martinovic and the M/V Bor, those vessels were removed from the list of blocked FRY entities and merchant vessels maintained by FAC. The new owners of several formerly Yugoslav-owned vessels, which have been sold in other countries, have petitioned FAC to remove those vessels from the list. FAC, in coordination with the Department of State, is currently reviewing the sale terms and conditions for those vessels to ascertain whether they comply with U.N. sanctions objectives and UNSC's Serbian Sanctions Committee practice.

During the past 6 months, U.S. financial institutions have continued to block funds transfers in which there is an interest of the Government of the FRY (S/M) or an entity or undertaking located in or controlled from the FRY (S/M), and to stop prohibited transfers to persons in the FRY (S/M). Such interdicted transfers have accounted for $125.6 million since the issuance of Executive Order No. 12808, including some $9.3 million during the past 6 months.

To ensure compliance with the terms of the licenses that have been issued under the program, stringent reporting requirements are imposed. More than 279 submissions have been reviewed by FAC since the last report, and more than 125 compliance cases are currently open.

6. Since the issuance of Executive Order No. 12810, FAC has worked closely with the U.S. Customs Service to ensure both that prohibited imports and exports (including those in which the Government of the FRY (S/M) or Bosnian Serb authorities have an interest) are identified and interdicted, and that permitted imports and exports move to their intended destination without undue delay. Violations and suspected violations of the embargo are being investigated and appropriate enforcement actions are being taken. There are currently 37 cases under active investigation. Since the last report, FAC has collected nine civil penalties totaling nearly $20,000. Of these, five were paid by U.S. financial institutions for violative funds transfers involving the Government of the FRY (S/M), persons in the FRY (S/M), or entities located or organized in or controlled from the FRY (S/M). Three U.S. companies and one air carrier have also paid penalties related to exports or unlicensed payments to the Government of the FRY (S/M) or persons in the FRY (S/M) or other violations of the Regulations.

7. The expenses incurred by the Federal Government in the 6-month period from November 30, 1994, through May 29, 1995, that are directly attributable to the authorities conferred by the declaration of a national emergency with respect to the FRY (S/M) and the Bosnian Serb forces and authorities are estimated at about $3.5 million, most of which represent wage and salary costs for Federal personnel. Personnel costs were largely centered in the Department of the Treasury (particularly in FAC and its Chief Counsel's Office, and the U.S. Customs Service), the Department of State, the National Security Council, the U.S. Coast Guard, and the Department of Commerce.

8. The actions and policies of the Government of the FRY (S/M), in its involvement in and support for groups attempting to seize and hold territory in the Republics of Croatia and Bosnia and Herzegovina by force and violence, and the actions and policies of the Bosnian Serb forces and the authorities in the areas of Bosnia and Herzegovina under their control, continue to pose an unusual and extraordinary threat to the national security, foreign policy, and economy of the United States. The United States remains committed to a multilateral resolution of the conflict through implementation of the United Nations Security Council resolutions.

I shall continue to exercise the powers at my disposal to apply economic sanctions against the FRY (S/M) and the Bosnian Serb forces, civil authorities, and entities, as long as these measures are appropriate, and will continue to report periodically to the Congress on significant developments pursuant to 50 U.S.C. 1703(c).

WILLIAM J. CLINTON.

THE WHITE HOUSE, *July 18, 1995.*

MESSAGES FROM THE HOUSE

ENROLLED BILL SIGNED

At 12:30 p.m., a message from the House of Representatives, delivered by Mr. Hays, one of its reading clerks, announced that the Speaker has signed the following enrolled bill:

S. 523. An act to amend the Colorado River Basin Salinity Control Act to authorize additional measures to carry out the control of salinity upstream of Imperial Dam in a cost-effective manner, and for other purposes.

The enrolled bill was subsequently signed by the President pro tempore (Mr. THURMOND).

ENROLLED BILL PRESENTED

The Secretary of the Senate reported that on July 18, 1995, he had presented to the President of the United States the following enrolled bill:

S. 523. An act to amend the Colorado River Basin Salinity Control Act to authorize additional measures to carry out the control of salinity upstream of Imperial Dam in a cost-effective manner, and for other purposes.

EXECUTIVE AND OTHER COMMUNICATIONS

The following communications were laid before the Senate, together with

accompanying papers, reports, and documents, which were referred as indicated:

EC-1190. A communication from the Chairman of the Federal Trade Commission, transmitting, pursuant to law, the annual report of the Commission for fiscal year 1992; to the Committee on Commerce, Science, and Transportation.

EC-1191. A communication from the Board of Directors of the U.S. Enrichment Corporation, transmitting, pursuant to law, a plan for the privatization of the USEC; to the Committee on Energy and Natural Resources.

EC-1192. A communication from the Secretary of Energy, transmitting, pursuant to law, a report relative to Exxon and stripper well oil overcharge funds as of March 31, 1995; to the Committee on Energy and Natural Resources.

EC-1193. A communication from the Secretary of Energy, transmitting, pursuant to law, a report relative to electric motor vehicles; to the Committee on Energy and Natural Resources.

EC-1194. A communication from the Chair of the State Energy Advisory Board, Department of Energy, transmitting, pursuant to law, a report relative to energy efficiency and renewable energy; to the Committee on Energy and Natural Resources.

EC-1195. A communication from the Secretary of Energy, transmitting, pursuant to law, a report entitled "Summary of Expenditures of Rebates from the Low-Level Radioactive Waste Surcharge Escrow Account for Calendar Year 1994"; to the Committee on Energy and Natural Resources.

EC-1196. A communication from the Inspector General of the Department of Health and Human Services, transmitting, pursuant to law reports required under the Superfund Amendments and Reauthorization Act of 1986; to the Committee on Environment and Public Works.

EC-1198. A communication from the Secretary of Health and Human Services, transmitting, pursuant to law, the National Institute of Environmental Health Sciences report on mercury; to the Committee on Environment and Public Works.

EC-1199. A communication from the Assistant Secretary of State (Legislative Affairs), transmitting, pursuant to law, a memorandum of justification for presidential determination regarding the drawdown of Department of Treasury commodities and services to support Serbia-Montenegro sanctions program enforcement efforts; to the Committee on Foreign Relations.

EC-1200. A communication from the Assistant Legal Adviser for Treaty Affairs, Department of State, transmitting, pursuant to law, the text of international agreements, other than treaties, and background statements; to the Committee on Foreign Relations.

EC-1201. A communication from the General Counsel of the Department of Defense, transmitting a draft of proposed legislation to provide defense articles and services, including military training, to Jordan to enhance its security in the wake of signing a peace treaty with Israel; to the Committee on Foreign Relations.

EC-1202. A communication from the Assistant Secretary of State (Legislative Affairs), transmitting, pursuant to law, a memorandum of justification for presidential determination regarding the drawdown of defense articles and services for the rapid reaction force; to the Committee on Foreign Relations.

EC-1203. A communciation from the Assistant Secretary of State (Legislative Affairs), transmitting, pursuant to law, a Presidential Determination with respect to Bosnia; to the Committee on Foreign Relations.

EC-1204. A communication from the Assistant Legal Adviser (Treaty Affairs), Department of State, transmitting, pursuant to law, the text of international agreements, other than treaties, and background statements; to the Committee on Foreign Relations.

EC-1205. A communication from the Assistant Secretary of State (Legislative Affairs), transmitting, pursuant to law, a Presidential Determination with respect to Haiti; to the Committee on Foreign Relations.

PETITIONS AND MEMORIALS

The following petitions and memorials were laid before the Senate and were referred or ordered to lie on the table as indicated:

POM-223. A joint resolution adopted by the Legislature of the State of Maine; to the Committee on Appropriations.

"JOINT RESOLUTION—

"Whereas, the Carlton Bridge between Bath and Woolwich, Maine, built in 1926, has structurally, mechanically and functionally deteriorated and is in dire need of replacement; and

"Whereas, the Carlton Bridge provides the only access along coastal Route 1 and supports more than 20,000 jobs critical for the mid-coast region; and

"Whereas, annual average daily traffic currently exceeds the bridge capacity and is projected to double over the next 20 years; and

"Whereas, the Carlton Bridge is located on Maine's most congested highway and provides an essential link for residents of and tourists to Maine's coastal communities and the Eastern United States; and

"Whereas, the economic impact of tourist travel through the mid-coast region, over the Carlton Bridge, annually exceeds $350,000,000, generating more than $80,000,000 in federal, state and local revenues annually; and

"Whereas, the Carlton Bridge provides the only access for emergency vehicles to and from regional hospitals and fire stations; and

"Whereas, the cost to replace the Carlton Bridge is more than double the total annual construction budget of the Maine Department of Transportation; and

"Whereas, federal, state, local and private support and innovative financing is critical to fund the replacement of the Carlton Bridge; and

"Whereas, the Carlton Bridge was recognized by Congress as a demonstration project under the Intermodal Surface Transportation Efficiency Act of 1991; now, therefore, be it

"*Resolved*, That We, your Memorialists, respectfully recommend and urge the President and the Congress of the United States to provide financial assistance for the replacement of the Carlton Bridge and in particular to fund the discretionary bridge program at a level sufficient to allow for the replacement of this critical access bridge; and be it further

"*Resolved*, That suitable copies of this Memorial, duly authenticated by the Secretary of State, be transmitted to the Honorable William J. Clinton, President of the United States, to the President of the Senate and the Speaker of the House of Representatives of the Congress of the United States and to each member of the Maine Congressional Delegation."

POM-224. A resolution adopted by the Council of the City of Cleveland Heights, Ohio relative to the Community Development Block Grant Program; to the Committee on Banking, Housing, and Urban Affairs.

POM-225. A resolution adopted by the Township of Robinson, Crawford County, Illinois relative to the Metric System; to the Committee on Commerce, Science, and Transportation.

POM-226. A resolution adopted by the Chamber of Commerce of High Point, North Carolina relative to Amtrak; to the Committee on Commerce, Science, and Transportation.

POM-227. A resolution adopted by the Council of the City of Baltimore, Maryland relative to the U.S. Coast Guard Yard at Curtis Bay; to the Committee on Commerce, Science, and Transportation.

POM-228. A joint resolution adopted by the Legislature of the State of Maine; to the Committee on Commerce, Science, and Transportation.

"Whereas, the current territorial sea limit for the State of Maine is 3 miles; and

"Whereas, waters within the 3-mile territorial sea limit are regulated by the State of Maine with respect to marine fisheries and the waters outside the 3-mile territorial sea limit are not within the jurisdiction of the State; and

"Whereas, the United States Government has extended territorial limits to 12 miles for purposes other than marine fisheries; now, therefore, be it

"*Resolved*, That We, your Memorialists, respectfully recommend and urge the Congress of the United States to extend the territorial sea limit of the State of Maine from 3 miles to 12 miles for the purposes of marine fisheries so that the State of Maine can more effectively manage its marine fisheries resources; and be it further

"*Resolved*, That suitable copies of this Memorial, duly authenticated by the Secretary of State, be transmitted to the Honorable William J. Clinton, President of the United States, the President of the Senate and the Speaker of the House of Representatives of the Congress of the United States and to each member of the Maine Congressional Delegation."

POM-229. A resolution adopted by the Legislature of the State of Nebraska; to the Committee on Commerce, Science, and Transportation.

"Whereas, the people of the State of Nebraska enjoy a sister-state relationship with Taiwan; and

"Whereas, commercial interaction with Taiwan has grown substantially in recent years to the mutual benefit of both our citizenry; and

"Whereas, Taiwan has made progress in the democratic political system in recent years; and

"Whereas, Taiwan has had a role in international development programs and humanitarian relief operations; and

"Whereas, the active cultural exchange by and between the sister-states has a positive educational value. Now, therefore, be it

Resolved by the members of the Ninety-Fourth Legislature of Nebraska, First Session:

"1. That the ongoing commercial relationship of the State of Nebraska, with the people of Taiwan should be recognized as serving

our mutual interests in an equitable and reciprocal manner.

"2. That the Clerk of the Legislature transmit a copy of this resolution to the Speaker of the House of Representatives, to the President of the Senate of the Congress of the United States, to all members of the Nebraska delegation to the Congress of the United States, and to the President of the United States with the request that it be officially entered in the Congressional Record as memorial to the Congress of the United States."

POM-230. A joint resolution adopted by the Legislature of the State of Nevada; to the Committee on Commerce, Science, and Transportation.

"JOINT RESOLUTION 25

"Whereas, Air and highway travel is becoming increasingly congested in the Western United States as populations continue to increase in those areas; and

"Whereas, Such congestion may result in an increase in the number of fatal automobile and airplane accidents and in the amount of harmful contaminants released in to the atmosphere; and

"Whereas, The technology to build super-speed trains which operate by magnetic levitation is available and if employed would help eliminate the congested conditions on the highways and in the air and therefore help reduce the rate of fatal accidents and the levels of air pollution; and

"Whereas, Super-speed trains which operate by magnetic levitation can travel in excess of 180 miles per hour and therefore for many trips would be of comparable efficiency to that of most commercial airlines; and

"Whereas, The estimated fare for passengers of such super-speed trains is only about two-thirds of the prevailing fare for passengers of commercial airlines; and

"Whereas, The cost of construction of such a super-speed train system is estimated to be lower per mile than building traditional highways or airports in urban areas; now, therefore, be it

"*Resolved* by the Assembly and Senate of the State of Nevada, jointly, That the President of the United States and Congress are hereby urged to support all federal and state efforts to build and operate super-speed trains which operate by magnetic levitation and to support financially, through grants or otherwise, the development of a national corridor for the travel of such super-speed trains; and be it further

"*Resolved*, That the Chief Clerk of the Assembly prepare and transmit a copy of this resolution to the President of the United States, the Vice President of the United States as the presiding officer of the Senate, the Speaker of the House of Representatives and each member of the Nevada Congressional Delegation; and be it further

"*Resolved*, That this resolution becomes effective upon passage and approval."

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. HATFIELD, from the Committee on Appropriations:

Special Report entitled "Allocation to Subcommittees of Budget Totals from the Concurrent Resolution for Fiscal Year 1996" (Rept. No. 104-115).

By Mr. MACK, from the Committee on Appropriations, with amendments:

H.R. 1854. A bill making appropriations for the Legislative Branch for the fiscal year ending September 30, 1996, and for other purposes (Rept. No. 104-114).

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. STEVENS:

S. 1046. A bill to authorize the Secretary of Transportation to issue certificates of documentation with appropriate endorsements for employment in the coastwise trade of the United States for 14 former U.S. Army hovercraft; to the Committee on Commerce, Science, and Transportation.

By Mr. STEVENS (for himself and Mr. HOLLINGS):

S. 1047. A bill to authorize the Secretary of Transportation to issue certificates of documentation and coastwise trade endorsements for the vessels ENCHANTED ISLES and ENCHANTED SEAS; to the Committee on Commerce, Science, and Transportation.

By Mr. PRESSLER (for himself and Mr. BURNS):

S. 1048. A bill to authorize appropriations for fiscal year 1996 to the National Aeronautics and Space Administration for human space flight; science, aeronautics, and technology; mission support; and Inspector General; and for other purposes; to the Committee on Commerce, Science, and Transportation.

By Mr. HEFLIN:

S. 1049. A bill to amend the National Trails Systems Act to designate the route from Selma to Montgomery as a National Historic Trail, and for other purposes; to the Committee on Energy and Natural Resources.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. STEVENS:

S. 1046. A bill to authorize the Secretary of Transportation to issue certificates of documentation with appropriate endorsements for employment in the coastwise trade of the United States for 14 former U.S. Army hovercraft; to the Committee on Commerce, Science, and Transportation.

By Mr. STEVENS (for himself and Mr. HOLLINGS):

S. 1047. A bill to authorize the Secretary of Transportation to issue certificates of documentation and coastwise trade endorsements for the vessels *Enchanted Isles* and *Enchanted Seas;* to the Committee on Commerce, Science, and Transportation.

JONES ACT WAIVERS LEGISLATION

Mr. STEVENS. Mr. President, today I am introducing two bills to authorize the Secretary of Transportation to issue certificates of documentation for certain vessels.

HOVERCRAFT

The first bill would authorize the issuance of certificates of documentation with appropriate endorsements for employment in the coastwise trade of the United States for 14 hovercraft formerly owned by the U.S. Army.

These hovercraft were built for the U.S. Army by Bell Aerospace Co. in Buffalo, NY, between 1982 and 1986.

The vessels are 76 feet in length and capable of hauling 30 tons of cargo each.

After being declared surplus by the U.S. Army in 1994, the hovercraft were acquired by Champion Constructors, Inc., a subsidiary of Cook Inlet Region, Inc., of Anchorage, AK.

The hovercraft are intended to be used for transporting cargo and passengers between points in Alaska.

It is my understanding that most of the major components of the hovercraft were constructed and assembled in the United States, but that because some components were constructed in Canada, the hovercraft have been determined by the Coast Guard to be ineligible to operate in the coastwise trade of the United States.

The first bill I am introducing today would allow these vessels to be operated in the U.S. coastwise trade.

I ask unanimous consent that this bill be printed in the RECORD.

VESSELS

Senator HOLLINGS joins me as a cosponsor of the second bill I am introducing today, which would authorize the Secretary of Transportation to issue certificates of documentation with appropriate endorsements for employment in the coastwise trade of the United States for two cruise ships that were built in the United States but that are currently being operated under the Panamanian flag.

It is my understanding that the *Enchanted Isle* and *Enchanted Seas* were built in the 1950's in Mississippi, and that they can carry approximately 1,000 passengers each.

The vessels left the United States coastwise trade and began flying the Panamanian flag in 1972.

A U.S. flag company, International Marine Carriers, is in the process of acquiring the vessels, and would like to employ them in trade in the Gulf of Mexico and along the east coast.

The vessels will provide jobs for U.S. seamen, and it is my understanding that U.S. maritime unions support waiving them into the U.S. trade. The Coast Guard authorization bill passed in the House earlier this year included waivers for the two ships.

I ask unanimous consent that this bill be printed in the RECORD.

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

S. 1046

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That notwithstanding section 12106, 12107, and 12108 of title 46, United States Code, and section 27 of the Merchant Marine Act, 1920 (46 App. U.S.C. 883), as applicable on the date of enactment of

this Act, the Secretary of Transportation may issue certificates of documentation with appropriate endorsements for employment in the coastwise trade of the United States for the fourteen former U.S. Army hovercraft with serial numbers LACV-30-04, LACV-30-05, LACV-30-07, LACV-30-09, LACV-30-10, LACV-30-13, LACV-30-14, LACV-30-15, LACV-30-16, LACV-30-22, LACV-30-23, LACV-30-24, LACV-30-25, and LACV-30-26.

S. 1047

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That notwithstanding section 27 of the Merchant Marine Act, 1920 (46 U.S.C. App. 883), the Act of June 19, 1886 (46 U.S.C. App. 289), section 12106 of title 46, United States Code, section 506 of the Merchant Marine Act, 1936 (46 U.S.C. App. 1156), and any agreement with the United States Government, the Secretary of Transportation may issue certificates of documentation with a coastwise endorsement for the vessels ENCHANTED ISLES (Panamanian official number 14087-84B) and ENCHANTED SEAS (Panamanian official number 14064-84D), except that the vessels may not operate between or among islands in the State of Hawaii.

By Mr. PRESSLER (for himself and Mr. BURNS):

S. 1048 A bill to authorize appropriations for fiscal year 1996 to the National Aeronautics and Space Administration for human space flight; science, aeronautics, and technology; mission support; and inspector general; and for other purposes; to the Committee on Commerce, Science, and Transportation.

THE NASA AUTHORIZATION ACT FOR FISCAL YEAR 1996

Mr. PRESSLER. Mr. President, today I introduced the NASA Authorization Act for Fiscal Year 1996. NASA faces two challenges. The first is maintaining America's leadership in aeronautics and space. The second is accomplishing the leadership goal within the confines of a balanced Federal budget. This authorization is intended to allow NASA to meet both of these challenges.

NASA started out this year with a plan to cut $5 billion over 5 years from its budget. Then, the Senate and House developed budget plans which require even deeper cuts. As a result, our bill authorizes a total of $13.8 billion for NASA in fiscal year 1996, a 3-percent decrease from the current funding level of $14.26 billion.

Despite the funding cut, the bill manages to support a diverse and forward-looking space program. It authorizes all of NASA's major current programs such as Mission to Planet Earth, Space Station, Space Science, and Aeronautics and, in almost all cases, at their requested funding levels. At the same time, it prepares NASA for the future by authorizing a number of new starts including the new Reusable Launch Vehicle Technology Development Program aimed at providing private industry the technology to eventually build a Shuttle replacement, and a new radar satellite program to develop and make use of the latest advances in satellite remote sensing technology.

Mr. President, I would now like to make special mention of certain portions of the bill.

I believe Mission to Planet Earth may be NASA's most important and relevant program. The satellite data from Mission to Planet Earth will deliver direct benefits to the taxpayer in contrast to the speculative spinoffs promised by other space activities. For this reason, the bill fully funds this activity at the requested level of $1.36 billion.

Using the latest satellite technology, Mission to Planet Earth will help researchers understand and predict the global climate trends that affect our lives. As a Senator representing an agricultural State, I have a keen interest in this program's potential to provide detailed data on soil conditions, topography, crops, and other information critical to the farming and ranching community. I also take great pride in the selection of the EROS Data Center in Sioux Falls, SD as one of the regional data centers that will collect and distribute this satellite data.

I am very concerned that, under the new budget constraints in which we find ourselves, some may seek to sacrifice Mission to Planet Earth, and space science in general, to fund Space Station. that would be a disservice to the Nation and I will oppose any such move strongly.

I am pleased with the direction of the baseline plan for the Mission to Planet Earth Program and am concerned about the possibility of NASA taking any imprudent and unnecessary efforts to restructure the program. Accordingly, the bill specifically prohibits NASA from changing the program unless, 60 days before such action, NASA has reported to Congress on the nature and overall impact of the planned changes.

The bill also provides the full $2.1 billion requested funding for space station. However, this authorization should not be interpreted as a ringing endorsement of that program. I am a longstanding supporter of the program, but, in recent years, I have become concerned that it has become too expensive, too complex, and too dependent on the contributions of Russia, the latest station partner.

In a June 1995 report, the General Accounting Office [GAO] estimated that the total cost of the design, launch, and operation of the space station will be $94 billion. That is almost seven times the entire annual budget for NASA. Given the history of past missions, it is fair to assume that $94 billion price tag for the program will increase over time. If that happens, we may wake up to find the enormous space station budget has crowded out every other NASA program and that space station has become NASA's only mission. Because of my reservations about space station, I may well reconsider my support in the future.

The bill also supports several new starts at NASA to extend its vision into the next century. The bill authorizes a reusable launch vehicle program, which will support the X-33 and X-34 activities to pave the way for the later development by private enterprise of a replacement for the shuttle in the next decade.

Employing 1970's technologies and costing $400 million per flight, the shuttle may have outlived its usefulness. However, within today's budget constraints, the Government cannot afford to foot the entire bill for a new multibillion spacecraft development program. That is why the reusable launch vehicle program, with its emphasis on sharing financing with industry and its goal of moving our national space transportation system toward privatization, seems a viable concept worth pursuing.

Also authorized are the New Millennium initiative to develop new microminiature technologies aimed at reducing the cost and development times for satellites and two infrared astronomy programs—the Stratospheric Observatory for Infrared Astronomy and the Space Infrared Telescope Facility. The bill also authorizes a new Radar Satellite Program we call "TopSat," and a third shuttle flight for the Shuttle Imaging Radar-C satellite. Because radar satellites have the ability to "see" through cloud cover, they will dramatically enhance the capability of the Nation's existing optical-based satellite systems such as Landsat. With Japan and Europe already operating radar satellite systems, and with Canada poised to deploy one later this year, the United States cannot afford to be left behind in this critical technology.

In my role as chairman of the Senate Committee on Commerce, Science, and Transportation, it has become apparent to me that small-city, rural States like my home State of South Dakota are often forgotten in our vast $70 billion Federal science and technology enterprise. That part of America wants to be part of the technological revolution. More important, it wants to contribute.

It is in the national interest to strengthen the scientific talent, resources, and infrastructure in our rural States through appropriate research, education, and outreach activities. The bill attempts to accomplish this in several ways. It increases funding for the Experimental Program to Stimulate Competitive Research Program [EPSCoR] from its current level of $4.9 million to $6.9 million. NASA's EPSCoR Program, as well as similar

programs in six other science agencies, have been instrumental in providing Federal funding for academic research in rural States. Our bill also funds a Rural Teacher Resource Center, a Rural Technology Transfer and Commercialization Center, and a regional science education and outreach center for the Plains States region.

Mr. President, I believe NASA is up to the challenge of keeping America preeminent in aeronautics and space despite the intense budget pressure and despite the increasing competition from other spacefaring nations. It is my belief this authorization bill provides NASA with the support it needs to meet that challenge.

ADDITIONAL COSPONSORS

S. 295

At the request of Mrs. KASSEBAUM, the name of the Senator from Arizona [Mr. MCCAIN] was added as a cosponsor of S. 295, a bill to permit labor management cooperative efforts that improve America's economic competitiveness to continue to thrive, and for other purposes.

S. 426

At the request of Mr. SARBANES, the name of the Senator from Michigan [Mr. LEVIN] was added as a cosponsor of S. 426, a bill to authorize the Alpha Phi Alpha Fraternity to establish a memorial to Martin Luther King, Jr., in the District of Columbia, and for other purposes.

S. 530

At the request of Mr. GREGG, the name of the Senator from Montana [Mr. BAUCUS] was added as a cosponsor of S. 530, a bill to amend the Fair Labor Standards Act of 1938 to permit State and local government workers to perform volunteer services for their employer without requiring the employer to pay overtime compensation, and for other purposes.

S. 603

At the request of Mr. FAIRCLOTH, the name of the Senator from Washington [Mr. GORTON] was added as a cosponsor of S. 603, a bill to nullify an Executive order that prohibits Federal contracts with companies that hire permanent replacements for striking employees, and for other purposes.

S. 628

At the request of Mr. KYL, the name of the Senator from Minnesota [Mr. GRAMS] was added as a cosponsor of S. 628, a bill to repeal the Federal estate and gift taxes and the tax on generation-skipping transfers.

S. 770

At the request of Mr. DOLE, the name of the Senator from Alaska [Mr. MURKOWSKI] was added as a cosponsor of S. 770, a bill to provide for the relocation of the United States Embassy in Israel to Jerusalem, and for other purposes.

S. 772

At the request of Mr. DORGAN, the name of the Senator from Vermont [Mr. JEFFORDS] was added as a cosponsor of S. 772, a bill to provide for an assessment of the violence broadcast on television, and for other purposes.

S. 773

At the request of Mrs. KASSEBAUM, the names of the Senator from Arkansas [Mr. BUMPERS], the Senator from Florida [Mr. MACK], the Senator from Missouri [Mr. ASHCROFT], and the Senator from Mississippi [Mr. COCHRAN] were added as cosponsors of S. 773, a bill to amend the Federal Food, Drug, and Cosmetic Act to provide for improvements in the process of approving and using animal drugs, and for other purposes.

S. 877

At the request of Mrs. HUTCHISON, the name of the Senator from Arizona [Mr. KYL] was added as a cosponsor of S. 877, a bill to amend section 353 of the Public Health Service Act to exempt physician office laboratories from the clinical laboratories requirements of that section.

S. 930

At the request of Mr. SHELBY, the name of the Senator from Arizona [Mr. MCCAIN] was added as a cosponsor of S. 930, a bill to require States receiving prison construction grants to implement requirements for inmates to perform work and engage in educational activities, and for other purposes.

S. 989

At the request of Mrs. KASSEBAUM, the name of the Senator from Wyoming [Mr. THOMAS] was added as a cosponsor of S. 989, a bill to limit funding of an Executive order that would prohibit Federal contractors from hiring permanent replacements for lawfully striking employees, and for other purposes.

SENATE RESOLUTION 103

At the request of Mr. DOMENICI, the name of the Senator from Louisiana [Mr. JOHNSTON] was added as a cosponsor of Senate Resolution 103, a resolution to proclaim the week of October 15 through October 21, 1995, as National Character Counts Week, and for other purposes.

SENATE RESOLUTION 146

At the request of Mr. JOHNSTON, the name of the Senator from New Mexico [Mr. DOMENICI] was added as a cosponsor of Senate Resolution 146, a resolution designating the week beginning November 19, 1995, and the week beginning on November 24, 1996, as "National Family Week," and for other purposes.

SENATE RESOLUTION 149

At the request of Mr. AKAKA, the name of the Senator from Vermont [Mr. JEFFORDS] was added as a cosponsor of Senate Resolution 149, a resolution expressing the sense of the Senate regarding the recent announcement by the Republic of France that it intends to conduct a series of underground nuclear test explosions despite the current international moratorium on nuclear testing.

AMENDMENT NO. 1530

At the request of Mr. CAMPBELL the names of the Senator from Kentucky [Mr. FORD] and the Senator from North Carolina [Mr. FAIRCLOTH] were added as cosponsors of amendment No. 1530 intended to be proposed to S. 343, a bill to reform the regulatory process, and for other purposes.

AMENDMENTS SUBMITTED

THE COMPREHENSIVE REGULATORY REFORM ACT OF 1995

HUTCHISON (AND ASHCROFT) AMENDMENT NO. 1789

Mrs. HUTCHISON (for herself and Mr. ASHCROFT) proposed an amendment to amendment No. 1786 proposed by Mr. ASHCROFT to the bill (S. 343) to reform the regulatory process, and for other purposes; as follows:

In lieu of the matter proposed to be added, add the following:

"TITLE II—URBAN REGULATORY RELIEF ZONES

SECTION 201. SHORT TITLE.

This Act may be cited as the "Urban Regulatory Relief Zone Act of 1995".

SEC. 202. FINDINGS.

The Congress finds that—

(1) the likelihood that a proposed business site will comply with many government regulations is inversely related to the length of time over which a site has been utilized for commercial and/or industrial purposes in the past, thus rendering older sites in urban areas the sites most unlikely to be chosen for new development and thereby forcing new development away from the areas most in need of economic growth and job creation; and

(2) broad Federal regulations often have unintended social and economic consequences in urban areas where such regulations, among other things—

(A) offend basic notions of common sense, particularly when applied to individual sites;

(B) adversely impact economic stability;

(C) result in the unnecessary loss of existing jobs and businesses;

(D) undermine new economic development, especially in previously used sites;

(E) create undue economic hardships while failing significantly to protect human health, particularly in areas where economic development is urgently needed in order to improve the health and welfare of residents over the long term; and

(F) contribute to social deterioration to a such degree that high unemployment, crime, and other economic and social problems create the greatest risk to the health and well-being of urban residents.

SEC. 203. PURPOSES.

The purposes of this title are to—

(1) enable qualifying cites to provide for the general well-being, health, safety and security for their residents living in distressed areas by empowering such cities to obtain selective relief from Federal regulations that undermine economic stability and development in distressed areas within the city; and

(2) authorize Federal agencies to waive the application of specific Federal regulations in distressed urban areas designated as Urban Regulatory Relief Zones by an Economic Development Commission—

(A) upon application through the Office of Management and Budget by an Economic Development Commission established by a qualifying city pursuant to section 205; and

(B) upon a determination by the appropriate Federal agency that granting such a waiver will not substantially endanger health or safety.

SEC. 204. ELIGIBILITY FOR WAIVERS.

(a) ELIGIBLE CITIES.—The mayor or chief executive officer of a city may establish an Economic Development Commission to carry out the purposes of section 205 if the city has a population greater than 200,000 according to:

(1) the U.S. Census Bureau's 1992 estimate for city populations; or

(2) beginning six months after the enactment of this title, the U.S. Census Bureau's latest estimate for city populations.

(b) DISTRESSED AREA.—Any census tract within a city shall qualify as distressed area if—

(1) 33 percent or more of the resident population in the census tract is below the poverty line; or

(2) 45 percent or more of out-of-school males aged 16 and over in the census tract worked less than 26 weeks in the preceding year; or

(3) 36 percent or more families with children under age 18 in the census tract have an unmarried parent as head of the household; or

(4) 17 percent or more of the resident families in the census tract received public assistance income in the preceding year.

SEC. 205. ECONOMIC DEVELOPMENT COMMISSIONS.

(a) PURPOSE.—The mayor or chief executive officer of a qualifying city under section 204 may appoint an Economic Development Commission for the purpose of—

(1) designating distressed areas, or a combination of distressed areas with one another or with adjacent industrial or commercial areas, within the city as Urban Regulatory Relief Zones; and

(2) making application through the Office of Management and Budget to waive the application of specific Federal regulations within such Urban Regulatory Relief Zones.

(b) COMPOSITION.—To the greatest extent practicable, an Economic Development Commission shall include—

(1) residents representing a demographic cross section of the city population; and

(2) members of the business community, private civic organizations, employers, employees, elected officials, and State and local regulatory authorities.

(c) LIMITATION.—No more than one Economic Development Commission shall be established or designated within a qualifying city.

SEC. 206. LOCAL PARTICIPATION.

(a) PUBLIC HEARINGS.—Before designating an area as an Urban Regulatory Relief Zone, an Economic Development Commission established pursuant to section 205 shall hold a public hearing, after giving adequate public notice, for the purpose of soliciting the opinions and suggestions of those persons who will be affected by such designation.

(b) INDIVIDUAL REQUESTS.—The Economic Development Commission shall establish a process by which individuals may submit requests to the Economic Development Commission to include specific Federal regulations in the Commission's application to the Office of Management and Budget seeking waivers of Federal regulations.

(c) AVAILABILITY OF COMMISSION DECISIONS.—After holding a hearing under paragraph (a) and before submitting any waiver applications to the Office of Management and Budget pursuant to section 207, the Economic Development Commission shall make publicly available—

(1) a list of all areas within the city to be designated as Urban Regulatory Relief Zones, if any;

(2) a list of all regulations for which the Economic Development Commission will request a waiver from a Federal agency; and

(3) the basis for the city's findings that the waiver of a regulation would improve the health and safety and economic well-being of the city's residents and the data supporting such a determination.

SEC. 207. WAIVER OF FEDERAL REGULATIONS.

(a) SELECTION OF REGULATIONS.—An Economic Development Commission may select for waiver, within an Urban Regulatory Relief Zone, Federal regulations that—

(1)(A) are unduly burdensome to business concerns located within an area designated as an Urban Regulatory Relief Zone; or

(B) discourages new economic development within the zone; or

(C) creates undue economic hardships in the zone; or

(D) contributes to the social deterioration of the zone; and

(2) if waived, will not substantially endanger health or safety.

(b) REQUEST FOR WAIVER.—(1) An Economic Development Commission shall submit a request for the waiver of Federal regulations to the Office of Management and Budget.

(2) Such request shall—

(A) identify the area designated as an Urban Regulatory Relief Zone by the Economic Development Commission;

(B) identify all regulations for which the Economic Development Commission seeks a waiver; and

(C) explain the reasons that waiver of the regulations would economically benefit the Urban Regulatory Relief Zone and the data supporting such determination.

(c) REVIEW OF WAIVER REQUEST.—No later than 60 days after receiving the request for waiver, the Office of Management and Budget shall—

(1) review the request for waiver;

(2) determine whether the request for waiver is complete and in compliance with this title, using the most recent census data available at the time each applicant is submitted; and

(3) after making a determination under paragraph (2)—

(A) submit the request for waiver to the Federal agency that promulgated the regulation and notify the requesting Economic Development Commission of the date on which the request was submitted to such agency; or

(B) notify the requesting Economic Development Commission that the request is not in compliance with this Act with an explanation of the basis for such determination.

(d) MODIFICATION OF WAIVER REQUESTS.—An Economic Development Commission may submit modifications to a waiver request. The provisions of subsection (c) shall apply to a modified waiver as of the date such modification is received by the Office of Management and Budget.

(e) WAIVER DETERMINATION.—(1) No later than 120 days after receiving a request for waiver under subsection (c) from the Office of Management and Budget, a Federal agency shall—

(A) make a determination of whether to waiver a regulation in whole or in part; and

(B) provide written notice to the requesting Economic Development Commission of such determination.

(2) Subject to subsection (g), a Federal agency shall deny a request for a waiver only if the waiver substantially endangers health or safety.

(3) If a Federal agency grants a waiver under this subsection, the agency shall provide a written statement to the requesting Economic Development Commission that—

(A) describes the extent of the waiver in whole or in part; and

(B) explains the application of the waiver, including guidance for the use of the waiver by business concerns, within the Urban Regulatory Relief Zone.

(4) If a Federal agency denies a waiver under this subsection, the agency shall provide a written statement to the requesting Economic Development Commission that—

(A) explains the reasons that the waiver substantially endangers health or safety; and

(B) provides a scientific basis in writing for such determination.

(f) AUTOMATIC WAIVER.—If a Federal agency does not provide the written notice required under subsection (e) within the 120-day period as required under such subsection, the waiver shall be deemed to be granted by the Federal agency.

(g) LIMITATION.—No provision of this Act shall be construed to authorize any Federal agency to waive any regulation or Executive order that prohibits, or the purpose of which is to protect persons against, discrimination on the basis of race, color, religion, gender, or national origin.

(h) APPLICABLE PROCEDURES.—A waiver of a regulation under subsection (e) shall not be considered to be a rule, rulemaking, or regulation under chapter 5 of title 5, United States Code. The Federal agency shall publish a notice in the Federal Register stating any waiver of a regulation under this section.

(i) EFFECT OF SUBSEQUENT ADMINISTRATION OF REGULATIONS.—If a Federal agency amends a regulation for which a waiver under this section is in effect, the agency shall not change the waiver to impose additional requirements.

(j) EXPIRATION OF WAIVERS.—No waiver of a regulation under this section shall expire unless the Federal agency determines that a continuation of the waiver substantially endangers health or safety.

SEC. 208. DEFINITIONS.

For purposes of this Act, the term—

(1) "regulation" means—

(A) any rule as defined under section 551(4) of title 5, United States Code; or

(B) any rulemaking conducted on the record after opportunity for an agency hearing under sections 556 and 557 of such title;

(2) "Urban Regulatory Relief Zone" means an area designated under section 205;

(3) "qualifying city" means a city which is eligible to establish an Economic Development Commission under section 204;

(4) "industrial or commercial area" means any part of a census tract zoned for industrial or commercial use which is adjacent to a census tract which is a distressed area pursuant to section 205(b); and

(5) "poverty line" has the same meaning as such term is defined under section 673(2) of the Community Services Block Grant Act (42 U.S.C. 9902(2)).

SEC. 209. EFFECTIVE DATE.

The provisions of this title shall become effective one day after the date of enactment.".

GLENN AMENDMENT NO. 1790

(Ordered to lie on the table.)

Mr. GLENN submitted an amendment intended to be proposed by him to amendment No. 1487 proposed by Mr. DOLE to the bill S. 343, supra; as follows:

On page 59, delete entire section 634, "petition for review of a major freestanding risk assessment".

Insert in lieu thereof:

SEC. 634. PLAN FOR THE REVIEW OF RISK ASSESSMENTS.

(a) No later than 18 months after the effective date of this section, the head of each covered agency shall publish, after notice and public comment, a plan to review and revise any risk assessment published before the expiration of such 18-month period if the covered agency determines that significant new information or methodologies are available that could significantly alter the results of the prior risk assessment.

(b) A plan under subsection (a) shall—

(1) provide procedures for receiving and considering new information and risk assessments from the public; and

(2) set priorities and criteria for review and revision of risk assessments based on such factors as the agency head considers appropriate.

(3) provide a schedule for the review of risk assessments. This schedule shall be revised as appropriate based on new information received under (b)(1) and reviewed under criteria developed in accordance with paragraph (b)(2).

(c) The head of each covered agency shall review risk assessments according to the schedule published by the agency under paragraph (a).

GLENN (AND LEVIN) AMENDMENT NO. 1791

(Ordered to lie on the table.)

Mr. GLENN (for himself and Mr. LEVIN) submitted an amendment intended to be proposed by them to amendment No. 1487 proposed by Mr. DOLE to the bill S. 343, supra; as follows:

On page 25, line 23, through page 35, line 8, strike text and insert in lieu thereof the following:

"§ 623. Agency regulatory review

"(a)(1) Not late than 1 year after the date of the enactment of this section, and every 5 years thereafter, the head of each agency shall publish in the Federal Register a notice of proposed rulemaking under section 553 that contains a preliminary schedule of rules selected for review under this section by the head of the agency and in the sole discretion of the heard of the agency, and request public comment thereon, including suggestions for additional rules warranting review. The agency shall allow at least 180 days for public comment.

"(2) The preliminary schedule under this subsection shall propose deadlines for review of each rule listed thereon, and such deadlines shall occur not later than 11 years from the date of publication of the preliminary schedule.

"(3) In selecting rules and establishing deadlines for the preliminary schedule, the head of the agency shall consider the extent to which, in the judgment of the head of the agency—

"(A) a rule is unnecessary, and the agency has discretion under the statute authorizing the rule to repeal the rule;

"(B) the benefits of the rule do not justify its costs or the rule does not achieve the rulemaking objectives in a cost-effective manner;

"(C) a rule could be revised in a manner allowed by the statute authorizing the rule so as to—

"(i) substantially decrease costs;

"(ii) substantially increase benefits; or

"(iii) provide greater flexibility for regulated entities, through mechanisms including, but not limited to, those listed in section 622(c)(2)(C)(iii);

"(D) the importance of each rule relative to other rules being reviewed under this section; or

"(E) the resources expected to be available to the agency to carry out the reviews under this section.

"(b)(1) Not later than 1 year after publication of a preliminary schedule under subsection (a), the head of each agency shall publish a final rule that establishes a schedule of rules to be reviewed by the agency under this section.

"(2) The schedule shall establish a deadline for completion of the review of each rule listed on the schedule, taking into account the criteria in subsection (a)(3) and comments received in the rulemaking under subsection (a). Each such deadline shall occur not later than 11 years from the date of publication of the preliminary schedule.

"(3) The head of the agency shall modify the agency's schedule under this section to reflect any change contained in an appropriations Act under subsection (d).

"(c)(1) Notwithstanding section 623 and except as provided otherwise in this subsection, judicial review of agency action taken pursuant to the requirements of this section shall be limited to review of compliance or noncompliance with the requirements of this section.

"(2) Agency decisions to place, or decline to place, a rule on the schedule, and the deadlines for completion of a rule, shall not be subject to judicial review.

"(d)(1) The President's annual budget proposal submitted under section 1105(a) of title 31 for each agency subject to this section shall—

"(A) identify as a separate sum the amount requested to be appropriated for implementation of this section during the upcoming fiscal year; and

"(B) include a list of rules which may be subject to subsection (e)(3) during the year for which the budget proposal is made.

"(2) Amendments to the schedule under subsection (b) to place a rule on the schedule for review or change a deadline for review of a rule may be included in annual appropriations Act for the relevant agencies. An authorizing committee with jurisdiction may recommend, to the House of Representatives or Senate appropriations committee as the case may be), such amendments. The appropriations committee to which such amendments have been submitted may include the amendments in the annual appropriations Act for the relevant agency. Each agency shall modify its schedule under subsection (b) to reflect such amendments that are enacted into law.

"(e)(1) For each rule on the schedule under subsection (b), the agency shall—

"(A) not later than 2 years before the deadline in such schedule, publish in the Federal Register a notice that solicits public comment regarding whether the rule should be continued, amended, or repealed;

"(B) not later than 1 year before the deadline in such schedule, publish in the Federal Register a notice that—

"(i) addresses public comments generated by the notice in subparagraph (A);

"(ii) contains a preliminary analysis provided by the agency of whether the rule is a major rule, and if so, whether the benefits of the rule justify its costs;

"(iii) contains a preliminary determination as to whether the rule should be continued, amended, or repealed; and

"(iv) solicits public comment on the preliminary determination for the rule; and

"(C) not later than 60 days before the deadline in such schedule, publish in the Federal Register a final notice on the rule that—

"(i) addresses public comments generated by the notice in subparagraph (B); and

"(ii) contains a final determination of whether to continue, amend, or repeal the rule;

"(iii) if the agency determines to continue the rule and the rule is a major rule, describes a final analysis as to whether the benefits of the rule justify its costs; and

"(iv) if the agency determines to amend or repeal the rule, contains a notice of proposed rulemaking under section 553.

"(2) If the final determination of the agency is to continue the rule, that determination shall take effect 60 days after the publication in the Federal Register of the notice in paragraph (1)(C).

"(3) If the final determination of the agency is to continue the rule, and the agency has concluded that the benefits do not justify the costs, the agency shall transmit to the appropriate committees of Congress the cost-benefit analysis and a statement of the agency's reasons for continuing the rule.

"(f) If an agency makes a determination to amend or repeal a major rule under subsection (e)(1)(C)(ii), the agency shall complete final agency action with regard to such rule not later than 2 years of the date of publication of the notice in subsection (e)(1)(C) containing such determination. Nothing in this subsection shall limit the discretion of an agency to decide, after having proposed to modify a major rule, not to promulgate such modification. Such decision shall constitute final agency action for the purposes of judicial review.

"(g) If an agency has not completed review of the rule by the deadline established under subsection (b), the agency shall immediately commence a rulemaking action pursuant to section 553 of this title to repeal the rule and shall complete such rulemaking within 2 years of the deadline established under subsection (b).

"(h)(1) The final determination of an agency to continue a rule under subsection (e)(1)(C) shall be considered final agency action.

"(2) Failure to promulgate an amended major rule or to make other decisions required by subsection (g) by the date established under such subsection shall be subject to judicial review pursuant to section 706(1) of this title.

ROTH AMENDMENTS NOS. 1792–1794

(Ordered to lie on the table.)

Mr. ROTH submitted three amendments intended to be proposed by him to amendment No. 1487 proposed by Mr. DOLE to the bill S. 343, supra; as follows:

AMENDMENT NO. 1792

On page 35, line 23, strike all down through page 38, line 5, and insert in lieu thereof the following:

"(3) the rule adopts the most cost-effective alternative of the reasonable alternatives that achieve the objectives of the statute.

"(c) ALTERNATIVE REQUIREMENTS.—If, applying the statutory requirements upon which the rule is based, a rule cannot satisfy the criteria of subsection (b), the agency head may promulgate the rule if the agency head finds that—

"(1) the rule employs to the extent practicable flexible reasonable alternatives of the type described in section 622(c)(2)(C)(iii); and

"(2) the rule adopts the most cost-effective alternative of the reasonable alternatives that achieve the objectives of the statute."

AMENDMENT NO. 1793

On page 35, line 23, strike all down through page 38, line 5, and insert in lieu thereof the following:

"(3) the rule adopts the alternative with greater net benefits than the other reasonable alternatives that achieve the objectives of the statute.

"(c) ALTERNATIVE REQUIREMENTS.—If, applying the statutory requirements upon which the rule is based, a rule cannot satisfy the criteria of subsection (b), the agency head may promulgate the rule if the agency head finds that—

"(1) the rule employs to the extent practicable flexible reasonable alternatives of the type described in section 622(c)(2)(C)(iii); and

"(2) the rule adopts the alternative with the least net cost of the reasonable alternatives that achieve the objectives of the statute."

AMENDMENT NO. 1794

On page 56, delete lines 17–21 and insert in lieu thereof the following:

"(2) The head of an agency shall place the nature and magnitude of risks to human health, safety, and the environment being analyzed in context, including appropriate comparisons with other risks that are familiar to, and routinely encountered by, the general public."

SHELBY (AND OTHERS) AMENDMENT NO. 1795

(Ordered to lie on the table.)

Mr. SHELBY (for himself, Mr. FRIST, Mrs. HUTCHISON, Mr. LOTT, Mr. HELMS, Mr. COCHRAN, and Mr. GRAMS) submitted an amendment intended to be proposed by them to amendment No. 1487 proposed by Mr. DOLE to the bill S. 343, supra; as follows:

On page 96, insert between lines 20 and 21 the following new section:

SEC. . SMALL BUSINESS REGULATORY BILL OF RIGHTS.

(a) SHORT TITLE.—This section may be cited as the "Small Business Regulatory Bill of Rights Act".

(b) IN GENERAL.—Chapter 5 of title 5, United States Code, is amended by adding at the end the following new subchapter:

"SUBCHAPTER VI—SMALL BUSINESS REGULATORY BILL OF RIGHTS

"§ 597. Definition

"For purposes of this subchapter, the term 'small business' has the same meaning given such term in section 601(3).

"§ 597a. Rights of small businesses prior to enforcement action

"(a) Except as provided in section 597c, each agency shall ensure that its regulatory enforcement program includes—

"(1) implementation of a no-fault compliance audit program;

"(2) a publicized, coherent compliance assistance program available to regulated small businesses under the agency's jurisdiction that provides technical and other compliance related assistance to small businesses upon request of a small business;

"(3) a method to enforce regulations in a uniform, consistent, and nonarbitrary manner nationwide;

"(4) an abatement period of not less than 60 days to allow the small business to correct any violations discovered during an agency inspection before a penalty is assessed; and

"(5) a grace period of not less than 180 days to allow the small business to correct any violation discovered through participation in the programs created under paragraph (1) or (2).

"(b) No penalties or enforcement actions will be assessed or taken if such violations are corrected during the grace period described under subsection (a)(5), so long as the business has not engaged in a pattern of international misconduct. Additional penalties may be assessed on businesses engaging in a pattern of intentional misconduct, not to exceed one and one half times the original penalty.

"§ 597b. Rights after investigative or enforcement action

"Except as provided in section 597c, each small business that has been found in violation of a regulation and was subject to an enforcement action or penalty shall have the right—

"(1) to be free from inspections for 180 days after the date on which the small business obtains certification from the agency that the small business is in compliance with the regulation;

"(2) to have ability to pay factored into the assessment of penalties through flexible payments plans with reduced installments that reflect the business's long-term ability to pay (taking into account cash-flow and long-term profitability); and

"(3) to not have fines paid be used to finance the inspecting agency, but instead credited to the General Treasury of the United States, to be used for reduction of the Federal deficit.

"§ 597c. Exceptions and limitation

"(a) A provision of this subchapter shall not apply if compliance with such provision of this subchapter would—

"(1) substantially delay responding to an imminent danger to person or property;

"(2) substantially or unreasonably impede a criminal investigation; or

"(3) enable any small business to knowingly disregard applicable regulations, except a request for a no-fault compliance audit shall not constitute prima facie evidence of knowingly disregarding applicable regulations.

"(b) A small business shall not be entitled to the benefit of a no-fault compliance audit program under section 597a(1) regarding a particular enforcement issue for 60 days after the business has had an agency-initiated contact regarding such issue.

"(c) This subchapter shall not apply to any rule or regulation described under section 621(9)(B)(i).".

(c) TECHNICAL AMENDMENT.—The analysis for chapter 5 of title 5, United States Code, is amended by adding at the end the following:

"SUBCHAPTER VI—SMALL BUSINESS REGULATORY BILL OF RIGHTS

"Sec.
"597. Definition.
"597a. Rights of small businesses prior to enforcement action.
"597b. Rights after investigative or enforcement action.
"597c. Exceptions and limitation.".

(d) RESPONSIBILITIES OF THE DIRECTOR OF THE OFFICE OF MANAGEMENT AND BUDGET.—

(1) COORDINATION.—The Director of the Office of Management and Budget shall coordinate the implementation of this section and establish a schedule for bringing all affected agencies into full compliance by the effective date of this section. Agencies may be brought into partial compliance before such date.

(2) REPORT.—The Director of the Office of Management and Budget shall submit an annual report to Congress on the progress of the agencies in complying with this section and the amendments made by this section.

(e) EFFECTIVE DATE.—This section shall take effect on the earlier of the date designated by the President or January 1, 1998.

LIEBERMAN AMENDMENT NO. 1796

(Ordered to lie on the table.)

Mr. LIEBERMAN submitted an amendment intended to be proposed by him to amendment No. 1573 submitted by Mr. BOND to the bill S. 343, supra; as follows:

In lieu of the matter proposed to be inserted, insert the following:

"Petition for alternative method of compliance

"(a) Except as provided in subsection (j) or unless prohibited by the statute authorizing a rule, any person subject to a rule may petition the relevant agency implementing the rule to modify or waive the specific requirements of a rule and to authorize an alternative compliance strategy satisfying the criteria of subsection (b).

"(b) Any petition submitted under subsection (a) shall—

"(1) identify with reasonable specificity the requirements for which the modification or waiver is sought and the alternative compliance strategy being proposed;

"(2) identify the facility to which the modification or waiver would pertain;

"(3) considering all the significant applicable human health, safety, and environmental benefits intended to be achieved by the rule, demonstrate that the alternative compliance strategy, from the standpoint of the applicable human health, safety, and environmental benefits, taking into account all cross-media impacts, will achieve—

"(A) a significantly better result than would be achieved through compliance with the rule; or

"(B) an equivalent result at significantly lower compliance costs than would be achieved through compliance with the rule; and

"(4) demonstrate that the proposed alternative compliance strategy provides a degree of accountability, enforceability, and public and agency access to information at least to that of the rule.

"(c) No later than the date on which the petitioner submits the petition to the agency, the petitioner shall in form the public of the submission of such petition (including a brief description of the petition) through publication of a notice in newspapers of general circulation in the area in which the facility is located. The agency may authorize or require petitioners to use additional or alternative means of informing the public of the submission of such petitions. If the agency proposes to grant the petition, the agency shall provide public notice and opportunity to comment.

"(d) The agency may approve the petition upon determining that the proposed alternative compliance strategy—

"(1) considering all the significant applicable human health, safety, and environmental benefits intended to be achieved by the rule, from the standpoint of the applicable human health, safety, and environmental benefits, taking into account all cross-media impacts, will achieve—

"(A) a significantly better result than would be achieved through compliance with the rule; or

"(B) an equivalent result at significantly lower compliance costs than would be achieved through compliance with the rule;

"(2) will provide a degree of accountability, enforceability, and public and agency access to information at least equal to that provided by the rule;

"(3) will not impose an undue burden on the agency that would be responsible for administering and enforcing such alternative compliance strategy; and

"(4) satisfies any other relevant factors.

"(e) Where relevant, the agency shall give priority to petitions with alternative compliance strategies using pollution prevention approaches.

"(f) In making determinations under subsection (d), the agency shall take into account whether the proposed alternative compliance strategy would transfer any significant health, safety, or environmental effects to other geographic locations, future generations, or classes of people.

"(g) Any alternative compliance strategy for which a petition is granted under this section shall be enforceable as if it were a provision of the rule being modified or waived.

"(h) The grant of a petition under this section shall be judicially reviewable as if it were the issuance of an amendment to the rule being modified or waived. The denial of a petition shall not be subject to judicial review.

"(i) No agency may grant more than 30 petitions per year under this section.

"(j) If the statute authorizing the rule that is the subject of the petition provides procedures or standards for an alternative method of compliance, the petition shall be reviewed solely under the terms of the statute.

BOND (AND ROBB) AMENDMENTS NOS. 1797–1798

(Ordered to lie on the table.)

Mr. BOND (for himself and Mr. ROBB) submitted two amendments intended to be proposed by them to amendment No. 1487 proposed by Mr. DOLE to the bill S. 343, supra; as follows:

AMENDMENT NO. 1797

On page 44, line 14, strike everything after "section 629" through page 46, line 4, and insert in lieu thereof the following:

"Petition for alternative means of compliance

"(a) IN GENERAL.—Any person may petition an agency to modify or waive one or more rules or requirements applicable to one or more facilities owned or operated by such person. The agency is authorized to enter into an enforceable agreement establishing methods of compliance, not otherwise permitted by such rules or requirements, to be complied with in lieu of such rules or requirements. The petition shall identify with reasonable specificity, each facility for which an alternative means of compliance is sought, the rules and requirements for which a modification or waiver is sought and the proposed alternative means of compliance and means to verify compliance and for communication with the public. Where a state has delegated authority to operate a federal program within the state, or is authorized to operate a state program in lieu of an otherwise applicable federal program, the relevant agency shall delegate, if the state so requests, its authority under its authority under this section to the state.

"(b) STANDARDS.—The agency shall grant the petition if the state in which the facility is located agrees to any alternative means of compliance with respect to rules or requirements over which such state has delegated authority to operate a federal program, or is authorized to operate a state program in lieu of an otherwise applicable federal program, and the agency determines that the petitioner has demonstrated that there is a reasonable likelihood that the alternative means of compliance—

(1) would achieve an overall level of protection of health, safety and the environment at least substantially equivalent to or exceeding the level of protection provided by the rules or requirements subject to the petition;

(2) would provide a degree of public access to information, and of accountability and enforceability, at least substantially equivalent to the degree provided by the rules and requirements subject to the petition; and

(3) would not impose an undue burden on the agency responsible for enforcing the agreement entered into pursuant to subsection (f).

"(c) OTHER PROCEDURES.—If the statute authorizing a rule subject to a petition under this section provides specific available procedures or standards allowing an alternative means of compliance for such rule, such petition shall be reviewed consistent with such procedures or standards, unless the head of the agency for good cause finds that reviewing the petition in solely accordance with subsection (b) is in the public interest.

"(d) PUBLIC NOTICE AND INPUT.—No later than the date on which the petitioner submits the petition to the agency, the petitioner shall inform the public of the submission of such petition (including a brief description of the petition) through publication of a notice in the newspapers of general circulation in the area in which the facility or facilities are located. Agencies may authorize or require petitioners to use additional or alternative means of informing the public of the submission of such petitions. If the agency proposes to grant the petition, the agency shall provide public notice and opportunity to comment on the petition and on any proposed enforceable agreement.

"(e) DEADLINE AND LIMITATION ON SUBSEQUENT PETITIONS.—A decision to grant or deny a petition under this subsection shall be made no later than 240 days after a complete petition is submitted. Following a decision to deny a petition under this section, no petition, submitted by the same person, may be granted unless it applies to a different facility, or it is based on a change in a fact, circumstance, or provision of law underlying or otherwise related to the rules or requirements subject to the petition.

"(f) AGREEMENT.—Upon granting a petition under this section, the agency shall propose to the petitioner an enforceable agreement establishing alternative methods of compliance for the facility in lieu of the otherwise applicable rules or requirements and identifying such rules and requirements. Not withstanding any other provision of law, such enforceable agreement may modify or waive the terms of any rule or requirement, including any standard, limitation, permit, order, regulations or other requirement issued by the agency consistent with the requirements of subsection (b) and (c), provided that the state in which the facility is located agrees to any modification or waiver of a rule or requirement over which such state has delegated authority to operate a federal program within the state, or is authorized to operate a state program in lieu of an otherwise applicable federal program. If accepted by the petitioner, compliance with such agreement shall be deemed to be compliance with the laws and rules identified in the agreement. The agreement shall contain appropriate mechanisms to assure compliance including money damages and injunctive relief, for violations of the agreement. The agreement may provide the state in which the facility is located with rights equivalent to the agency with respect to one or more provisions of the agreement.

"(g) NEPA NONAPPLICABILITY.—Approval of an alternative means of compliance under this section by an agency shall not be considered a major Federal action for purposes of the National Environmental Policy Act.

"(h) JUDICIAL REVIEW.—A decision to grant or deny a petition, or to enter into an enforceable agreement, under this section shall be not be subject to judicial review.

"(i) SAVINGS CLAUSE.—A decision to grant or deny a petition or enter into an enforceable agreement shall not create any obligation on an agency to modify and regulation. Nothing in this section shall be construed to diminish the level of protection of public health, safety or the environmental required by statute.

AMENDMENT NO. 1798

On page 1, line 5, strike everything through the end of the amendment and insert in lieu thereof the following:

"Petition for alternative means of compliance

"(a) IN GENERAL.—Any person may petition an agency to modify or waive one or more rules or requirements applicable to one or more facilities owned or operated by such person. The agency is authorized to enter into an enforceable agreement establishing methods of compliance, not otherwise permitted by such rules or requirements, to be complied with in lieu of such rules or requirements. The petition shall identify with reasonable specificity, each facility for which an alternative means of compliance is sought, the rules and requirements for which a modification or waiver is sought and the proposed alternative means of compliance and means to verify compliance and for communication with the public. Where a state had delegated authority to operate a federal program within the state, or is authorized to operate a state program in lieu of any otherwise applicable federal program, the relevant agency shall delegate, if the state so requests, its authority under its authority under this section to the state.

"(b) STANDARDS.—The agency shall grant the petition if the state in which the facility is located agrees to any alternative means of compliance with respect to rules or requirements over which such state has delegated authority to operate a federal program, or is authorized to operate a state program in lieu of an otherwise applicable federal program, and the agency determines that the petitioner had demonstrated that there is a reasonable likelihood that the alternative means of compliance—

(1) would achieve an overall level of protection of health, safety and the environment at least substantially equivalent to or exceeding the level of protection provided by rules or requirements subject to the petition;

(2) would provide a degree of public access to information, and of accountability and enforceability, at least substantially equivalent to the degree provided by the rules and requirements subject to the petition; and

(3) would not impose an undue burden on the agency responsible for enforcing the agreement entered into pursuant to subsection (f).

"(c) OTHER PROCEDURES.—If the statute authorizing a rule subject to a petition under this section provides specific available procedures or standards allowing an alternative means of compliance for such rule, such petition shall be reviewed consistent with such procedures or standards, unless the head of the agency for good cause finds that reviewing the petition in solely accordance with subsection (b) is in the public interest.

"(d) PUBLIC NOTICE AND INPUT.—No later than the date on which the petitioner submits the petition to the agency, the petitioner shall inform the public of the submission of such petition (including a brief description of the petition) through publication of a notice in the newspapers of general circulation in the area in which the facility or facilities are located. Agencies may authorize or require petitioners to use additional or alternative means of informing the public of the submission of such petitions. If the agency proposes to grant the petition, the agency shall provide notice and opportunity to comment on the petition and on any proposed enforceable agreement.

"(e) DEADLINE AND LIMITATION ON SUBSEQUENT PETITIONS.—A decision to grant or deny a petition under this subsection shall be made no later than 240 days after a complete petition is submitted. Following a decision to deny a petition under this section, no petition, submitted by the same person, may be granted unless it applies to a different facility, or it is based on a change in a fact, circumstance, or provision of law underlying or otherwise related to the rules or requirements subject to the petition.

"(f) AGREEMENT.—Upon granting a petition under this section, the agency shall propose to the petitioner an enforceable agreement establishing alternative methods of compliance for the facility in lieu of the otherwise applicable rules or requirements and identifying such rules and requirements. Notwithstanding any other provision of law, such enforceable agreement may modify or waive the terms of any rule or requirement, including any standard, limitation, permit, order, regulations or other requirement issued by the agency consistent with the requirements of subsections (b) and (c), provided that the state in which the facility is located agrees to any modification or waiver of a rule or requirement over which such state has delegated authority to operate a federal program within the state, or is authorized to operate a state program in lieu of an otherwise applicable federal program. If accepted by the petitioner, compliance with such agreement shall be deemed to be compliance with the laws and rules identified in the agreement. The agreement shall contain appropriate mechanisms to assure compliance including money damages and injunctive relief, for violations of the agreement. The agreement may provide the state in which the facility is located with rights equivalent to the agency with respect to one or more provisions of the agreement.

"(g) NEPA NONAPPLICABILITY.—Approval of an alternative means of compliance under this section by an agency shall not be considered a major Federal action for purposes of the National Environmental Policy Act.

"(h) JUDICIAL REVIEW.—A decision to grant or deny a petition, or to enter into an enforceable agreement, under this section shall not be subject to judicial review.

"(i) SAVINGS CLAUSE.—A decision to grant or deny a petition or enter into an enforceable agreement shall not create any obligation on an agency to modify any regulation. Nothing in this section shall be construed to diminish the level of protection of public health, safety or the environment required by statute.

JOHNSTON AMENDMENTS NOS. 1799–1800

(Ordered to lie on the table)

Mr. JOHNSTON submitted two amendments intended to be proposed by him to amendment No. 1574 submitted by Mr. LAUTENBERG to the bill S. 343, supra; as follows:

AMENDMENT NO. 1799

In lieu of the matter to be inserted, insert the following:

"(d) TOXICS RELEASE INVENTORY STANDARDS.—Section 313(d) of the Emergency Planning and Community Right-to-Know Act of 1986 (42 U.S.C. 11023(d)) is amended by adding the following to the end of paragraph (2):

"No chemical may be included on the list described in subsection (c) of this section, if the chemical has low toxicity to human health or the environment and if only under unrealistic exposures would such chemical pose one or more of the hazards described in subsection (d)(2)(B) or (d)(2)(C) beyond facility site boundaries. Nothing in this section shall be construed to require the Administrator or a person to carry out a risk assessment under 633 of title 5, United States Code, to carry out a site-specific analysis to establish actual ambient concentrations, or to document adverse effects at any particular location."

(e) TECHNICAL AND CONFORMING AMENDMENTS.—

(1) CHAPTER ANALYSIS.—Part I of title 5, United States Code, is amended by striking the chapter heading and table of sections for chapter 6 and inserting the following:

"CHAPTER 6—THE ANALYSIS OF REGULATORY FUNCTIONS

"SUBCHAPTER I—REGULATORY ANALYSIS

"Sec.
"601. Definitions.
"602. Regulatory agenda.
"603. Initial regulatory flexibility analysis.
"604. Final regulatory flexibility analysis.
"605. Avoidance of duplicative or unecessary analyses.
"606. Effect on other law.
"607. Preparation of analysis.
"608. Procedure for waiver or delay of completion.
"609. Procedures for gathering comments.
"610. Periodic review of rules.
"611. Judicial review.
"612. Reports and intervention rights.

"SUBCHAPTER II—ANALYSIS OF AGENCY RULES

"621. Definitions.
"622. Rulemaking cost-benefit analysis.
"623. Agency regulatory review.
"624. Decisional criteria.
"625. Jurisdiction and judicial review.
"626. Deadlines for rulemaking.
"627. Special rule.
"628. Petition for Alternative Method of Compliance.

"SUBCHAPTER III—RISK ASSESSMENTS

"631. Definitions.
"632. Applicability.
"633. Principles for risk assessments.
"634. Petition for review of a major free-standing risk assessment.
"635. Comprehensive risk reduction.
"636. Rule of construction.

"SUBCHAPTER IV—EXECUTIVE OVERSIGHT

"641. Procedures.
"642. Delegation of authority.
"643. Judicial review.
"644. Regulatory agenda."

(2) SUBCHAPTER HEADING.—Chapter 6 of title 5, United States Code, is amended by inserting immediately before section 601, the following subchapter heading:

"SUBCHAPTER I—REGULATORY ANALYSIS".

AMENDMENT NO. 1800

Strike out subsection 625(e) (page 39, lines 18–24 and page 40, lines 1–7).

THE BOSNIA AND HERZEGOVINA SELF-DEFENSE ACT OF 1995

DOLE (AND OTHERS) AMENDMENT NO. 1801

Mr. DOLE (for himself, Mr. LIEBERMAN, Mr. HELMS, Mr. THURMOND, Mr. BIDEN, Mr. D'AMATO, Mr. MCCAIN, Mr. FEINGOLD, Mr. WARNER, Mr. HATCH, Mr. KYL, Mr. MOYNIHAN, Mr. STEVENS, Mr. COCHRAN, Mrs. HUTCHISON, Mr. MACK, Mr. COVERDELL, Mr. PACKWOOD, Mr. MURKOWSKI, and Mr. SPECTER) proposed an amendment to the bill (S. 21) to terminate the United States arms embargo applicable to the Government of Bosnia and Herzegovina; as follows:

Strike all after the enacting clause and insert the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the "Bosnia and Herzegovina Self-Defense Act of 1995".

SEC. 2. FINDINGS.

The Congress makes the following findings:

(1) For the reasons stated in section 520 of the Foreign Relations Authorization Act, Fiscal Years 1994 and 1995 (Public Law 103–236), the Congress has found that continued application of an international arms embargo to the Government of Bosnia and Herzegovina contravenes that Government's inherent right of individual or collective self-defense under Article 51 of the United National Charter and therefore is inconsistent with international law.

(2) The United States has not formally sought multilateral support for terminating the embargo against Bosnia and Herzegovina through a vote on a United Nations Security Council resolution since the enactment of section 1404 of the National Defense Authorization Act for Fiscal Year 1995 (Public Law 103–337).

(3) The United Nations Security Council has not taken measures necessary to maintain international peace and security in Bosnia and Herzegovina since the aggression against that country began in April 1992.

SEC. 3. STATEMENT OF SUPPORT.

The Congress supports the efforts of the Government of the Republic of Bosnia and Herzegovina—

(1) to defend its people and the territory of the Republic;

(2) to preserve the sovereignty, independence, and territorial integrity of the Republic; and

(3) to bring about a peaceful, just, fair, viable, and sustainable settlement of the conflict in Bosnia and Herzegovina.

SEC. 4. TERMINATION OF ARMS EMBARGO.

(a) TERMINATION.—The President shall terminate the United States arms embargo of the Government of Bosnia and Herzegovina, as provided in subsection (b), following—

(1) receipt by the United States Government of a request from the Government of Bosnia and Herzegovina for termination of the United States arms embargo and submission by the Government of Bosnia and Herzegovina, in exercise of its sovereign rights as a nation, of a request to the United Nations Security Council for the departure of UNPROFOR from Bosnia and Herzegovina; or

(2) a decision by the United Nations Security Council, or decisions by countries contributing forces to UNPROFOR, to withdraw UNPROFOR from Bosnia and Herzegovina.

(b) IMPLEMENTATION OF TERMINATION.—The President may implement termination of the United States arms embargo of the Government of Bosnia and Herzegovina pursuant to subsection (a) prior to the date of completion of the withdrawal of UNPROFOR personnel from Bosnia and Herzegovina, but shall, subject to subsection (c), implement termination of the embargo pursuant to that subsection no later than the earlier of—

(1) the date of completion of the withdrawal of UNPROFOR personnel from Bosnia and Herzegovina; or

(2) the date which is 12 weeks after the date of submission by the Government of Bosnia and Herzegovina of a request to the United Nations Security Council for the departure of UNPROFOR from Bosnia and Herzegovina.

(c) PRESIDENTIAL WAIVER AUTHORITY.—If the President determines and reports in advance to Congress that the safety, security, and successful completion of the withdrawal of UNPROFOR personnel from Bosnia and Herzegovina in accordance with subsection (b)(2) requires more time than the period provided for in that subsection, the President may extend the time period available under subsection (b)(2) for implementing termination of the United States arms embargo of the Government of Bosnia and Herzegovina for a period of up to 30 days. The authority in this subsection may be exercised to extend the time period available under subsection (b)(2) for more than one 30-day period.

(d) PRESIDENTIAL REPORTS.—Within 7 days of the commencement of the withdrawal of UNPROFOR from Bosnia and Herzegovina, and every 14 days thereafter, the President shall report in writing to the President pro tempore of the Senate and the Speaker of the House of Representatives on the status and estimated date of completion of the withdrawal operation. If any such report includes an estimated date of completion of the withdrawal which is later than 12 weeks after commencement of the withdrawal operation, the report shall include the operational reasons which prevent the completion of the withdrawal within 12 weeks of commencement.

(e) RULE OF CONSTRUCTION.—Nothing in this section shall be interpreted as authorization for deployment of United States forces in the territory of Bosnia and Herzegovina for any purpose, including training, support, or delivery of military equipment.

(f) DEFINITIONS.—As used in this section—

(1) the term "United States arms embargo of the Government of Bosnia and Herzegovina" means the application to the Government of Bosnia and Herzegovina of—

(A) the policy adopted July 10, 1991, and published in the Federal Register of July 19, 1991 (58 FR 33322) under the heading "Suspension of Munitions Export Licenses to Yugoslavia"; and

(B) any similar policy being applied by the United States Government as of the date of completion of withdrawal of UNPROFOR personnel from Bosnia and Herzegovina, pursuant to which approval is denied for transfers of defense articles and defense services to the former Yugoslavia; and

(2) the term "completion of the withdrawal of UNPROFOR personnel from Bosnia and Herzegovina" means the departure from the territory of Bosnia and Herzegovina of substantially all personnel participating in UNPROFOR and substantially all other personnel assisting in their withdrawal, within a reasonable period of time, without regard to whether the withdrawal was initiated pursuant to a request by the Government of Bosnia and Herzegovina, a decision by the United nations security Council, or decisions by countries contributing forces to UNPROFOR, but the term does not include such personnel as may remain in Bosnia and Herzegovina pursuant to an agreement between the Government of Bosnia and Herzegovina and the government of any country providing such personnel.

NOTICES OF HEARINGS

COMMITTEE ON INDIAN AFFAIRS

Mr. McCAIN. Mr. President, I would like to announce that the Senate Committee on Indian Affairs will be holding a hearing on Tuesday, July 25, 1995, beginning at 9:30 a.m., in G–50 of the Dirksen Senate Office Building on S. 487, a bill to amend the Indian Gaming Regulatory Act, and for other purposes.

Those wishing additional information should contact the Committee on Indian Affairs at 224–2251.

SUBCOMMITTEE ON OVERSIGHT OF GOVERNMENT MANAGEMENT

Mr. COHEN. Mr. President, I wish to announce that on Tuesday, July 25, 1995, at 9:30 a.m., in room 342 of the Dirksen Senate Office Building, the Subcommittee on Oversight of Government Management and the District of Columbia, will hold a hearing on S. 946, the Information Technology Management Reform Act of 1995.

SUBCOMMITTEE ON PARKS, HISTORIC PRESERVATION AND RECREATION

Mr. CAMPBELL. Mr. President, I would like to announce for the public that a field hearing has been scheduled before the Subcommittee on Parks, Historic Preservation and Recreation.

The hearing will take place Saturday, July 29, 1995 at 10:00 a.m. in the Scott Hart Auditorium of the Department of Agriculture Building in Helena, MT.

The purpose of this hearing is to review S. 745, a bill to require the National Park Service to eradicate brucellosis afflicting the bison in Yellowstone National Park.

Because of the limited time available for the hearing, witnesses may testify by invitation only. However, those wishing to submit written testimony for the hearing record should send two copies of their testimony to the Subcommittee on Parks, Historic Preservation and Recreation, Committee on Energy and Natural Resources, U.S. Senate, 304 Dirksen Senate Office Building, Washington, DC 20510–6150.

For further information, please contact Jim O'Toole of the subcommittee staff at (202) 224–5161.

AUTHORITY FOR COMMITTEES TO MEET

COMMITTEE ON AGRICULTURE, NUTRITION AND FORESTRY

Mr. HATCH. Mr. President, I ask unanimous consent that the Committee on Agriculture, Nutrition, and Forestry be allowed to meet during the session of the Senate on Tuesday, July 18, 1995, at 9 a.m., in SR–332, to mark up farm bill titles.

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

COMMITTEE ON ENERGY AND NATURAL RESOURCES

Mr. HATCH. Mr. President, I ask unanimous consent that the Committee on Energy and Natural Resources be granted permission to meet during the session of the Senate on Tuesday, July 18, 1995, for purposes of conducting a full committee hearing which is scheduled to begin at 9:30 a.m. The purpose of this hearing is to review existing oil production at Prudhoe Bay, AK and opportunities for new production on the coastal plain of Arctic Alaska.

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

COMMITTEE ON FINANCE

Mr. HATCH. Mr. President, I ask unanimous consent that the Committee on Finance be permitted to meet Tuesday, July 18, 1995, beginning at 9:00 a.m. in room SD–215, to conduct a hearing on deficit reduction fuel taxes and diesel dyeing requirements.

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

COMMITTEE ON THE JUDICIARY

Mr. HATCH. Mr. President, I ask unanimous consent that the Committee on the Judiciary be authorized to meet during the session of the Senate on Tuesday, July 18, 1995, at 2:00 p.m. to hold a hearing on judicial nominees.

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

COMMITTEE ON LABOR AND HUMAN RESOURCES

Mr. HATCH. Mr. President, I ask unanimous consent that the Committee on Labor and Human Resources be authorized to meet for a hearing on Health Insurance Reform, during the session of the Senate on Tuesday, July 18, 1995, at 9:30 a.m.

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

SUBCOMMITTEE ON OVERSIGHT AND INVESTIGATIONS

Mr. HATCH. Mr. President, I ask unanimous consent that the Subcommittee on Oversight and Investigations of the Committee on Energy and Natural Resources be granted permission to meet during the session of the Senate on Tuesday, July 18, 1995, for purposes of conducting a subcommittee hearing which is scheduled to begin at 2:30 p.m. The purpose of this hearing is to examine the first amendment activities, including sales of message-bearing merchandise, on public lands managed by the National Park Service and the U.S. Forest Service.

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

SUBCOMMITTEE ON YOUTH VIOLENCE

Mr. HATCH. Mr. President, I ask unanimous consent that the Subcommittee on Youth Violence of the U.S. Senate Committee on the Judiciary, be authorized to meet during a session of the Senate on Tuesday, July 18, 1995, at 10:00 a.m., in Senate Dirksen room 226, on "Guns in Schools: A Federal Role?"

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

NOTICE TO AMEND RULE XXXIV

Mr. BROWN submitted the following notice in writing:

In accordance with Rule V of the Standing Rules of the Senate, I hereby give notice in writing that it is my intention to move to amend Senate Rule 34.

The amendment is as follows:

At the appropriate place, insert the following:

"SEC. . DISCLOSURE OF THE VALUE OF ANY PERSONAL RESIDENCE IN EXCESS OF $1,000,000 UNDER THE ETHICS IN GOVERNMENT ACT OF 1978.

"Rule XXXIV of the Standing Rules of the Senate is amended by adding at the end the following new paragraph:

'3. In addition to the requirements of paragraph 1, Members, officers, and employees of the Senate shall include in each report filed under paragraph 2 an additional statement under section 102(a) of the Ethics in Government Act of 1978 listing the category of value of any property used solely as a personal residence of the reporting individual or the spouse of the individual which exceeds $1,000,000, as provided in section 102(d)(1).'"

At the appropriate place in the, insert the following:

"SEC. . DISCLOSURE OF THE VALUE OF ASSETS UNDER THE ETHICS IN GOVERNMENT ACT OF 1978.

"Rule XXXIV of the Standing Rules of the Senate is amended by adding at the end the following new paragraph:

'3. In addition to the requirements of paragraph 1, Members, officers, and employees of the Senate shall include in each report filed under paragraph 2 the following additional information:

'(a) For purposes of section 102(a)(1)(B) of the Ethics in Government Act of 1978 additional categories of income as follows:

'(1) greater than $1,000,000 but not more than $5,000,000, or

'(2) greater than $5,000,000.

'(b) For purposes of section 102(d)(1) of the Ethics in Government Act of 1978 additional categories of income as follows:

'(1) greater than $1,000,000 but not more than $5,000,000;

'(2) greater than $5,000,000 but not more than $25,000,000;

'(3) greater than $25,000,000 but not more than $50,000,000; and

'(4) greater than $50,000,000'".

ADDITIONAL STATEMENTS

U.N. RAPID REACTION CAPABILITY

Mr. SIMON. Mr. President, I learned in reading a newspaper about Canada's leadership in providing a study on methods of improvement of the U.N. rapid reaction capability.

As many of my colleagues in the Senate know, I have had concerns in this area for some time.

I wrote to Minister of Foreign Affairs Andre Ouellet, and he sent me a letter, which I ask unanimous consent to insert at the end of this statement.

Among other things, he enclosed a background paper, that I also request be inserted at the end of my statement, because it provides practical insights into our situation.

It is interesting that the background paper mentions Rwanda. Senator JEFFORDS and I had the experience of calling a Canadian general, General Daullaire, who was in charge of the small U.N. force in Rwanda when things first started getting difficult. This was in May 1994.

General Daullaire told us that if he could get 5,000–8,000 troops there quickly, the situation in Rwanda could be stabilized.

Senator JEFFORDS and I immediately dispatched a message to the State Department and to the White House.

Nothing of significance happened until October, when the United Nations Security Council authorized action; then the French, to their great credit, immediately sent 2,000 troops to provide a little stability, but the United Nations was slow to act.

We went through a similar situation in Somalia.

Bosnia presents another example of action that is much too slow.

My colleagues know that I have introduced legislation that would authorize up to 3,000 American volunteers among our armed forces to be available on short notice, if the Security Council acts, and the President of the United States approves. I assume other nations would be willing to volunteer a similar, relatively small force.

If the Secretary General of the United Nations had such power at his disposal when authorized by the Security Council, we would not have had some of the difficulties that now threaten our world. And the great threat to the world today is instability.

After the Security Council acted in Somalia, it took 6 weeks to get 500 Pakistani troops to Mogadishu, and when I visited Somalia and found the desperate situation and called the Secretary General about it, he told me that the additional 3,000 troops then authorized would be sent by ship. When I urged that they be sent by plane and that an additional 10,000 troops be sent, he said that our government—the U.S. government—charges so much to send troops by plane that they could not afford it.

I will not go into the rest of the background, but it illustrates the wisdom of the Canadian leadership.

I commend Prime Minister Jean Chretien and Minister of Foreign Affairs Andre Ouellet for their leadership.

And I hope the United States will be an enthusiastic partner and not be a nation that is dragging its feet on this issue.

I urge my colleagues to read the background paper from the Canadian Government. I ask that it be printed in the RECORD.

The material follows:

MINISTER OF FOREIGN AFFAIRS,
Ottawa, Canada, June 8, 1995.

Hon. PAUL SIMON,
U.S. Senate, Washington, DC.

DEAR SENATOR SIMON: Thank you for your letter of February 6, 1995, regarding the Canadian study to improve the United Nations (UN) rapid reaction capability. Your words of support for our efforts are appreciated.

As you are aware, Canada has made UN reform a foreign policy priority. A key element of our position is to ensure that the UN operates with greater efficiency and effectiveness. The Government is committed to the active, continued and effective engagement of the Canadian Forces in international peacekeeping operations.

The aim of the Canadian study is to make practical proposals to enhance the UN's rapid reaction capability in the field of peace operations. My officials are consulting extensively with other interested states to ensure the widest possible support for our initiative. The findings of the study are scheduled to be tabled at the 50th anniversary of the UN General Assembly in the fall of 1995.

For further details of the Canadian study, you may wish to consult the enclosed copies of recent press releases and of my address to the International Conference on Improving the UN's Rapid Reaction Capability.

Once again, thank you for bringing your views to my attention.

Yours sincerely,

ANDRÉ OUELLET.

IMPROVING THE UN'S RAPID REACTION CAPABILITY: A CANADIAN STUDY

INTRODUCTION

At the UN General Assembly in September 1994, Foreign Affairs Minister André Ouellet proposed a concrete step toward the goal of enhancing the UN's responsiveness in the field of peace operations. In committing Canada to making a direct contribution to this end, Mr. Ouellet said:

"The experience of the last few years leads us to believe that we need to explore even more innovative options than those considered to date. Recent peacekeeping missions have shown that the traditional approach no longer applies. As we have seen in Rwanda, rapid deployment of intervention forces is essential.

"In light of the situation, the Government of Canada has decided to conduct an in-depth review of the short-, medium- and long-term options available to use to strengthen the UN's rapid response capability in times of crisis. Among these options, we feel that the time has come to study the possibility, over the long term, of creating a permanent UN military force. We will ask the world's leading experts for their input and will inform all member states of the results of the study."

The Government of Canada has now begun this extensive study.

CONTEXT

The rapid increase in the size, scope and number of peace operations since the end of the Cold War reflects both the ongoing transformation of the international system and the new expectation that the United Nations can and should play a pivotal role in the emerging global order. There have been both startling successes and troublesome failures among the over 21 new missions launched since 1988. However, no firm consensus has developed regarding how and why UN peace operations succeed, or on when the UN should avoid engagement in a given situation that is not yet amenable to an effective peace mission.

Certainly, there have been many recent improvements in how the UN undertakes peace operations. These range from greater political understanding of the mechanism itself in member state capitals, to enhancement of the means available to the Secretary-General in the Secretariat, to a growing sophistication organizationally and operationally at the level of field missions. Many member states remain actively engaged in promoting these improvements and in working incrementally on the full spectrum of peacekeeping issues.

One particular, seemingly intractable issue that to some extent reflects the broader problems outlined above, is that of responsiveness. A review of several missions over the past five years clearly indicates that a more rapid, coherent response to an emerging crisis could have had a much more dramatic impact on the evolving situation than that which actually occurred. The example of Rwanda illustrates the problem in bold relief. Despite various unco-ordinated indications that a crisis was imminent, even a minimal response had to await the onset of crisis. At this point, the detailed planning and mounting of the operation were excruciatingly slow, with deployment of troops taking place months after they were officially committed.

Improving the UN's rapid reaction capability is not a new theme. The first UN Secretary-General, Trygve Lie, raised the subject as early as 1948. Considerable attention was devoted to this issue as early as 1957 in the aftermath of the successful deployment of UNEF I in the Sinai. The Special Committee on Peacekeeping (Committee of 34) has also devoted considerable energy to the concept in the intervening years. Today, this topic is again near the top of the peacekeeping agenda, with a particular focus on the idea of a UN force as one means to achieve this end.

The resurgence of the theme of enhanced responsiveness reflects a number of recent developments in the international arena. With the end of the Cold War, there is no obvious reason why the UN cannot react more quickly to crisis. The absence of bipolar confrontation, and consequent minimal recourse to the veto on the part of permanent members of the Security Council, as well as the apparent end to rigidly defined spheres of influence, suggest that improved Great Power comity should lead to more effective and efficient international co-operation. At the same time, human rights and humanitarian concerns, once held hostage to the Cold War, have surfaced in a compelling way. This has led to a shift in political and strategic calculations from a strict emphasis on order to a more subtle one, in which the idea of justice enjoys priority. Finally, global media coverage continues to generate domestic and international pressure to act quickly, albeit on a selective basis.

These factors pose challenges to the international community. Equally, they offer opportunities to act constructively in developing the necessary instruments to deal quickly and effectively with genuine threats to international peace and security.

OBJECTIVE

The aim of the study is to make practical proposals to enhance the UN's rapid reaction capability in the field of peace operations.

SCOPE

The Canadian study will analyze the problem of rapid reaction capability from the perspective of the UN system as a whole. The functions that need to be performed at the political, strategic, operational and tactical levels will be identified. A key component of this analysis will be a clear description of the crucial interrelationships among these levels, based on the premise that deficiencies and inadequacies in any one sphere directly influence success or failure throughout the system. For example, the ready availability of an operational element remains dependent upon both the generation of political will, and adequate ongoing strategic planning and direction for its effectiveness.

The focus of the study will be at the operational and tactical levels. The greatest challenges lie here, given the virtually complete ad hoc nature of mounting today's peace operations and the slow, inefficient assembly of disparate tactical units in the theatre of operations. Even given adequate warning and the existence of strategic plans to react, there is a virtual vacuum at the operational level in the UN system. At present, there is no standing headquarters that is capable of organizing, integrating and directing forces based on common doctrine and standards.

In keeping with the requirement to make practical recommendations that respond to today's needs, as well as the achievement of potential advances in the future, the study will develop proposals for the short, medium and long terms. In this context, the study of the concept of a UN standing force will involve both its feasibility and modus operandi once established over the long term, as well as the relationship between short- and medium-term projects and their possible cumulative contributions to its ultimate creation.

Finally, the study will look at the impact of a standing force on the activities of regional organizations and their capabilities in this area. Regional actors and organizations should have a high motivation to react quickly to emerging crises in their own regions. Similarly, in some important respects at least, they should be inherently more capable of moving quickly into a theatre of operations. The comparative advantages of operating at a global or regional level will be addressed, and proposals will be developed to achieve a balanced effort in accordance with the intent of Chapter VIII of the UN Charter, and along the lines recently advocated by Secretary-General Boutros Boutros-Ghali.

STRUCTURE

The study will be guided by a steering group of senior officials and military officers, co-chaired by the Department of Foreign Affairs and International Trade and the Department of National Defense. The steering group will oversee the study and commission supporting technical studies as appropriate.

In order to provide the broadest possible international input into the study, an international consultative group is being established. This group, drawn from well-known and accomplished diplomats, government officials, soldiers and academics, will review the work in progress and exchange views as the study proceeds. Three conferences will also be organized under the aegis of the study, to which various member states, non-governmental authorities and specialists will be invited. The first two conferences will draw primarily on Canadian experts, and will focus on the operational/technical and the strategic/political levels, respectively. The third conference will be international in scope, and will be organized around a meeting of the international consultative group in April 1995. The results of all of these conferences will be incorporated into the final report.

Throughout the study process, Canada will consult on a bilateral basis with member states interested in monitoring the progress of and exchanging views on the study. Canada would also hope to collaborate with other member states pursuing similar or complementary ideas.

A key consultative partner during the study will be the UN Secretariat. The steering group will keep the Secretary-General informed of the progress of the study, seek his views as appropriate, and invite relevant Secretariat officials to the conferences.

CONTENT

The study is intended to focus on enhancing the UN's rapid reaction capability. It is not a study on how to improve UN peacekeeping generally. Nonetheless, these two themes have much in common that must be taken into account in the overall context of the study. Therefore, the study will review past experience relevant to the aim of this project, including a review of major concepts and initiatives that represent significant milestones on the road to the present. Particular attention will be paid to developments since the end of the Cold War. Furthermore, the study will be guided by the orientation and concepts articulated by the Secretary-General in An Agenda for Peace. Due regard will be accorded to non-military aspects of peace operations, such as prevention diplomacy, the political component of all such operations and peacebuilding. Peacekeeping will be treated in its broadest context.

The study will focus on the specific issue of improved responsiveness, given the structure and nature of contemporary peacekeeping. This will take account of the interrelationships among the political, strategic, operational and tactical components of any peace operation, as well as the relevance for rapid reaction of the integration of political, humanitarian, police and military elements, including non-governmental organizations (NGOs). Similarly, the study will address the question of command and control systems and their contribution to an improved rapid reaction capability. The conditions under which nations are willing to make their resources available to the UN are crucial to their political commitment and readiness to act. Paramount among these concerns is the

nature and competence of command and control structures and relationships. The role of the Security Council in mobilizing political support and providing ongoing guidance is essential.

The study will elaborate the component elements of a rapid reaction capability in a generic sense. This section of the study will address the requirement for, and provision of, among other things, early warning, integrated planning capability, command and control systems, logistics capability and doctrine/standards/interoperability. An important element will be the nature of standing forces, options for their development and a discussion of their potential utility.

Having established the basis for rapid reaction, the study will address in concrete terms what can be done to achieve this capability. The study will outline proposals that logically fit into one of the three time frames envisaged. The implications of a given proposal at one of the four levels (political, strategic, operational and tactical) for the remaining levels will be explored. For example, the establishment of regional stocks in two or more locations has direct implications for how these stocks will be allocated and co-ordinated at the strategic level in New York.

In many cases, short-term proposals will suggest additional measures that might logically follow in the medium and long terms. For example, virtually all proposals for the medium and long term imply an increased capability in the UN Secretariat to cope with additional responsibilities. Therefore, reform and enhancement of the UN Secretariat, a necessary stand-alone requirement to enhance the UN's rapid reaction capability, will also cumulatively establish the necessary strategic apparatus to handle a series of additional medium- and long-term improvements.

Any plan to operate a standing force presupposes adjustments at the political, strategic and tactical levels, which in many cases must be put in place on an incremental basis, starting as soon as possible.

The study will arrive at recommendations and conclusions regarding the desirability and feasibility of implementing a variety of potential measures. It will also make observations and recommendations as to their associated costs.

The study will be submitted to the membership of the UN at the General Assembly in September 1995, and presented to the Secretary-General for his consideration.

NOTICE OF DETERMINATION BY THE SELECT COMMITTEE ON ETHICS UNDER RULE 35, PARAGRAPH 4, REGARDING EDUCATIONAL TRAVEL

• Mr. MCCONNELL. Mr. President, it is required by paragraph 4 of rule 35 that I place in the CONGRESSIONAL RECORD notices of Senate employees who participate in programs, the principal objective of which is educational, sponsored by a foreign government or a foreign educational or charitable organization involving travel to a foreign country paid for by that foreign government or organization.

The select committee received notification under rule 35 for Robert McArthur, a member of the staff of Senator COCHRAN, to participate in a program in Germany sponsored by the Hanns Seidel Foundation from July 1 to 8, 1995.

The committee determined that no Federal statute or Senate rule would prohibit participation by Mr. McArthur in this program.

The select committee received notification under rule 35 for Mary Parke, a member of the staff of Senator SIMON, to participate in a program in Germany sponsored by the Friedrich-Naumann-Stiftung Foundation from May 27 to June 3, 1995.

The committee determined that no Federal statute or Senate rule would prohibit participation by Ms. Parke in this program.

The select committee received notification under rule 35 for Jonathan M. Harris, a member of the staff of Senator D'AMATO, to participate in a program sponsored by the Korea Economic Institute of America to be held in Korea from May 28 to June 4, 1995.

The committee determined that no Federal statute or Senate rule would prohibit participation by Mr. Harris in this program.

The select committee received notification under rule 35 for Reid Cavnar, a member of the staff of Senator SHELBY, to participate in a program in Taiwan sponsored by the Tamkang University from July 1 to 8, 1995.

The committee determined that no Federal statute or Senate rule would prohibit participation by Mr. Cavnar in this program.

The select committee received notification under rule 35 for Ridge Schuyler, a member of the staff of Senator ROBB, to participate in a program in Taiwan sponsored by the Tamkang University from July 1 to 8, 1995.

The committee determined that no Federal statute or Senate rule would prohibit participation by Mr. Schuyler in this program.

The select committee received notification under rule 35 for Pamela Sellars, a member of the staff of Senator COATS, to participate in a program in Germany sponsored by the Hanns Seidel Foundation from July 1 to 8, 1995.

The committee determined that no Federal statute or Senate rule would prohibit participation by Ms. Sellars in this program.

The select committee received notification under rule 35 for John Luddy, a member of the staff of Senator INHOFE, to participate in a program in Germany sponsored by the Hanns Seidel Foundation from July 1 to 8, 1995.

The committee determined that no Federal statute or Senate rule would prohibit participation by Mr. Luddy in this program.

The select committee received notification under rule 35 for Robert H. Carey, Jr., a member of the staff of Senator ABRAHAM, to participate in a program in Germany sponsored by the Hanns Seidel Foundation's Institute for Foreign Relations from July 1 to 8, 1995.

The committee determined that no Federal statute or Senate rule would prohibit participation by Mr. Carey in this program.

The select committee received notification under rule 35 for Chad Calvert, a member of the staff of Senator SIMPSON to participate in a program in Japan sponsored by the Association for Communication of Transcultural Study Foundation.

The committee determined that no Federal statute or Senate rule would prohibit participation by Mr. Calvert in this program.

The select committee received notification under rule 35 for Dr. William Spriggs, a member of the staff of Senator MACK, to participate in a program in Berlin sponsored by Wissenschaftszentrum Berlin fur Sozialforschung from June 29 to July 3, 1995.

The committee determined that no Federal statute or Senate rule would prohibit participation by Dr. Spriggs in this program.

The select committee received notification under rule 35 for Wayne Abernathy, a member of the staff of Senator GRAMM, to participate in a program in Mexico sponsored by the Mexican Business Coordinating Council from July 4 to 7, 1995.

The committee determined that no Federal statute or Senate rule would prohibit participation by Mr. Abernathy in this program.

The select committee received notification under rule 35 for Derek L. Schmidt, a member of the staff of Senator KASSEBAUM, to participate in a program in Korea sponsored by the Korea Economic Institute of America from May 28 to June 4, 1995.

The committee determined that no Federal statute or Senate rule would prohibit participation by Mr. Schmidt in this program.•

METAMORPHOSIS OF A CONTINENT

Mr. SIMON. Mr. President, the Chicago Tribune carried a remarkable story from Timbuktu, Mali by Liz Sly on what is happening in Africa. Really, it is two stories that are intertwined.

I wish it were possible to put into the RECORD the maps and color shadings to provide a more accurate picture of some of the things that are illustrated in this article.

But those who read the article will note that Africa is a place of hope and promise and despair.

The little-known story of the spread of democracy in Africa is the story of progress that could be reversed easily.

Africa needs our helping hand.

I ask that the Liz Sly article be printed in the RECORD.

The article follows:

[From the Chicago Tribune, July 9, 1995]

METAMORPHOSIS OF A CONTINENT—DEMOCRACY SEEKS HOLD AMID POVERTY, VIOLENCE

(By Liz Sly)

TIMBUKTU, MALI.—Not all of the news out of Africa is bad.

For the first time in its long history, this remote town on the edge of the Sahara has a mayor elected by the people, Harber Sabane, 51, who has high hopes that democracy will help Timbuktu reclaim its status as one of the world's great cities.

First, he acknowledged, there are a number of problems to be ironed out.

"We have problems of development," Sabane said. "We don't have roads. We have a problem of water. We don't have infrastructure. Our ecological system is destroyed because of a lot of droughts and we have a problem of deforestation.

"Another problem is unemployment. We have no industry. We are very, very, very poor. Most people are illiterate and 60 percent of our children don't go to school."

Unfortunately, Sabane could have been describing just about anywhere in sub-Saharan Africa. Once synonymous with everything that was exotic and alluring about the continent, Timbuktu today is typical of everything that is wrong with it—even down to the ethnic fighting last year that killed an estimated 600 people and scared away the tourists, the town's only source of outside income.

By 1990, it had long been clear that sub-Saharan Africa was torn by crises. Poverty, conflict and underdevelopment were compounded by corrupt dictators who enjoyed the backing of rival superpowers concerned more with their own strategic agendas than with human rights or economic progress.

This, however, was supposed to be Africa's "democracy decade" in which the dictators, bereft of their Cold War relevance, would be replaced by elected, accountable governments heralding a new era of freedom and prosperity.

Halfway through the 1990s, those goals are elusive as ever for most parts of the continent. Instead, Africa's democracy decade risks becoming yet another decade of disappointment. Millions of Africans are still waiting for life to improve after more than three decades of freedom from colonialism.

A woeful array of collapsed states, hijacked elections and ethnic conflicts litter the landscape south of the Sahara. And even where democracy is taking root, Africa's hopes of a brighter future are in danger of being buried under the weight of its multiple problems, as Sabane is discovering in Timbuktu.

"The world around Africa is fast coming together and this continent risks being the odd man out," warned U.S. National Security Adviser Anthony Lake on a recent visit to the continent, summing up the world's growing impatience with Africa's failure to find its way in the post-Cold war world.

Chaotic Liberia, Somalia and Rwanda stand out as worst case examples of that failure. The 1990s saw Cold War-inspired conflicts in Ethiopia and Mozambique come to and end. But 2 million Africans have died since the collapse of the Berlin Wall as a result of new wars unleashed directly or indirectly by pressures from the democratic reforms that were supposed to bring them new hope—10 times the number who have died in the war in Bosnia.

A recent report from the London-based International Institute of Strategic Studies found some form of conflict in 26 of sub-Saharan Africa's 48 countries, offering a gloomy assessment for the future. "The potential for sudden outbursts of violence exists in most [African] countries as rising populations meet falling living standards and weak governments confront regional or ethnic movements," it said.

But is Africa's outlook really that bleak? It is just 50 years since the world ended a war that killed 60 million people, and many Africans plead that it is unfair to write off Africa now just because it is going through a period of upheaval.

"From the outside, the universal view is one of despair, and it must be tempting to repudiate the whole continent," said political scientist Mahmood Mamdani, director of the Center for Basic Research in Uganda's capital, Jampala. "But when one lives here, one recognizes the extent of the problems but also the small improvements that are taking place."

For better or worse, the 1990s already have proved revolutionary for Africa. Until 1990, Africa had only three governments that could be considered authentically democratic. Since then, multiparty elections have been held in 35 of sub-Saharan Africa's 48 nations.

From the sandswept streets of Timbuktu to the stately monuments of Cape Town, South Africa, new leaders are experimenting with new ways to address Africa's problems, and new freedoms are flourishing in places that once knew only repression and dictatorship.

Some have proved unexpected success stories, such as South Africa, where the leadership of President Nelson Mandela and the spirit of reconciliation that he represents shine like a beacon of hope for the rest of the continent. Benin, Malawi, Zambia and Namibia are among other countries that have peacefully managed the transition to democracy.

Africa's seeming tendency toward violence should be seen in the context of these seismic changes, argues Gen. Amadou Toumani Toure. He helped bring democracy to Mali, the modern state of which Timbuktu is a part, by overthrowing its hated dictator in a military coup and then handing over power to an elected civilian government.

"Africa is in the throes of a radical transformation," Toure said. "After 30 years of military dictatorship or one-party rule, we are moving to democracy. Sometimes that process is violent, and it gives the impression Africa is in crisis.

"Rwanda, Somalia, Liberia, these are all struggles for power in the new order. Some leaders are resisting change. But take Senegal, Mali, Zambia, where people have chosen the ballot over the bullet.

"Africa does have a future. But each country in history has gone through crisis in arriving at its future. America had a revolution. Europe had many wars. Africa also is in the process of finding its future."

But where does Africa's future lie? With South Africa, which also underwent violence before peacefully embracing change? Or with Somalia and Liberia, which have disintegrated into chaos?

The prognosis for most African countries seems to be hovering precariously between these extremes. Just 17 of the continent's 35 elections have heralded genuinely democratic forms of government, according to a study by the Center for Strategic and International Studies.

In countries such as Burkina Faso, Ghana and Kenya, dictators were voted back into power in questionable elections, and they continue to rule with little regard for democratic principles. In others, such as Nigeria and Zaire, corrupt regimes continue to resist change, making these nations candidates for possible future upheaval.

Mali is typical of those new democracies that are genuinely trying to improve the lives of their people. But they are doing so against a backdrop of poverty, ethnic rivalry and falling Western aid budgets, all of which threaten to confound even the best-intentioned efforts.

Do-or-die economic reforms, ordered by the World Bank as a prerequisite for continued international aid, have produced economic growth in some countries that previously had known only stagnation or decline. But the reforms are causing considerable hardship among ordinary people, threatening these fragile new systems with popular discontent.

Poverty is already a key dynamic fueling conflict in Africa, something overlooked by Toure's interpretation of Africa's crises as the inevitable byproduct of political transformation.

In Mali, which the United Nations ranked the world's seventh poorest country, 1992's peaceful democratic elections coincided with an eruption of hostilities between Tuareg nomads and local Malians in the desert region around Timbuktu.

Although these two groups have fought one another in the past, both sides blame the recent fighting not on ethnic differences but on the country's desperate economic situation. Along the fringes of the Sahara, poverty has been deepened by harsh droughts in the 1970s and 1980s that turned former arable land into desert.

"It's poverty and bad economic conditions that cause this antisocial behavior," said Timbuktu's Mayor Sabane of the fighting, which has subsided.

"The causes of the fighting are economic," agreed Mohamed Ag Ahmed, a leader of one of the Tuareg factions, the Movement and United Fronts of Azawad, which is demanding development aid for Tuaregs in peace talks with the government.

"We could all live on the same land without conflict. But the useful space has shrunk over time. The population of Mali increases 3.5 percent a year, and now there is less land available for an increasing number of people year after year."

The simple logic applies to many parts of the continent. Falling living standards, environmental degradation and high population growth rates risk pushing already impoverished communities to the brink of their capacity to survive, and into competition for scarce resources. It is perhaps no accident that Africa's worst crises of the 1990s all have occurred in nations ranked among the continent's poorest half.

Yet there is no reason why Africa should be as poor as it is. A recent International Monetary Fund survey notes that Africa's "overall low level of economic growth is anything but foreordained."

Sub-Saharan Africa's 540 million people account for 10 percent of the world's population, living on about 15 percent of the Earth. Their land is potentially some of the world's richest, blessed with half the world's gold, most of its diamonds, 40 percent of its platinum and rich reserves of other minerals, oil and natural gas.

But Africans share only 1.3 percent of the world's actual wealth, and a disproportionate burden of the world's suffering. According to the CIA, two-thirds of those in the

world risking starvation this year live in Africa. Africa contains 62 percent of the world's AIDS cases and one-third of its refugees.

Africa's entire gross domestic product is smaller than that of the Netherlands, with a population of just 15 million.

Also, Africa is the only part of the developing world where living standards have fallen over the past decade. Despite receiving nearly half the world's total annual aid—$20 billion a year in the 1990s—the average African is no better off today than he or she was at independence from colonialism more than three decades ago.

What brought Africa to this sorry point in its history? Colonialism undoubtedly played a part in setting independent Africa off on the wrong foot, said professor George Ayittey, a Ghanaian national and professor of economics at the American University in Washington.

Independence also proved a hollow word for Africans, for no sooner had they cast off their colonial rulers than Cold War politics intervened to create a new form of foreign interference. Western powers and the Soviet bloc poured billions of dollars into propping up unsavory dictators—$100 billion in the 1980s alone—long after it was apparent that they had no popular support.

But increasingly, Africans are starting to realize that their own leaders are to blame for their plight, Ayittey said.

"The basic reason why we're having all this chaos in Africa is because we had bad leadership," Ayittey said. "The colonial state was very authoritarian but those who took over made things worse."

Uncounted billions of those aid dollars, which could have gone toward building roads or educating children, were squirreled away into Swiss bank accounts for Africa's leaders or spent on weaponry to keep them in power, while ordinary Africans grew steadily poorer.

With the lifting of outside support for Africa's dictators, many of their nations have been exposed as hollow shams, as personal piggy-banks for narrow elites who had failed to unite their multiethnic populations behind them.

In finding its future, Africa therefore has not only to battle harsh new economic realities, but also cope with the burdensome legacy of its past mistakes.

And it can no longer count on the largesse of the outside world to help it through. The West already has given notice that African leaders who fail to heed the new rules of fair play and accountability will have their aid suspended. Yet even those who do can expect no democracy bonanza; in the U.S., a Republican congress is threatening to slash overall aid levels to Africa, and Europe is also cutting aid.

In Timbuktu, a city that lured countless European explorers to their deaths in their quests for its wealth, Mayor Sabane pleads with the world not to forsake Africa now.

"In Africa, we are apprentices in democracy. We need help," he said.

"The current generation is very worried about our situation and wants to lift us out of this malaise and improve our lives. But we must have friendship so that Africa can renew itself and find itself in the modern world."

But could it be too late for a continent that, time and again, has failed to seize opportunities? Will the legacy of mistakes prove insurmountable? Are ordinary Africans, betrayed so many times by past leaders, in the process of being betrayed again?

Or is the continent merely witnessing the death throes of the old order and the birth pangs of a new era, as most Africans would like to believe?

"There is a saying in Africa, 'never lose hope,'" Sabane said.

"We don't lose hope."•

GOVERNMENT SUBSIDY FEEDS FREE MARKET

• Mr. SIMON. Mr. President, Tom Roeser of the Chicago Sun-Times is someone I disagree with frequently, even though I respect him.

On the whole question of assistance for minority businesses, he had a column in the Chicago Sun-Times recently that spoke candidly about something that provides real insight.

As we discuss affirmative action and what should be done to assist in providing opportunities for minorities, I recommend required reading of the Tom Roeser column, and I ask that it be printed in the RECORD at this point.

The column follows:

[From the Chicago Sun-Times, July 7, 1995]

GOVERNMENTAL SUBSIDY FEEDS "FREE MARKET"

(By Thomas F. Roeser)

Not long after I became an assistant secretary of commerce under President Richard Nixon, I stumbled upon an amazing discovery.

The big business community (mostly white-owned), which had long extolled "free" enterprise since the founding of this republic, was hooked far more than I realized on government subsidies.

The Cato Institute has just cataloged 125 programs in the federal budget designed to assist "business"—meaning, of course, mostly white-owned businesses. When I was sworn in, in 1969, I counted roughly $13 billion worth of subsidies. Cato's figure today is $53.7 billion.

The gist of Cato's recommendation is that these subsidies be cut. Very well. But recall that it is mostly white-owned industries that have thus profited since the founding of the republic.

It was clear that I was picked as assistant secretary for minority enterprise because, as a white conservative, I could be fired by a mostly white administration without prompting a racial furor. One recommendation I made lasted: Take a percentage of federal contracts—I called them "set-asides"—and give them to minority-owned businesses. I recommended a 10-year program, after which it would be terminated. It has just now been challenged by the Supreme Court 25 years later.

It was the second proposal, however, that got me fired: Take a tiny percentage of the federal subsidies given to white industry and apportion them to qualifying minority enterprises. The strategy paper containing this recommendation, when sent to the president, resulted in my termination.

No problem. I went back to private industry, happier and wiser than when I had left it. All my life I have been judged a conservative. But I must tell you that whenever big business pays tribute to its growth by mistily referring to itself as "private enterprise," I am impelled to raise the window sash for fresh air. As a government official, I learned too much.

Let's remember, when we wonder what happened to minority enterprise, that white-owned business has leaned heavily on government as on a crutch while its leaders pretend, in speeches to chambers of commerce, that they do not.

This has meant that, for the most part excluding my set-asides, only minority-owned businesses have been expected to practice what white pro-business executives so eagerly trumpet as "free market capitalism."•

PUBLIC BROADCASTING AND TELEVISION VIOLENCE

• Mr. SIMON. Mr. President, today, I would like to draw my colleagues' attention to two recent articles from Current magazine about public television.

One story details the positive contributions of public television in the important area of children's programming. Many have long argued that in addition to its entertainment value, television can be used as a powerful educational resource, particularly for children. Public television has consistently set the standard for putting television to use for this purpose.

"Sesame Street," one of public television's most successful shows, is a favorite for many American children, and indeed for children around the world. Its goals, however, are much loftier than merely entertaining, or marketing to, children. "Sesame Street" works to teach children and prepare them for school. And it is succeeding. In fact, a 4-year study of more than 250 low-income households conducted by the Center for Research on the Influence of Television on Children at the University of Kansas concluded that preschoolers who watch "Sesame Street" regularly score higher on school readiness tests as long as 3 years later.

I am also pleased to report that the American people recognize the value of public television as a public resource. The second Current article examines the high level of public support that public broadcasting enjoys across the country. According to the article, a Roper poll taken in March revealed that Americans ranked public television and radio among the services that provide the best value for the tax dollars. In fact, over 50 percent of those polled rated public television and radio as either excellent or good value.

In this age of television's appeal to the lowest common denominator, public broadcasting generally succeeds in broadening, edifying, and challenging its viewers, and influencing the television medium for the good. Most importantly, public television reaches 99 percent of American households—for free.

I ask that these two articles be printed in the RECORD.

The articles follow:

[From Current, June 19, 1995]

PUBLIC RANKS PUBCASTING HIGH IN VALUE PER DOLLAR

In a Roper Poll taken in March, Americans ranked public TV and public radio among the

services that provide the best value for the tax dollar.

Only military defense of the country and the police had higher percentages of the sample calling them an "excellent value" or a "good value." Highways, public schools, environmental protection and the court system ranked lower.

"Quite frankly, I was really surprised," said CPB researcher Janice Jones. "I know that people value public television, but there are a lot of core services on that list."

CPB received the poll results as a regular subscriber to the Roper Poll last month, but the survey firm had added pubcasting to the annual question without CPB asking it to do so, Jones said.

Other tax-supported services had been rated in the poll for many years. The biggest changes between 1986 and 1995 showed environmental protection up 14 points, public transportation up 12, roads and bridges up 11, the police up 9 and military defense up 8 points. Even social welfare programs rose 4 points during that period.

In the poll, public TV was scored an "excellent value" by 13 percent, "good" by 44 percent, "fair" by 24 percent and "poor" by just 10 percent. Eight percent said "don't know."

Public radio got similar scores: "excellent value," 10 percent; "good," 43 percent; "fair," 28 percent; "poor," 10 percent, and "don't know," 10 percent.

Public TV's "excellent value" rating (13 percent) was exceeded only by military defense (17 percent) and the space program (14 percent).

The percentage of respondents who rated public TV and radio as a "poor value" for the tax dollar, 10 percent, was lower than all other services except defense and international intelligence gathering.

VALUE FOR THE TAX DOLLAR

Here is a list of some different services that the government provides using tax dollars it collects from the public. Thinking of what you get for what you pay in taxes, would you read down that list and for each one tell me whether you feel you get excellent value for the dollar, or good value, or only fair value for the dollar, or poor value for the dollar?

Rank and services provided with tax dollars	Percent excellent or good value
1. Military defense of the country	60
2. Police and law enforcement agencies	59
3. Public TV broadcasting	57
4. Public radio broadcasting	53
5. Medical, technological and other research	52
6. Overseeing the safety of food products	50
7. The space program	49
8. Overseeing the safety of prescription drugs	49
9. Highways, roads and bridges	45
10. Public schools	41
11. Environmental protection	41
12. Public transportation	40
13. Sponsorship of the arts	39
14. Overseeing soundness of financial institutions	35
15. The courts	33
16. International intelligence gathering	31
17. Contributions to the United Nations	30
18. Social welfare programs	28

Source: Roper Poll, March 18–25, 1995, courtesy of CPB.

STUDY DETECTS "SESAME STREET" IMPACT ON KIDS

Sesame Street, probably the most-studied children's program on TV, has another accolade for its collection: A major study concludes preschoolers who watch the show regularly score higher on school readiness tests as long as three years later.

The four-year study of more than 250 low-income families was conducted by John C. Wright and Aletha C. Huston of the Center for Research on the Influence of Television on Children (CRITC) at the University of Kansas.

Wright and Huston's report, released May 31, was meant to provide the first overall evaluation of Sesame Street since the groundbreaking program's second season, in 1971.

The children studied were either two or four years old at the beginning and five or seven at the study's end. About 40 percent were African-American, 40 percent were European-American, and 20 percent were Hispanic.

Key findings from the report:

As early as age two, preschoolers who watched Sesame Street and other educational programming scored higher on standardized tests of verbal and math abilities. The more they watched the show, the better they did on the tests, even two to three years later.

The younger the child was when viewing, the stronger Sesame Street's positive influence on school readiness.

Children who watch Sesame Street spent more time reading and pursuing other educational activities than non-viewers.

Children who regularly watched adult and children's non-educational programming performed less well on school readiness tests and spent less time reading or pursuing other educational activities.

The findings held true even after researchers used statistical controls to account for effects of income level, parental education, English-speaking ability, and other factors on the scores.

"Television is a marvelous medium for education that is vastly untapped. . . . The more you watch good programming, the better you do when you get to school. That's news; that's important," said Wright.

Although the study looked at all educational children's programming—not just Sesame Street—the Children's Television Workshop production so dominated preschoolers' viewing it was analyzed separately in Wright and Huston's report.

Because the period studied was 1989–93, newer programs like Barney and Friends and Lamb Chop's Play-Along hadn't been around long enough to make the most-viewed list, and PBS had not yet initiated its PTV Ready to Learn service.

Wright and Huston's report reinforced the findings of a less detailed study with a much larger sample size (10,000 children) released in April.

The CPB—commissioned study, prepared by Westat Inc., found that four-year-old preschoolers who watched one or more PBS programs were more likely to be able to identify colors, count to 20, recognize letters of the alphabet, and tell connected stories when pretending to read.●

ORDERS FOR WEDNESDAY, JULY 19, 1995

Mr. SPECTER. Mr. President, as the last Republican Senator on the floor, I have been asked to proceed with the closing of the body.

I ask unanimous consent that when the Senate completes its business today, it stand in recess until the hour of 9 a.m. on tomorrow, Wednesday, July 19; that, following the prayer, the Journal of proceedings be deemed approved to date, the time for the two leaders be reserved for their use later in the day, there then be a period for morning business until the hour of 9:30, with Senators permitted to speak for up to 5 minutes each; and, further, that the Senate then immediately resume consideration of S. 21, the Bosnia legislation.

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

PROGRAM

Mr. SPECTER. Mr. President, for the information of all Senators, the Senate will resume consideration of the Bosnia legislation and the pending Dole substitute amendment.

All Members should, therefore, be aware that rollcall votes may occur throughout Wednesday's session of the Senate. Also, under the provisions of the prior consent agreement, the majority leader may return to the consideration of the regulatory reform bill by a call for the regular order. Therefore, rollcall votes may occur on that legislation as well, including a third cloture vote on the Dole-Johnston substitute amendment.

RECESS UNTIL 9 A.M. TOMORROW

Mr. SPECTER. Mr. President, if there is no further business to come before the Senate—and I note the absence of any other Senator on the floor—I now ask unanimous consent that the Senate stand in recess under the previous order.

There being no objection, the Senate, at 8:23 p.m., recessed until tomorrow, Wednesday, July 19, 1995, at 9 a.m.

HOUSE OF REPRESENTATIVES—*Tuesday, July 18, 1995*

The House met at 9 a.m. and was called to order by the Speaker pro tempore [Mr. SHAW].

DESIGNATION OF THE SPEAKER PRO TEMPORE

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

WASHINGTON, DC,
July 18, 1995.

I hereby designate the Honorable CLAY SHAW to act as Speaker pro tempore on this day.

NEWT GINGRICH,
Speaker of the House of Representatives.

MORNING BUSINESS

The SPEAKER pro tempore. Pursuant to the order of the House of May 12, 1995, 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 25 minutes, and each Member except the majority and minority leaders limited to not to exceed 5 minutes.

LEARNING THE LESSONS OF THE PAST

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Florida [Mr. GOSS] is recognized for 5 minutes.

Mr. GOSS. Mr. Speaker, the famous admonition that those who cannot remember the past are condemned to repeat it is often put another way: We must learn the lessons of the past to prevent making similar mistakes in the future. When it comes to the safety of the Nation's blood supply, this simple adage translates into a message of life and death. We know that during the early 1980's blood and blood products became tainted with the virus that causes AIDS. The early clues that there was a problem manifested themselves in the hemophilia community, because people with hemophilia frequently use products made from blood that is pooled from thousands of donors. We now know that during the early 1980's, approximately one-half of the Nation's hemophiliacs—some 8,000 people—became infected with the virus that causes AIDS through the use of contaminated blood-clotting products.

How did this happen? Why did the system that was established to safeguard the supply of blood and blood products fail to heed early warning signs and prove so slow to respond to a dangerous threat? How can we prevent such a tragedy from happening again? More than 2 years ago, I joined with Senators GRAHAM of Florida and KENNEDY of Massachusetts in asking HHS Secretary Donna Shalala to conduct a review of the events surrounding this medical disaster. The results of that intensive and objective review have come to us in the form of a report, presented last week by the National Academy of Sciences' Institute of Medicine—the IOM. The conclusions of this report are important—not just for their candor in describing the quote "Failure of leadership and inadequate institutional decisionmaking processes" unquote to meet the challenge of a deadly new blood-borne disease—but also for their recommended changes to the system.

In underscoring the Federal Government's shared responsibility for the safety of the blood supply, the report concludes that the FDA—which has regulatory authority over blood and blood products—quote "Consistently chose the least aggressive option that was justifiable." On several occasions, the report found, the FDA quote "Did not adequately use its regulatory authority and therefore missed opportunities to protect the public health." Unquote. And it notes that decisionmakers acted with an abundance of caution, seeking to engender quote "a minimum of criticism." Unquote. All of these observations led the IOM to recommend a series of changes in the way the FDA regulates blood and blood products—and improvements in Public Health Service structure to yield early and aggressive response to new threats to the blood supply.

The IOM panel also proposes a no-fault compensation program prospectively for future victims of adverse consequences from the use of blood and blood products. But what about the 8,000 victims of the tragedy that has already happened? Although this question was beyond its purview, the IOM suggested that its prospective recommendation quote "Might serve to guide policymakers as they consider whether to implement a compensation system for those infected in the 1980's" unquote. And so I ask my colleagues to consider H.R. 1023, a bill I introduced in February that now has 110 bipartisan cosponsors. The Ricky Ray Hemophilia Relief Fund Act named for a victim from my old congressional district, as it is known, establishes a compensation program for the victims of hemophilia-associated AIDS. It is based on the premise that has now been supported by the IOM report, that Government shares responsibility for what happened. It is also based on the understanding that blood and blood products are unique—as is the Federal responsibility for them.

We have a national blood policy, put in place in the mid-1970's, that says we have a commitment to a safe supply of blood and blood products. In fact, as part of our recognition that these are unique resources deserving special consideration, we have placed the regulation of blood and blood products under the aegis of two separate laws. Mr. Speaker, as we learn from the mistakes of the past, let us be sure we stand up to our obligations for them. I urge my colleagues to review H.R. 1023 and I hope that the Judiciary Committee will soon hold hearings on this important matter of fair play, as I have now requested. We cannot undo the damage, but we can restore some faith and provide some relief to victims and their loved ones. That would be a good way to go forward.

REMARKS TO THE PRESIDENT OF THE UNITED STATES

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Massachusetts [Mr. OLVER] is recognized for 5 minutes.

Mr. OLVER. Mr. Speaker, I wish to address my remarks to the President of the United States today.

Mr. President, you have taken some truly courageous stands in foreign policy. Your finest hour, I think, came when you insisted that Haiti get its chance at democracy. You insisted that the military junta, which had overthrown the first freely elected President in Haiti's history, must leave. There was nothing to be gained politically. All the polls said not 3 percent of Americans thought we should get involved in Haiti, and there was great risk to American lives. But you did it because it was right.

And your courageous decision to recognize Vietnam, what a gutsy thing to do, the right thing to do. But you will be vilified to your dying day by those who want to prolong the agony of the division which the Vietnam war caused in America. Never mind that 25 years have passed. Never mind that the MIA's from World War II numbered more than all the dead in Vietnam, yet Germany and Japan were our closest

allies 25 years after the Second World War. Never mind that very prominent, decorated heroes of that war confirm your decision is the right one.

"The War Is Over. Life Goes On." That is the title of a poignant column by William Broyles, Jr., in the New York Times on Sunday, July 16. Mr. Speaker, I will place the text of that column in the RECORD, which is about Vietnam, but also about Bosnia.

[From the New York Times, July 16, 1995]

"THE WAR IS OVER. LIFE GOES ON"

(By William Broyles, Jr.)

Representative Randy Cunningham burst into tears last week at a Congressional hearing on the recognition of Vietnam. Mr. Cunningham, a California Republican who had been shot down as a Navy pilot in Vietnam, was so overcome with emotion describing the deaths of his comrades that he could not go on. When he recovered, he charged that President Clinton was morally wrong to recognize the former enemy.

Any one of us who fought in Vietnam knows the emotions Randy Cunningham must have felt: the deep grief and anger, the sense of loss, the pride, the whole confusing mess. I have wept, been to the wall on the Capitol Mall, traced the names of the fallen, sought out my old comrades, worked with troubled vets, helped build memorials and led parades.

I feel for the families of the 2,000 or so Americans still unaccounted for. But Randy Cunningham's tears leave me cold. The grief we veterans share should be above partisan politics. It is purer, more honorable and lasting. And it is personal. Tears and emotion in politics fuel partisan suspicions and revenge.

Public emotion has turned Vietnam into a haunting specter that has often sapped our military will. Bosnia is our greatest failure of collective security since Munich because we are afraid of repeating the mistakes of Vietnam. But Nazi aggression had little to do with the post-colonial war in Vietnam, which in turn has little to do with Bosnia. The Balkan tragedy does, however, have a lot to do with Munich. Because our memories are so faint and our emotions so vivid, we persist in applying the lessons of the wrong wars. We must put Vietnam behind us.

The Vietnam veterans who support recognition have impeccable credentials: Senator John McCain, Republican of Arizona, was a P.O.W.; Senator John Kerry, Democrat of Massachusetts, won the Navy Cross; Senator Bob Kerrey, Democrat of Nebraska, won the Medal of Honor and left part of a leg in Vietnam. Does their support for recognition mean they are betraying their comrades who are still missing?

That is the hardest question, because the deep, uncompromising rule of the soldier is not to leave your comrades on the battlefield. But the fighting has been over for 20 years. Our battlefields are rice paddles now, tilled by men and women not even born when the guns fell silent. There were more M.I.A.'s in World War II than the total number of Americans killed in Vietnam. Thousands remain unaccounted for after the Korean War. We should continue to try to account for everyone. But the time has come to do so in cooperation with our old enemies.

The reason why is in the mirror. Look at us. Our hair is gray, what little there is. Some of us are grandfathers now. Many of us went to war 30 years ago. Thirty years! That's the time between the start of World War I and the end of World War II. In those earlier 30 years, more than 100 million people died. Millions perished in death camps. Millions more died and were never found. Tens of millions were homeless. The maps of Europe and Asia were redrawn. Whole countries disappeared.

In comparison, Vietnam is a footnote. Yet we can't get beyond it—supposedly because we lost. But our countryside wasn't ripped with bombs, our forests defoliated, our cities pulverized, our people herded into camps. We had casualties, but we did not have millions of refugees and more than a million dead. We weren't thrown into the sea as the British were at Dunkirk.

I never felt defeated. I just felt wasted. I would have fought in World War II. I would fight today in Bosnia. But where I fought was in Vietnam.

And by now the only true response by a soldier should be this: tough. As we said in Vietnam, it don't mean nothing. Which meant, it means everything, but what can you do? In war people die. Sometimes the best people die. We want there to be a reason. Sometimes there is, sometimes there isn't. War is messy and unfair. That's why it needs a clear purpose. There was no clear purpose in Vietnam. There is one in Bosnia.

Ten years ago, I visited the site of the base where I had been a Marine lieutenant, just west of Da Nang. I went with a man named Hien, who had been a company commander in the Vietcong. We had fought each other up and down the rice paddies, mountains and in the jungles. Almost all his comrades were dead or missing.

It was hard not to respect our enemies. They had been bombed by B-52's, bombarded with shells hurled by battleships, incinerated by napalm and white phosphorous, drenched in defoliants. They had no R & R and no Medivacs. They lived in tunnels and caves, never going home and getting no letters for as many as 10 years.

Hien and I met a woman whose husband had been killed where I had fought. She never found his body. Most likely we bulldozed him into a mass grave. That's what we did. We incinerated them, buried them alive, pushed them from helicopters. And they did their best to kill us. That's what happens in a war. What should happen after a war is what the woman said after we had talked long enough to realize her husband had been killed by my platoon, possibly by me. "That was long ago," she told me. "The war is over. Life goes on."

The Vietnamese have hundreds of thousands of M.I.A.'s. Soldiers trying to find the bodies of their lost comrades is a constant theme in Vietnamese novels and films. Their families grieve no less than ours. They know better than anyone the pain we feel. We should all search together for the answers that would help families on both sides finally end this.

I loved the men I fought beside. I feel pride in their courage and unselfishness. But the time has come to say to all my buddies who are missing, as we say to those names on the wall, rest in peace. You did your best. We miss you terribly.

We fought to make Vietnam free and independent. Today it is independent. And if we engage its leaders diplomatically with the same will we showed against the Soviet Union, it will become more free. To recognize Vietnam is not to dishonor the memory of our fallen or missing comrades. It is to recognize the truth. The war is over.

Mr. Speaker, why is it so hard to do the right thing in Bosnia? Granted, you inherited the disastrous American position and policy in Bosnia's version of the Holocaust from George Bush after 20 months of inaction by the European Community, the United Nations, NATO and the United States about the most vicious war in Europe in 50 years. Granted that the pattern of the United Nations issuing resolutions, which it turned out it had no intention of enforcing and which has led to the total and abject humiliation and discredit of the United Nations, had already been set. Granted that the moral and strategic error of the arms embargo placed on only one side in the conflict, placed on the elected government of Bosnia, a sovereign nation, a member of the United Nations, had already been made.

You had a reasonable, credible proposal: Lift and strike. Remember lift and strike? It would be a vast improvement today over the unconscionable cowardice of the Western democracies toward Bosnia. However the United Nations, the European Community, and the United States twist and squirm, the fact remains that Slobodan Milosevic, the last Communist dictator in Europe, has orchestrated the destruction of the most evenly multireligious, multiethnic, multicultural state in Europe, using the most vicious and unspeakable tactics since the Holocaust.

The Serbs have shown that no tactic is beneath them. Ethnic cleansing, concentration camps, destruction of hundreds of mosques and Roman Catholic churches, starvation of populations of Srebrenica, Zepa, Gorazde, and Sarajevo, deliberate bombardment of funeral processions, children in playgrounds, women waiting in water lines, mass deliberate use of rape, slaughter of whole families and whole villages, from the youngest baby to the aged.

Why is it so hard to do the right thing in Bosnia? Is there no end to the cowardice of the West, no end to the stupidity of an arms embargo on only one side in a conflict? Is there no end to the stupidity of never enforcing resolutions for safe havens, for no-fly-zones, for heavy weapon exclusion zones, and no end to the cowardice of backing down again and again and again, sending the clear signal to Milosevic and the Serb rebels that they may continue the slaughter and the rape and the starvation and the ethnic cleansing without fear of reprisal?

Why is it acceptable for United Nations commanders to drink with Serbian war criminals? Why is it acceptable for the Serbs to drag the elected vice president of Bosnia from a United Nations vehicle and execute him on the spot? Why is it acceptable to overrun Srebrenica and other safe havens, drive out thousands of women and children with nothing but what they can carry, raping the women as they flee and bombarding the columns of refugees as they flee? Why is it acceptable for the

Serbs to detain all the male Bosnians between the age of 16 and 65? Will they ever be seen again? Not many of them very likely. Why will you accept this utter barbarity, this humiliation of the United Nations and of our closest allies, and ultimately the shame that inaction brings on all of the civilized world?

Will we really accept and do nothing as Zepa, and then Gorazde, and then Biha, and finally Sarajevo are destroyed and all the people of those cities are ethnically cleansed?

Mr. President, Americans have always done the right thing when confronted with such evil. Mr. President, do the right thing in Bosnia. You will find it is not so hard.

OSHA REFORM—MYTH AND REALITY

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from North Carolina [Mr. BALLENGER] is recognized for 4 minutes.

Mr. BALLENGER. Mr. Speaker, I want to respond to the campaign of distortions already begun by opponents of OSHA reform.

Since we introduced H.R. 1834, which now has over 100 cosponsors, opponents of reforming OSHA have been saying that our legislation will result in more workers being killed and seriously injured. Such rhetoric pretends that all that stands between workers and serious injury or death is the strong arm of OSHA. Simply put, that's a false picture of what OSHA does.

Most of us know that OSHA is not the primary reason that most employers are concerned with employee safety. There is overwhelming evidence that—even if we ignore the humanitarian concerns that motivate most people—workers compensation and other medical and human resource costs related to employee injuries are far more compelling reasons for employers to provide safe workplaces. OSHA's role is, at best, a helpful complement and sometimes necessary backup to these factors. But more often OSHA has become simply a revenue collector for the Federal Government, finding nitpicking violations of the thousands of pages of OSHA requirements, without regard to whether any workers are actually being harmed by unnecessary risks. That's why our OSHA reform bill is necessary.

The distortions being made are not only of OSHA's role, but of the provisions of H.R. 1834. I hope that the following responses to three of the distortions are helpful to my colleagues in understanding what H.R. 1834 really provides.

Myth No. 1: H.R. 1834 means turning our back on the tragedy at Hamlet.

Fact: No one from North Carolina, as I am, will ever forget the tragedy at Hamlet. The deaths of 26 workers at a chicken processing plant in Hamlet, NC in September 1991 were caused by the fact that workers could not get out of the plant when a fire broke out because of locked fire doors and unmarked fire exits. Several laws prohibiting such locked doors were broken, and the owner of the plant eventually went to jail. H.R. 1834 does not change the laws or reduce the criminal penalties under which the owner of the plant went to jail.

The question of Hamlet, however, was why did no one report the locked doors, especially those Government meat inspectors who regularly visited the plant? Under H.R. 1834, OSHA would be directed to establish programs with other Federal agencies such as USDA and with State and local government inspection agencies, to check facilities specifically for fire code violations, and to report those, if necessary, to OSHA. Had that simple step been in place, the deaths of most if not all of the Imperial Food Products workers would have been avoided.

Myth No. 2: H.R. 1834 would prohibit OSHA from enforcing the law for serious safety and health hazards.

Fact: H.R. 1834 provides that if an employee is injured, killed, or placed in imminent danger due to a violation of an OSHA requirement, a citation and penalty should be issued immediately by OSHA, just as under current law. In other cases, not involving such serious hazards, the employer would have a period of time, set by OSHA, to correct any alleged violations before a citation and penalty would be assessed. But in no case would the employer have the option not to come into compliance—OSHA would still enforce the law, both for serious and nonserious hazards.

Why establish this right to fix nonserious violations? First, it is fairer to employers, most of whom cannot possibly know or consistently follow all of the details of OSHA regulations and interpretations of those regulations. Yet OSHA routinely fines employers thousands of dollars when they are found to be in noncompliance, even when there is no apparent threat to workers' safety. Second, allowing employers the right to fix nonserious violations will help OSHA focus its enforcement resources more effectively. Most often employers will simply make the correction and no citation will be issued. Today, OSHA automatically issues a citation, which the inspector must carefully document in case the citation is challenged. The emphasis, both in inspectors' time and attention, becomes documenting violations, rather than improving safety and health.

In fact, the Clinton administration is now claiming that they want to give employers the same right to fix OSHA violations, but their proposal is weighed down with more regulatory conditions and left to inspector discretion. Legislation is necessary because OSHA has too often focused on collecting penalties rather than on safety and health.

Myth No. 3: H.R. 1834 strips away every working American's right to secure an OSHA inspection for serious safety and health hazards and exposes workers to serious retaliation if they contacted the agency.

Fact: H.R. 1834 provides that employees should first seek to correct health and safety problems with their employers before filing complaints against the employer with the Federal Government. The bill does not take away any employee's right to complain to OSHA.

H.R. 1834 also recognizes that employees who do bring items to the employer's attention, and, if necessary, complain to OSHA about the employer, should be protected by law against retaliation for doing so. The bill enhances the antidiscrimination provisions under the Occupational Safety and Health Act in several ways, most importantly by giving employees who believe they have been retaliated against because they filed a safety or health complaint, a private right of action with make whole remedies if in fact retaliation did take place.

Finally, let me mention some of the statistics which opponents of OSHA reform are using. First, the claim is made, in support of leaving OSHA the way it is, that since OSHA was created the workplace fatality rate has dropped by more than 50 percent. Thankfully, the workplace fatality rate has dropped since 1970, but it has also decreased steadily since the mid-1940's, and the rate of decrease has not really changed since OSHA's creation. The decrease in the fatality rate, while something we are grateful for, does not really argue for OSHA's continuation.

Second, Secretary Reich has begun repeating a figure of "55,000 work-related deaths per year." In fact, the Bureau of Labor Statistics reports that in 1993 there were 6,271 work-related fatalities. We spend lots of money on BLS to collect these numbers—and they are the most accurate numbers available. The Secretary's use of a figure nearly 10 times what his Department reports hardly seems justified.

I believe that OSHA can be made both more effective and more fair—more effective in redefining OSHA's role, and more fair to the employers of this country who provide the jobs on which the economy depends. I urge my colleagues to study the issues, to resist the rhetoric of those who want to keep OSHA as it is, and to help us pass meaningful OSHA reform in H.R. 1834.

30TH ANNIVERSARY OF MEDICARE

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from New Jersey [Mr. PALLONE] is recognized for 5 minutes.

Mr. PALLONE. Mr. Speaker, 30 years ago this month, Congress enacted what has become one of the two most successful and popular Government programs ever conceived—the Medicare Program. The other, of course, is Social Security.

Given the indisputable success of Medicare, you would think that even its most bitter critics from 30 years ago would have to admit that the program has been instrumental in improving the lives of millions of American senior citizens.

But the Republican leadership in Congress is not interested in learning from their party's past mistakes. Although they haven't seen fit to reveal the details of their plan to the American people, it has become all too clear that the Republicans want to rewrite the history of Medicare by gutting the program and charging seniors more for coverage.

In effect, the Republican leadership wants to take us back to the years before Medicare was enacted in 1965—a period when millions of American senior citizens faced either the poor house or premature death if they contracted a serious illness.

It is a simple fact that before 1965, millions of middle class senior citizens who found themselves seriously ill faced bankruptcy in order to pay for care. Those who were already poor faced even greater indignity and often went without any health care at all.

According to the National Council of Senior Citizens, prior to 1965 and the enactment of Medicare, only 50 percent of Americans over the age of 65 had health insurance.

Yet then, as now, the Republican Party in Congress again and again expresses a sort of gut reaction against Medicare.

Thirty years ago, one Minnesota Congressman absurdly stated that Medicare "puts the Nation dangerously close to socialized medicine."

One of his colleagues from Colorado went so far as to say: "By passage of this bill [Medicare], we shall make a shambles out of Social Security." Of course, he didn't mention that he probably would have opposed the creation of Social Security too.

The comments we are hearing from the leadership on the other side today demonstrate clearly that the Republicans in this Congress are indeed the direct ideological descendants of the party that fought tooth and nail to prevent Social Security and Medicare from ever becoming reality.

Just a week ago, one of the Republican leaders stated "I deeply resent the fact that when I'm 65 I must enroll in Medicare."

He went on to demean the program—and the millions of seniors who have earned their Medicare benefits—by saying that Medicare "teaches the lessons of dependence," and that it is "a program that has no place in a free society."

Mr. Speaker, when the new leadership in Congress claims to have won a mandate in last fall's elections, do they actually believe that their supposed mandate includes the dismantling of the Medicare Program?

A mandate comes from the people, Mr. Speaker. And if the leadership of the Republican Party in Congress were interested in pursuing a true mandate—if they truly had the interests of the people at heart—there would be no discussion of pulling the rug out from under senior citizens by gutting Medicare.

The vast majority of Americans—seniors and nonseniors alike—oppose the Republicans' views on Medicare. Rather than acting on a mandate, what the Republican leadership is doing, in effect, is attempting to rewrite the conclusion of the Medicare debate of 1965.

What is the real agenda here, Mr. Speaker? It sounds suspiciously like this generation of Republicans, under the cloak of concern of Medicare's solvency, is simply trotting out the same tired arguments that failed 30 years ago. And we need to expose this for what it is—an effort to destroy Medicare, which in the Republican view, is somehow un-American.

ADMINISTRATION'S REVIEW OF FEDERAL PREFERENCE PROGRAMS

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Florida [Mr. CANADY] is recognized for 5 minutes.

Mr. CANADY of Florida. Mr. Speaker, tomorrow morning the President will give a major speech announcing the results of the administration's 5-month long review of programs that grant preferences on the basis of race and gender.

Of course, the administration and the media call it a review of affirmative action, but that is not really what the review is about. As originally designed, affirmative action was about nondiscrimination—it required parties to take affirmative action to ensure that no person would be treated with regard to race.

Over the past 25 years, however, this mandate of nondiscrimination has been turned on its head and converted into a requirement to grant preferences on the basis of race and gender. There are now a multitude of Federal programs that grant such preferential treatment. And it is to the future of these preference programs, and not to affirmative action, that the President will be speaking.

With regard to those programs, the issues really are quite simple, and they reduce to this: Should the Government divide its citizens into groups based on race and gender? And should some citizens qualify for special Government benefits based solely upon their membership in a racial or gender group? And if so, how can this regime of preferences be reconciled with the Constitution's fundamental guarantees of individual rights and equal opportunity to all regardless of race or gender?

To put the issue in more concrete terms, is it wise public policy for the Federal Government to award contracts to minority- or women-owned firms when other qualified firms have submitted lower bids? And is it a good idea for Federal agencies and officers to make employment decisions every day with an eye toward meeting numerical hiring and promotion objectives based on race and gender? And is it just to require Federal contractors to grant preferences—to hire by the numbers—in order to keep their Federal contracts?

These are the issues the President should address. I must confess, I can't imagine why it would take 5 months to answer these questions. Either you are in favor or preferences or you are not. Either you think it's acceptable to base hiring and contracting decisions upon race and gender or you do not. These are straightforward questions of principle, and they really do not require extended deliberation.

I am concerned, however, that even after the administration's 5-month review, we will be disappointed tomorrow to learn that the President still has not come to grips with these fundamental issues. Rather than tell us where he really stands, I am concerned—and newspaper reports previewing the speech seem to indicate—that the administration has decided to treat this important issue in a legalistic and bureaucratic manner.

So instead of learning how the President understands the nondiscrimination principle, we are likely to hear how the administration interprets the Supreme Court's recent decision in Adarand versus Pena. And rather than coming to terms with the glaring conflict between racial and gender preferences and the American commitment to individual rights, President Clinton will simply suggest that there are some administrative imperfections in the existing preference programs that need to be fixed.

And we will no doubt here the mandatory disavowal of "quotas," with the confident assertion that because "quotas are illegal, we don't have to worry about them." But this alleged distinction between quotas and other forms of numerical preferences is truly a semantic distinction without a difference. The label, after all, is not the offending practice. What is offensive is the practice of granting preferences on the basis of race and gender, and that practice is no less offensive when called by a name other than a quota.

I may be wrong about the President's intentions. I hope that I am wrong. This issue and the principle it touches on are much too important to surrender to lawyers and bureaucrats. If a society without discrimination is really our goal, then we need to engage in a national dialog about how best to get there. That means getting back to the

original purpose of affirmative action by continuing our efforts to reach out to all segments of the community—to make everyone aware of opportunities. But it also means ceasing discrimination now. And that requires ending the Federal Government's massive system of race and gender preferences. President Clinton should embrace the principle of nondiscrimination and act to dismantle the system of preferences—a system which divides Americans and reinforces prejudice.

SAVE MEDICARE FROM BANKRUPTCY

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Georgia [Mr. NORWOOD] is recognized for 5 minutes.

Mr. NORWOOD. Mr. Speaker, I come to the floor this morning with the people back home in mind. For me, home is Augusta, GA, and the 10th District of Georgia. I must tell you how wonderful it was for me to be home this past weekend. Spending time with the hardworking people of the 10th district serves to strengthen my resolve, that what we are doing here in the next few months is what is right for America.

Mr. Speaker, I would ask the people of America to consider the facts of our situation. We are 5 trillion dollars in debt. Fifteen cents of every dollar we spend goes to interest on the debt. The problem of the debt continues to grow out of control. Consider this: On February the 6th, I came to the floor in support of the line-item veto. In my remarks, I noted that the students in Sallie Bullock's calculus class at Madison County High in Danielsville, GA, already collectively owe $310,760. I noted that Mary Mills' 5th grade class at Oconee County Intermediate School in Watkinsville, GA, already owes $365,600. I noted that Martha Scroggs' kindergarten class at Episcopal Day School in Augusta already owes $457,000. Since I gave that speech 5 short months ago, Sallie Bullock's students owe an additional $7,600; Mary Mills' students owe an additional $8,940; and Martha Scroggs' students owe an additional $11,175.

Mr. Speaker, what did those children do to earn that additional debt? How can we so thoughtless saddle children just out of kindergarten with more and more debt? It is immoral and we must bring that to an end by balancing our budget.

Mr. Speaker, it is simply a matter of fact that Medicare will go bankrupt in 7 years. It is a documented fact in a report put out by the Medicare trustees—three of whom are members of the Clinton administration. The solvency of Medicare is not a partisan issue. Medicare is going bankrupt. The Republicans have made a decision to fix Medicare. We will strengthen Medicare so that it may survive well into the next century. We must act to save the system now. Pretending that everything is all right is simply fantasizing.

Mr. Speaker, on this day many centuries ago, Emperor Nero Played his fiddle while the great city of Rome burned to the ground. It appears that all these centuries later, some of my colleagues on the other side have decided to take up Emperor Nero's mantle. Some of my colleagues want to play games. Last week the other side issued the proclamation that if the we, the Republicans, don't speed up the reconciliation process then they will slow the business of the House down. Yes, America—that's right. If we don't speed up; they will slow things down.

Mr. Speaker, let me be the first to say that I will stay here morning, noon, and night to balance our budget and to save Medicare from bankruptcy. I will stay here through the weekends to balance our budget and to save Medicare from bankruptcy. I will be here until the cows come home—if that's what it takes to balance our budget and to save Medicare from bankruptcy. The future of our Nation is at stake—and I would urge my colleagues to rise above the political games others may want to play. The business we are doing for America is too important to be sidetracked by those who would rather fiddle.

THE HISTORY OF MEDICARE AND ITS IMPORTANCE

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Michigan [Mr. DINGELL] is recognized for 5 minutes.

Mr. DINGELL. Mr. Speaker, I rise to discuss the history of Medicare and to discuss the importance of that program to the United States. I have heard a lot of people discuss how it is that Medicare is in trouble. Well, Medicare is one of the best working and most efficient programs in the history of this country. The cost of collecting money and disbursing it is less than 1½ percent.

The problem of Medicare is that costs of Medicare have, like all the costs of all other programs for paying for health, been stressed almost beyond belief by enormous increases which have occurred in health care costs across this country. The problem of Medicare is not one that it is not serving people. On the contrary, it has raised the number of Americans from something like 40 percent to better than 97 percent in the senior citizen category who have health insurance available to them now, something which was previously not available. Now, under Medicare, Americans can be assured that that health care system is going to meet their health care concerns.

Is Medicare going to go bankrupt? Yes, if something is not done. But not until 2002. Nothing need be done to cut the benefits, but rather to assure additional efficiencies. And what really needs to be addressed is to understand that getting control of the overall costs of health care is something which has to be done in order to protect not only Medicare, but Medicaid, Blue Cross, and all of the other health care programs, that are both public and private inside this country.

It is only fair to say that my colleagues on the Republican side of the aisle are talking not about cutting Medicare to save the system, but, rather, they are talking about cutting Medicare in order to make possible a tax cut.

Medicare benefits are going to be cut, according to the Republican budget, about $270 billion. However, a health care cut of this magnitude is going to be matched by a tax cut which will go mostly to the richest 10 percent of the people in this country, and will cost the government about $240 billion.

A wiser approach would be to address the underlying problems of our health care system. A wiser approach would be to see to it that we address the concerns of all in preserving Medicare, but to do so not to provide a tax cut to the wealthy, but rather to address the significant problems which exist in all health care costs and in payments for all health care costs.

You know, it is a matter of history that the Republicans voted overwhelmingly against Medicare, and they opposed it time after time whenever the issue was before this body or was before the House or before the Senate. They opposed it in committee as well as on the floor of the two bodies.

Medicare is something which was enacted because the Democrats forced it through. It is something which will be protected and preserved because the Democrats prevented the Republicans from eviscerating that program or from converting it into a private program. There are significant attempts going on now to privatize Medicare.

One of the remarkable things which occurred in the early discussion was the comments of Republican Members who criticized Medicare, pointing out that it was socialized medicine, claiming that it was going to threaten independence and individual liberties of Americans who would derive benefits under that particular program.

Well, history has shown that Medicare has been one of the great blessings, not only to this country, but to senior citizens, not only to senior citizens, but to the younger Americans who no longer have to choose between providing for themselves, for their own retirement, or the education of their children, and providing for the health care desperately needed by American senior citizens.

This has been one of the great and shining examples of success of Government action in the history of this country. It and Social Security are two

of the most popular programs in the lexicon of Government programs, and they are supported by almost everyone. Cuts in those programs would be regarded by almost every American as being something not only unwise, but dangerous from the standpoint of the well-being of our society, our economy and of this country.

Indeed, these programs have not only contributed to the well-being of Americans and their health and peace of mind, but they are also programs which have done much to make meaningful the promise of America.

I urge my colleagues and I urge my fellow Americans to support the idea that Medicare can be saved, not by draconian cuts, but by wise changes in administration. Let us use the money we have in Medicare for protecting the senior citizens and the people of this country, and not for tax cuts to the wealthy.

AMERICANS WANT LESS GOVERNMENT AND LESS REGULATION

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Florida [Mr. SCARBOROUGH] is recognized for 5 minutes.

Mr. SCARBOROUGH. Mr. Speaker, you know, last November the American people delivered a mandate to this institution, a supposed mandate as we heard from a previous speaker. The fact of the matter is not a single Republican Governor, Senator, or Congressman was defeated in that election.

Why did Americans vote Republican? It is because they wanted less government. They wanted less regulation. They wanted to get government, in the words of Ronald Reagan, off the people's back.

That is what we are starting to do. Now, it is going to be a long, hard, drawn out process, but, you know, a year ago when I was campaigning, I was talking about how the American hour was upon us, about how Americans had to decide once and for all whether we were going to go back and repeat the same mistakes that we have been making for the past 40 years, or whether we are, instead, going to turn back to those basic simple truths that our Founding Fathers laid as the foundation of this great country.

James Madison said that we have staked the entire future of American civilization on the power of the individual, not on the power of government. Thomas Jefferson said that the government that governs least governs best.

Yet in this time of the American people's call for less government intrusion in their lives, an ominous trend is developing, and we have seen it develop since the Oklahoma City bombing.

Now, the Oklahoma City bombing was an absolute tragedy. I do not think anyone in this Chamber could have looked at those pictures and not been absolutely horrified by what went on in Oklahoma City and the lives that were lost. But the fact of the matter is this: We do not prevent Oklahoma Cities in the future by eviscerating our fourth amendment rights. There is a counterterrorism bill that is coming to the floor in the near future, and some Members have openly said that Americans are going to have to get used to living with less freedoms for more safety.

Well, that is very ironic when you consider what Benjamin Franklin said over 200 years ago. It is almost as if he anticipated an event like this and the gut reaction that it would cause. Ben Franklin said those Americans who are willing to give up freedoms for a little bit of temporary safety deserve neither safety nor freedom.

That is something that we need to remember as we rush quickly toward passing a bill that is going to increase the Federal Government's power to wiretap, to conduct warrantless searches, and to basically give the Federal Government more police power than it has ever had.

Let us take a couple of steps back here and again listen to what the American people were saying last November. They were not saying we are electing Republicans because we like the name "Republican" in front of the candidate. They voted in one of the most historic congressional landslides in recent history for the party they believed was going to represent less government intrusion in their personal lives.

I believe this is a step in the wrong direction, and I believe you are going to see Republicans and Democrats alike coming together and doing what they can to make sure that the American people's will is heard; more importantly, that our fourth amendment rights and our constitutional rights are protected through this time.

You know, anybody that speaks out against the Federal Government's involvement in Waco or Ruby Ridge or some of these other incidents are considered crazies, right wing fanatics. But the fact of the matter is we are finally shining a little bit of light on what happened in Waco and Ruby Ridge, and we have already seen that the No. 2 man at the FBI has had to be demoted because the FBI messed up. At Ruby Ridge they shot an innocent woman and a man's son, and they did so without proper reason. Then they went back behind there and destroyed documents to hide what they were doing.

Let me tell you something, that is not what the American people voted for last November. They voted for less government. They voted also, I might say in conclusion, for honesty and integrity.

As I close, Mr. Speaker, I just have to respond very briefly to what the gentleman from New Jersey said and the gentleman from Michigan. They talked about how much they cared about Medicare. They said they cared abut Medicare so much they were going to allow it to go bankrupt in the year 2002. I think I care about it a little more and the rest of the Members here do, too. We are going to save Medicare.

THE 30TH ANNIVERSARY OF MEDICARE

The SPEAKER pro tempore. Under a previous order of the House, the gentlewoman from Connecticut [Mrs. KENNELLY] is recognized for 5 minutes.

Mrs. KENNELLY. Mr. Speaker, at the end of the month our Nation will celebrate the 30th anniversary of Medicare. This occasion should remind all of us that nearly every single one of us is touched by Medicare. If you are an individual over 65, that is where you look to for your health care. If you are under 65 you certainly think about Medicare when you are planning for your retirement.

We also know that those who have mothers and fathers alive or other relatives that they care about or are concerned about, they know Medicare is there for them. But most of all, this anniversary should make us all think about what Medicare has done for America's older citizens across the board.

Before Medicare, more than half of all senior citizens did not have any health care coverage. Many seniors faced financial ruin when they had to go to the hospital for any length of time, and all too often they were forced to turn to others to help them, sometimes threatening those that they turned to, their financial future. But most of all, Medicare's anniversary should inspire us to know that we have to make sure Medicare is there for all of us.

Eventually, what happened in the past was elderly people had nowhere to turn. Today, 97 percent of all Americans over the age of 65 have health care coverage; 97 percent. And while we must still work to address the problem of long-term care, which is still very much there, Medicare has saved seniors from going untreated or bankrupt when they needed to have health care.

Before Medicare, 35 percent of American senior citizens lived below the poverty line. I think some of us can remember this, in part because a single trip of any length to the hospital destroyed somebody's life earnings. Today, 30 years after Medicare was signed into law, the number of elderly in poverty has declined to 12 percent. Much of this has to do with the Medicare system.

Before Medicare, many of us can remember relatives, friends and neighbors that struggled to pay medical bills

in our retirement. I remember a family down the street that was a mother and father and a very young boy, and there was a grandmother and aunt that lived in the same house. The grandmother got sick. I well remember it, because it was the talk of the neighborhood. What were they going to do. They only had limited savings. Eventually what happened was they lost their home.

So it is fitting that our Nation should remember and honor Medicare's past as we in Congress prepare to determine Medicare's future. It is important that we remember what Medicare means to every American as we bring changes to the program.

The budget recently passed by Congress calls for cutting Medicare $270 billion. This reduction will be three times larger than any other cut or any other change in the Medicare system. Thus far my concerns are twofold: First, how much of the $270 billion in Medicare cuts could be averted if Congress was not going to do the change of $245 billion in tax changes in the IRS Code? Second, are advocates being less than forthright when they say the plan will save Medicare?

Everything I have heard to date suggests that we are talking about pushing the solvency date back a couple of years. This is very, very important. But I think we should look at the whole situation. We know that there are Medicare changes that have to be made. Let us make sure we do not have Medicare changes that do not have to be made because the money is going to be used in another way.

Of course, we are still waiting for specific legislation that will implement these massive changes. Unfortunately, it is becoming increasingly clear that we will not see a real proposal until well into September, leaving us little chance to truly consider the large overhaul we should do in Medicare to make sure it is protected into the future.

While it took years to enact the Medicare system, and that history has been written and rewritten, some now seem to want to radically change the program in a matter of weeks. It seems unwise at best to consider fundamental changes in a program that provides health care for 37 million people, with little real opportunity to study and look at what the changes that are being advanced will do. If proposed changes to Medicare make sense, then they can stand the scrutiny of Congress and the American public. But the American people do not want to have a stealth system come in and not know what is going to happen until it has happened.

In keeping with the 30th anniversary of Medicare, let us remember President Johnson's words 30 years ago when he signed that Medicare bill and declared no longer will older Americans be denied the healing miracle of modern medicine, and no longer will this Nation refuse the hand of justice to those who have given a lifetime of service, wisdom and labor to the progress of this progressive country.

We have to remember those words because what all of us want to be sure of is that the Medicare system is there for those people over 65. It has been there, it has been a good program, it should remain there. Let us be very careful what we do.

HONORING ATOMIC VETERANS

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Wisconsin [Mr. ROTH] is recognized for 5 minutes.

Mr. ROTH. Mr. Speaker, this past Sunday we commemorated the distinguished service of an elite group of Americans, very brave Americans. They were not the Green Berets or the Navy Seals. They are not remembered for their service on the battlefield. Yet they served in some of the most extreme of wartime conditions.

I am talking about our atomic veterans, those soldiers who were exposed to radiation during Government experiments after World War II, before the full effects of the exposure of radiation were known.

The Second World War has ended a long 50 years ago. For many of the other veterans, they were spared the fatal shrapnel or the bayonet or the rifle fire. But for the soldiers who were exposed to atomic weapons experiments, the battle continues. Today, they fight against cancer and other diseases that resulted from the nuclear exposure.

As we remember those who died 50 years ago when the atomic bombs were dropped on Hiroshima and Nagasaki, we also must take a moment to remember the veterans who were involved in these nuclear testings of weapons. It is clear as a bell that we have a special obligation to these fearless men.

The VA has cared for these veterans, but their authority to do so expired on June 30. The VA continues to treat our atomic veterans, with the understanding that Congress will come through with legislation to extend their treatment authority. The House has passed the bill, H.R. 1565, to extend VA's obligation to treat atomic veterans through 1997. On behalf of the atomic veterans, I now urge the other body, the Senate, to vote to extend the VA's obligation to treat these brave men who need and deserve the best possible care available.

This past Sunday we recognized atomic veterans on Atomic Veterans Day. Veterans of northeast Wisconsin, including people like Jack DeMoulin of De Pere, WI, who has worked so hard and selflessly on behalf of the atomic veterans, they are the real heroes of the cold war.

Mr. Speaker, we cannot forget our atomic veterans. They were the ultimate guinea pigs in a new technology whose power of destruction was well-known, but whose long-range health consequences was not. We must lift the burden from the shoulders of dedicated soldiers like Jack DeMoulin and the other atomic veterans.

The war has ended, but the atomic veterans, for them the battle rages on. Let us give them the help and support they so desperately need. I ask the Senate to join the House in this legislation and ask the President to sign it so that we can duly fulfill our obligation to the atomic veterans.

RECESS

The SPEAKER pro tempore. Pursuant to clause 12 of rule I, the Chair declares the House in recess until 10 a.m.

Accordingly (at 9 o'clock and 49 minutes a.m.), the House stood in recess until 10 a.m.

AFTER RECESS

The recess having expired, the House was called to order by the Speaker at 10 a.m.

PRAYER

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

Our hearts are thrilled, O gracious God, by the gift of renewal and refreshment in our lives, by a spirit that allows us to put aside any tired ways to find new energy, that permits a new attitude to correct habits and develop meaningful and profound ways of service. While we admit it is easier to follow old ways, we pray, O God, we will be open to Your guidance and be honest with ourselves and in harmony with You, our creator and redeemer.

This is our earnest prayer. Amen.

THE JOURNAL

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

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

PLEDGE OF ALLEGIANCE

The SPEAKER. Will the gentleman from Illinois [Mr. LAHOOD] come forward and lead the House in the Pledge of Allegiance.

Mr. LAHOOD led the Pledge of Allegiance as follows:

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

MESSAGE FROM THE SENATE

A message from the Senate by Mr. Lundregan, one of its clerks, announced that the Senate had passed bills and a concurrent resolution of the following titles, in which the concurrence of the House is requested:

S. 457. An act to amend the Immigration and Nationality Act to update references in the classification of children for purposes of United States immigration laws;

S. 790. An act to provide for the modification or elimination of Federal reporting requirements; and

S. Con. Res. 21. Concurrent resolution directing that the "Portrait Monument" carved in the likeness of Lucretia Mott, Susan B. Anthony, and Elizabeth Cady Stanton, now in the Crypt of the Capitol, be restored to its original state and be placed in the Capitol Rotunda.

ANNOUNCEMENT BY THE SPEAKER

The SPEAKER. The Chair will recognize 10 Members on each side for 1-minute speeches.

MEDICARE

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

Mr. LEWIS of Kentucky. Mr. Speaker, we have heard a lot of hot air from the liberal Democrats about Medicare. But when they talk about Medicare what they really mean is medi-scare. They don't really want to save Medicare from bankruptcy. All they want to do is scare people into voting for their party. For Democrats it is perfectly acceptable to let Medicare go bankrupt—just as long as they have a political issue it doesn't matter what the truth is.

And the truth is that Medicare will be broke in 7 years if we don't take serious action right now. Republicans have not walked away from this issue.

Unfortunately for the American people, liberal Democrats have used Medicare for their twisted scare tactics. You see, liberals can not win elections with the force of their superior ideas. The only strategy that works for liberals is fear and disinformation.

But the American people are smarter than liberals would believe. They will not buy the scare tactics and they will not allow Medicare to go bankrupt. Mr. Speaker, later this month Medicare will turn 30 years old. The Medicare Trustees Board reports that unless something is done quickly, Medicare will not survive another 7 years. Republicans have responded to this warning. We are committed to protecting and preserving Medicare so that it can observe many more anniversaries.

It would be wrong to just ignore the warnings of those in charge of Medicare. But, that is exactly what the Democrats are doing. They ignore the advice of leaders in their own party.

Three of Bill Clinton's cabinet secretaries are on the Medicare Trustees Board, and yet the liberal Democrats here in the House act as if they do not exist. By their silence, liberal Democrats are admitting they would rather see Medicare go bankrupt.

The difference here, Mr. Speaker, is that Republicans want to save Medicare, Democrats do not want to do anything.

REPUBLICAN ABUSE OF POWER

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

Mr. HILLIARD. Mr. Speaker, I rise today to point out another outrage among the many insults that the Republicans continue to inflict upon this Congress and this country. Since they gained a majority in Congress, the onslaught of injustice has been tremendous.

They have stacked the top committees with the Johnny-come-lately party switchers. They have disenfranchised several Democrats, blocking us from voting, both in committee meetings and on this very House floor.

Legislatively, their crimes against the public have been horrendous. They do not even blush as they cut Medicare, Medicaid, student loans and other educational programs to fund tax cuts for their rich supporters.

The Republicans are drunk with their new found power, and their abuse of this power is rampant and excessive. But America is watching.

TOBACCO FARMERS

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

Mr. FUNDERBURK. Mr. Speaker, today and tomorrow thousands of farmers are making their way across my State for the opening of the annual North Carolina tobacco markets; 85,000 North Carolinians grow or manufacture tobacco. Another 154,000 depend on tobacco related spending. It pumps more than $1 billion per year into our economy.

Mr. Speaker, if you have been on a tobacco farm you know it is the most grueling and back-breaking work in agriculture. Most tobacco farmers struggle to survive. Unfortunately, this year they have been hit by twin disasters; bad weather and President Clinton. Too much rain weakened the crop. Too much Clinton and Kessler threaten the industry's survival. Mr. Speaker, the President has let the FDA wage war on thousands of North Carolinians. He talks about jobs, but his politically correct posturing has put over 200,000 jobs on the line in my State. The FDA's charge that the tobacco family is out to addict children is ludicrous on its face.

Mr. Speaker, as tobacco farmers go to market, I want to assure them that the radical left wing of the other party will not get away with its selective persecution of their historic and legal American industry. To the farmers in eastern North Carolina keep up the good work, help is on the way.

TRADE POLICY

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

Mr. TRAFICANT. Mr. Speaker, 20 years ago Gold Star South Korea built radios for Zenith. Then Zenith started to build picture tubes for Gold Star. Yesterday Gold Star South Korea bought out Zenith.

Ladies and gentlemen, Philo T. Fransworth of Utah, father of American television, is rolling over in his grave. This country, the great America, invented television, telephones, typewriters. We do not build one anymore. But do not worry, American workers, you are going to get the high-technology jobs.

Tell me what is more high-technology than a sophisticated electronic device. Beam me up, ladies and gentlemen. Forty-eight billion dollar record quarter trade deficit; $11.5 billion trade deficit for May. Truth is, Democrats are out because they had no trade program. Republicans have no trade program. White House has no trade program.

America is losing our jobs and people are talking about the Mideast. We better start talking about the Midwest.

ANOTHER PROMISE KEPT

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

Mr. TIAHRT. Mr. Speaker, last year Republicans stood before the American people and made a promise that if we took the majority, we would conduct an audit of the operations of the House of Representatives. Today the findings of this audit are presented.

The audit had to be conducted. For years the American people were inundated by countless stories of misuse and abuse of congressional privilege. The light of truth and accountability had to be shown on the institution that is responsible for spending the American tax dollars.

I would just point out that this would never have happened had the other party remained in the majority. It would never have occurred to the other party to put themselves on the same level of accountability that they hold every other financial institution and every business in America under.

Mr. Speaker, today is a good day on the Potomac and a good day for the institution of Congress. By keeping promises and holding ourselves accountable, we have taken steps toward restoring trust with the American people.

HEAD START

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

Mr. ROEMER. Mr. Speaker, children do not have lobbyists in this country. Children do not have political action committees, and children cannot vote.

And it is no wonder, Mr. Speaker, that children are getting the shaft by the Republican cuts in the Head Start Program. Here is a Head Start Program that President Reagan and President Bush wanted to increase funding in. They did not want to cut children out of this program. This goes too far and it is too extreme. This threatens to put children out on the streets.

The Speaker has an earning by learning program, paying children to learn by reading a book. You cannot pay them to read a book if you cannot teach them how to read.

Please support restoring the $137 million cuts to our precious Head Start Programs.

AUDIT RESULTS

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

Mrs. SEASTRAND. Mr. Speaker, business men and women across America know the first thing you do when you acquire a new enterprise is to audit the books. Last November the American people took back the House of Representatives from the liberals who had controlled it absolutely for 40 years. When the new American majority assumed responsibility for this institution last January, we took the practical, prudent step of authorizing a complete audit of the House of Representatives.

Today, the results of that first-ever audit are being made public. It will come as no surprise to the American people that the independent audit by Price Waterhouse has proven once again that power corrupts and absolute power corrupts absolutely.

Competence, waste, expediency, mismanagement, confusion, contradiction, living above the law, no accountability, no security, these are among the findings of the auditors being reported today.

The bottom line is inescapable and undeniable. This House, this cherished institution designed by our constitutional forefathers of this great Nation is once again going to be a people's House because we are going to clean it up.

KEEP PROGRAMS THAT ARE MEANINGFUL TO THE MIDDLE CLASS

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

Mr. KLINK. Mr. Speaker, we have been dwelling on Medicare cuts for quite some time during these 1-minute remarks and for good reason. But the gentleman from Indiana who spoke two speakers previous to me talked about cuts in Head Start. He reminded me of a Head Start Program that I visited back in my own district. You could tell when they serve the lunches to these young children at Head Start that some of them had not eaten in quite a long time.

Now, the whole question is, How can you be prepared to learn if you do not have food on your stomach? How can you be prepared to learn when you are not getting that instruction at home? The parents did get them enrolled in the Head Start Program. Teachers talked about the fact that they had made great strides not only with these youngsters preparing them to learn but also with the parents themselves.

Cuts on college loans, cuts on Head Start, cuts in Medicare, cuts in Medicaid, these are going to hurt our people, and also that we can get $245 billion in tax cuts prior to balancing the budget. The elimination of corporate taxes and nonrefundable $500 per child, lower capital gains, this is not going to mean much to the middle class. But Medicare, Head Start, college loans, all of these things mean a great deal.

MORE ON AUDIT RESULTS

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

Mr. LINDER. Mr. Speaker, given the Democrats' track record for balancing the Federal budget, it should come as no surprise that they used less than precise bookkeeping during the 40 years of managing or mismanaging the House of Representatives.

According to Roll Call and a Price Waterhouse audit of the House books, Democrats did not pay the bills they ran up, used numbers convenient to their purpose, and made a mockery of the trust of the American people. Sound familiar? That is the exact same Democrat management style that gave this country $5 trillion of debt.

Having heard the demand of the American people, House Republicans are changing the way Congress operates. It is simply common sense to expect the people's House and the Government to pay their bills. That is what small businesses and American families do across the country. The Government of the greatest Nation on Earth should do no less. We will balance the budget in 7 years. Republicans are administering this House of Representatives with seriousness and reverence appropriate for the leading democracy and not the lackadaisical approach taken during the last 40 years.

CRUMBLING ECONOMY

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

Mr. DEFAZIO. Mr. Speaker, as the Republican revolution patters on about the audit of the House of Representatives, the economy is crumbling around us. It is business as usual in Washington, DC, or, rather, as usual, big business and Wall Street are dictating that we continue our failed trade policies with the enthusiastic support of the new Speaker and the new majority.

We ran a record trade deficit in May. According to the Commerce Department, it was an $11.4 billion trade deficit. That means we exported 228,000 jobs to unfair trading partners around the world.

What does the new majority have to say about that? Well, precious little, because they are too busy filling their campaign coffers with special trips to Wall Street rather than addressing the failed trade policy. Yes, this administration, the Clinton administration, has followed Reagan and Bush in this failure. But the new majority is doing nothing to change it. We need a new trade policy for this country, a policy that brings jobs home to America and protects our economy.

RESULTS OF HOUSE AUDIT

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

Mr. HAYWORTH. Mr. Speaker, I listened with great interest to the preceding speaker pooh-pooh the results of the House audit. My goodness, the most profound news to come out of this new Congress, another promise kept that showed by this audit what blatant disregard House officials had for common mathematics.

Listen to this. Records were so inadequate and so incomplete that the auditors would not render an opinion on the reliability of the House's financial statements. This is the worst evaluation that an auditor can issue. The finance office in this institution under the previous rule processed $700 million a year in expenses and salaries using handwritten ledgers that the auditors cannot make sense out of.

The fact is, Mr. Speaker, this new majority with help from dedicated Members of the new minority will remake this institution in the image of the American people. Today the audit

symbolizes another promise made, another promise kept, keeping our word and bond with the American people to get back to basics and get back to business.

REPUBLICANS WANT TO PRIVATIZE MEDICARE

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

Ms. DELAURO. Mr. Speaker, a recent Washington Times story confirmed what seniors have feared about Republican plans to cut Medicare. The conservative newspaper reported that the Republican leadership's ultimate goal is to privatize Medicare. Today, the GOP is ready to dismantle Medicare today, to finance their tax cut to the wealthy. But what about tomorrow?

The Gingrich plan to privatize Medicare will mean that seniors will pay more in premiums and deductibles and will lose their choice of doctors. Under the Gingrich plan, recipients who now pay $46.10 per month for Medicare part B would pay more than $110 per month.

Thirty years ago when Medicare was established, 93 percent of Republicans opposed the plan. Now, the Gingrich Republicans are walking in lockstep once again and are out to achieve a 30-year goal, dismantling what they never wanted in the first place—Medicare.

FINDINGS OF FIRST AUDIT

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

Mr. LARGENT. Mr. Speaker, this is a small sample of what the House books look like. I think the American people expect us to not only read the House books but also to have an audit of the House books, and today marks the release of findings of the first—America, did you hear that—the first audit of the House books in history.

In this audit, the auditors found in the last Congress a shocking disregard for financial controls, a disregard for businesslike practice and frequently having waived the rules regarding the House books.

Some of the promises that we made on the first day of this Congress was that Congress would live under the same laws that everybody else has to abide by. I think that is only fair. Another one of the promises that we made was that we would have the first audit ever of the House books.

The auditors have come back and said that the House books are in a shambles.

Mr. Speaker, there is an old adage that says if it does not work at home, do not export it.

Let me tell you, it has not worked in this House for a long time. But this year we are making it work in this home and then export it to the rest of the American people.

□ 1020

MAY'S TRADE NUMBERS

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

Ms. KAPTUR. Mr. Speaker, just hot off the press, America ran another budget-busting $11.4 billion trade deficit for the month of May, continuing the recordbreaking hemorrhage for 1995 for our country. For the first 5 months of this year, we recorded a trade deficit with the world of over $52 billion, an increase of 30 percent over the same period last year, more lost wages for this country, more lost wealth. What is the administration, the leadership of this House, and every other "blind trader" around Washington doing about this bleeding of America's wealth?

While we chalked up a deficit of $2.8 billion with China just in May and a projected $32 billion deficit with them for this year, the administration is pushing for extension of most-favored-nation for China. With Mexico, after all the promises of increased exports to Mexico, our country is projected to run a $20 billion trade deficit with them this year. American workers can no longer afford to sustain these kinds of trade losses. Let us bring that wealth back to America.

REPUBLICANS STAND FOR CHANGE, DEMOCRATS STAND FOR THE STATUS QUO

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

Mr. JONES. Mr. Speaker, we, the Republican majority, are committed to preserving, protecting, and improving the Medicare system. However, the other side continues to play the political games and ignores the writing on the wall. The Clinton Medicare trustees stated that the program will be bankrupt by the 2002. The fact that the system is going bankrupt makes our efforts more important than ever before.

Our plan gives States the flexibility needed to design effective, innovative health programs tailored to meet the special needs of individual citizens. We will not cut the Medicare Program, instead our proposal includes a spending increase of $340 billion over the next 7 years—a 34-percent increase in Medicare spending per retiree.

We will clean up the waste and inefficiency in the system and provide an improved system for current and future generations.

Bottom line, we stand for change, the Democrats stand for the status quo.

CALLING ON THE SPEAKER OF THE HOUSE TO DENOUNCE RACISM

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

Mr. FLAKE. Mr. Speaker, it is rare that I come to this well with news that is unpleasant. My tendency is to be very positive about most things all the time. However, I will share several events that I would like to call to Members' attention.

On Thursday, as I was in the elevator 5B in the Rayburn House Office Building, on the very elevator door was written these words: "Niggers equal crime." As if that was not enough, the problem for me was exacerbated when about 3 o'clock on Sunday morning I was awakened by a telephone call. That telephone call said to me, in a prank call, "We are going to join NEWT GINGRICH in killing all niggers."

Mr. Speaker, I urge you this morning to mount this well as Speaker of the House of Representatives, as a leader in this Nation, to let this country know that these epithets do not represent you. In the depths of my heart I would hope that you would help us to make all Americans believe that.

EFFORTS TO SAVE MEDICARE ARE NOT MEAN-SPIRITED

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

Mr. KIM. Mr. Speaker, I had a design engineering firm before I joined in Congress 2½ years ago, and at one time I had 150 employees, and I am an expert in mathematics. Let me tell the Members, this is the flat tax that the political leadership proposed, a 17 percent flat tax. This is what is proposed by my colleagues on the other side of the aisle. It is a different bracket based upon income.

Let me plot this. They insist this is a flat tax also. I would like to ask the American people, does that seem flat to them? Let me take a look at this Medicare. Mr. Speaker, this line is leading into bankruptcy within 7 years. The bottom line is what the Republicans are proposing, trying to save and preserve the Medicare system from bankruptcy. Look at these two lines. This green line is simply trying to slow down the rate of increase just a little bit. Still there is an increase. Each year we are spending more money. My colleagues call it cuts, draconian cuts, mean-spirited cuts. I just do not understand this.

FOLDING OF NEW YORK NEWSDAY

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

Mr. SCHUMER. Mr. Speaker, yesterday morning when I woke up in New York, I did what I customarily do, I go to the door of my apartment and pick up the newspapers. Something was missing. That was New York Newsday, the paper that folded that Sunday. All New Yorkers, and particularly those of us who read Newsday and were covered in Newsday, regret this loss very much.

Whether it was their feisty and comprehensive coverage in New York City or the investigations they did or the thoroughness with which they treated the outer boroughs, Brooklyn, Queens, where I come from, or whether it was the complete, fair, and balanced coverage of Washington which made the reader interested in what went on there, New York Newsday is going to be missed. I regret very much that it is not continuing.

It seemed that it was almost about to turn a profit when its life was untimely ended, and yet those of us who know the reporters and editors and delivery people who made this newspaper tick will tell the Members one thing: It did a great job, it improved all of its competitor papers, as they would be the first to admit, and it made our city a better place. New Yorkers and Americans will miss New York Newsday.

OPPOSE THE ANTIFARMER LOWEY AMENDMENT

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

Mr. CHAMBLISS. Mr. Speaker, having lived in the middle of Georgia's farm belt all my adult life, I want to make sure the facts are on the table as we debate this year's agriculture appropriations bill.

It concerns me that big city representatives think that cutting farm programs is the simple solution to budget problems. For example, Mrs. LOWEY of New York plans to offer an amendment which would lower the support price of peanuts from $678 per ton to $550 per ton.

Now, she thinks that a cut like this will produce savings, but according to USDA it would cost taxpayers around $100 million. That's right, a cut that would cost taxpayers millions.

But that is not all. She also believes that this cut will spell out savings for consumers. Wrong again. Reduction in the farm price for peanuts will not be passed on to the consumers.

In fact, 74 percent of the consumer's cost for peanut butter is added on by food processors after peanuts are sold by farmers. This amendment would actually increase profits for multinational commodity traders and food companies by paying farmers less for their peanuts.

Oppose the antifarmer Lowey amendment. It will not lower Government costs, it will not lower consumer prices, but it will devastate small, family farmers across the country.

MESSAGE FROM THE PRESIDENT

A message in writing from the President of the United States was communicated to the House by Mr. Edwin Thomas, one of his secretaries.

PROVIDING FOR CONSIDERATION OF H.R. 2020, TREASURY, POSTAL SERVICE, AND GENERAL GOVERNMENT APPROPRIATIONS ACT, 1996

H. RES. 190

Resolved, That at any time after the adoption of this resolution the Speaker may, pursuant to clause 1(b) of rule XXIII, declare the House resolved into the Committee of the Whole House on the state of the Union for consideration of the bill (H.R. 2020) making appropriations for the Treasury Department, the United States Postal Service, the Executive Office of the President, and certain independent agencies, for the fiscal year ending September 30, 1996, and for other purposes. The first reading of the bill shall be dispensed with. General debate shall be confined to the bill and shall not exceed one hour equally divided and controlled by the chairman and ranking minority member of the Committee on Appropriations. After general debate the bill shall be considered for amendment under the five-minute rule. The bill shall be considered by title rather than by paragraph. Each title shall be considered as read. Points of order against provisions in the bill for failure to comply with clause 2 or 6 of rule XXI are waived except as follows: beginning with "*Provided further*" on page 33, line 2, through "Maryland:" on line 13; and page 42, line 9, through page 43, line 6. Where points of order are waived against part of a paragraph, points of order against a provision in another part of such paragraph may be made only against such provision and not against the entire paragraph. During consideration of the bill for amendment, the Chairman of the Committee of the Whole may accord priority in recognition on the basis of whether the Member offering an amendment has caused it to be printed in the portion of the CONGRESSIONAL RECORD designated for that purpose in clause 6 of rule XXIII. Amendments so printed shall be considered as read. At the conclusion of consideration of the bill for amendment the Committee shall rise and report the bill to the House with such amendments as may have been adopted. The previous question shall be considered as ordered on the bill and amendments thereto to final passage without intervening motion except one motion to recommit with or without instructions.

The SPEAKER pro tempore. The gentleman from Florida [Mr. DIAZ-BALART] is recognized for 1 hour.

Mr. DIAZ-BALART. For purposes of debate only, Mr. Speaker, I yield the customary 30 minutes to the gentleman from California [Mr. BEILENSON], pending which I yield myself such time as I may consume. During consideration of this resolution, all time yielded is for purposes of debate only.

Mr. Speaker, House Resolution 190 is an open rule, providing for the consideration of H.R. 2020, the Treasury, Postal Service, and general government appropriations bill for fiscal year 1996. H.R. 2020 provides funds for the Treasury Department, the United States Postal Service, the Executive Office of the President, and certainly independent agencies.

The rule waives clause 2, prohibiting unauthorized and legislative provisions, and clause 6, prohibiting reappropriations, of rule XXI against provisions in the bill, except as otherwise specified in the rule.

The rule also provides for the reading of the bill by title, rather than by section, for amendment, and each title is considered as read. In addition, the Chair is authorized to accord priority in recognition to members who have preprinted their amendments in the CONGRESSIONAL RECORD. And finally, the rule provides for one motion to recommit with or without instructions.

I would like to stress that this rule is an open rule, so open that it does not even restrict dilatory tactics. We are hopeful that Members will not utilize stalling techniques that do not advance debate nor improve the substance of legislation.

This rule does not provide waivers of the rules for any amendments to H.R. 2020. It is a standard open rule, and Members who want to move funds around or reduce funding for certain programs will be able to do so within the parameters of House rules. Any battles regarding the level of funding for particular programs or projects can be decided on the floor in a deliberative manner.

I would like to commend Subcommittee Chairman LIGHTFOOT and Chairman LIVINGSTON for their hard work on this bill. As an open rule on this $23 billion measure, House Resolution 190 could not be more fair, and I urge its adoption. Mr. Speaker, for the RECORD, I include the following information regarding amendments:

THE AMENDMENT PROCESS UNDER SPECIAL RULES REPORTED BY THE RULES COMMITTEE,[1] 103D CONGRESS V. 104TH CONGRESS

[As of July 17, 1995]

Rule type	103d Congress		104th Congress	
	Number of rules	Percent of total	Number of rules	Percent of total
Open/Modified-open [2]	46	44	35	73

THE AMENDMENT PROCESS UNDER SPECIAL RULES REPORTED BY THE RULES COMMITTEE,[1] 103D CONGRESS V. 104TH CONGRESS—Continued

[As of July 17, 1995]

Rule type	103d Congress		104th Congress	
	Number of rules	Percent of total	Number of rules	Percent of total
Modified Closed[3]	49	47	12	25
Closed[4]	9	9	1	2
Totals:	104	100	48	100

[1] This table applies only to rules which provide for the original consideration of bills, joint resolutions or budget resolutions and which provide for an amendment process. It does not apply to special rules which only waive points of order against appropriations bills which are already privileged and are considered under an open amendment process under House rules.

[2] An open rule is one under which any Member may offer a germane amendment under the five-minute rule. A modified open rule is one under which any Member may offer a germane amendment under the five-minute rule subject only to an overall time limit on the amendment process and/or a requirement that the amendment be preprinted in the Congressional Record.

[3] A modified closed rule is one under which the Rules Committee limits the amendments that may be offered only to those amendments designated in the special rule or the Rules Committee report to accompany it, or which preclude amendments to a particular portion of a bill, even though the rest of the bill may be completely open to amendment.

[4] A closed rule is one under which no amendments may be offered (other than amendments recommended by the committee in reporting the bill).

SPECIAL RULES REPORTED BY THE RULES COMMITTEE, 104TH CONGRESS

[As of July 17, 1995]

H. Res. No. (Date rept.)	Rule type	Bill No.	Subject	Disposition of rule
H. Res. 38 (1/18/95)	O	H.R. 5	Unfunded Mandate Reform	A: 350–71 (1/19/95).
H. Res. 44 (1/24/95)	MC	H. Con. Res. 17	Social Security	A: 255–172 (1/25/95).
		H.J. Res. 1	Balanced Budget Amdt	
H. Res. 51 (1/31/95)	O	H.R. 101	Land Transfer, Taos Pueblo Indians	A: voice vote (2/1/95).
H. Res. 52 (1/31/95)	O	H.R. 400	Land Exchange, Arctic Nat'l. Park and Preserve	A: voice vote (2/1/95).
H. Res. 53 (1/31/95)	O	H.R. 440	Land Conveyance, Butte County, Calif	A: voice vote (2/1/95).
H. Res. 55 (2/1/95)	O	H.R. 2	Line Item Veto	A: voice vote (2/2/95).
H. Res. 60 (2/6/95)	O	H.R. 665	Victim Restitution	A: voice vote (2/7/95).
H. Res. 61 (2/6/95)	O	H.R. 666	Exclusionary Rule Reform	A: voice vote (2/7/95).
H. Res. 63 (2/8/95)	MO	H.R. 667	Violent Criminal Incarceration	A: voice vote (2/9/95).
H. Res. 69 (2/9/95)	O	H.R. 668	Criminal Alien Deportation	A: voice vote (2/10/95).
H. Res. 79 (2/10/95)	MO	H.R. 728	Law Enforcement Block Grants	A: voice vote (2/13/95).
H. Res. 83 (2/13/95)	MO	H.R. 7	National Security Revitalization	PQ: 229–100; A: 227–127 (2/15/95).
H. Res. 88 (2/16/95)	MC	H.R. 831	Health Insurance Deductibility	PQ: 230–191; A: 229–188 (2/21/95).
H. Res. 91 (2/21/95)	O	H.R. 830	Paperwork Reduction Act	A: voice vote (2/22/95).
H. Res. 92 (2/21/95)	MC	H.R. 889	Defense Supplemental	A: 282–144 (2/22/95).
H. Res. 93 (2/22/95)	MO	H.R. 450	Regulatory Transition Act	A: 252–175 (2/23/95).
H. Res. 96 (2/24/95)	MO	H.R. 1022	Risk Assessment	A: 253–165 (2/27/95).
H. Res. 100 (2/27/95)	O	H.R. 926	Regulatory Reform and Relief Act	A: voice vote (2/28/95).
H. Res. 101 (2/28/95)	MO	H.R. 925	Private Property Protection Act	A: 271–151 (3/2/95)
H. Res. 103 (3/3/95)	MO	H.R. 1058	Securities Litigation Reform	
H. Res. 104 (3/3/95)	MO	H.R. 988	Attorney Accountability Act	A: voice vote (3/6/95)
H. Res. 105 (3/6/95)	MO			A: 257–155 (3/7/95)
H. Res. 108 (3/7/95)	Debate	H.R. 956	Product Liability Reform	A: voice vote (3/8/95)
H. Res. 109 (3/8/95)	MC			PQ: 234–191 A: 247–181 (3/9/95)
H. Res. 115 (3/14/95)	MO	H.R. 1159	Making Emergency Supp. Approps.	A: 242–190 (3/15/95)
H. Res. 116 (3/15/95)	MC	H.J. Res. 73	Term Limits Const. Amdt	A: voice vote (3/28/95)
H. Res. 117 (3/16/95)	Debate	H.R. 4	Personal Responsibility Act of 1995	A: voice vote (3/21/95)
H. Res. 119 (3/21/95)	MC			A: 217–211 (3/22/95)
H. Res. 125 (4/3/95)	O	H.R. 1271	Family Privacy Protection Act	A: 423–1 (4/4/95)
H. Res. 126 (4/3/95)	O	H.R. 660	Older Persons Housing Act	A: voice vote (4/6/95)
H. Res. 128 (4/4/95)	MC	H.R. 1215	Contract With America Tax Relief Act of 1995	A: 228–204 (4/5/95)
H. Res. 130 (4/5/95)	MC	H.R. 483	Medicare Select Expansion	A: 253–172 (4/6/95)
H. Res. 136 (5/1/95)	O	H.R. 655	Hydrogen Future Act of 1995	A: voice vote (5/2/95)
H. Res. 139 (5/3/95)	O	H.R. 1361	Coast Guard Auth. FY 1996	A: voice vote (5/9/95)
H. Res. 140 (5/9/95)	O	H.R. 961	Clean Water Amendments	A: 414–4 (5/10/95)
H. Res. 144 (5/11/95)	O	H.R. 535	Fish Hatchery—Arkansas	A: voice vote (5/15/95)
H. Res. 145 (5/11/95)	O	H.R. 584	Fish Hatchery—Iowa	A: voice vote (5/15/95)
H. Res. 146 (5/11/95)	O	H.R. 614	Fish Hatchery—Minnesota	A: voice vote (5/15/95)
H. Res. 149 (5/16/95)	MC	H. Con. Res. 67	Budget Resolution FY 1996	PQ: 252–170 A: 255–168 (5/17/95)
H. Res. 155 (5/22/95)	MO	H.R. 1561	American Overseas Interests Act	A: 233–176 (5/23/95)
H. Res. 164 (6/8/95)	MC	H.R. 1530	Nat. Defense Auth. FY 1996	PQ: 225–191 A: 233–183 (6/13/95)
H. Res. 167 (6/15/95)	O	H.R. 1817	MilCon Appropriations FY 1996	PQ: 223–180 A: 245–155 (6/16/95)
H. Res. 169 (6/19/95)	MC	H.R. 1854	Leg. Branch Approps. FY 1996	PQ: 232–196 A: 236–191 (6/20/95)
H. Res. 170 (6/20/95)	O	H.R. 1868	For. Ops. Approps. FY 1996	PQ: 221–178 A: 217–175 (6/22/95)
H. Res. 171 (6/22/95)	O	H.R. 1905	Energy & Water Approps. FY 1996	A: voice vote (7/12/95)
H. Res. 173 (6/27/95)	C	H.J. Res. 79	Flag Constitutional Amendment	PQ: 258–170 A: 271–152 (6/28/95)
H. Res. 176 (6/28/95)	MC	H.R. 1944	Emer. Supp. Approps.	PQ: 236–194 A: 234–192 (6/29/95)
H. Res. 185 (7/11/95)	O	H.R. 1977	Interior Approps. FY 1996	PQ: 235–193 D: 192–238 (7/12/95)
H. Res. 187 (7/12/95)	O	H.R. 1977	Interior Approps. FY 1996 #2	PQ: 230–194 A: 229–195 (7/13/95)
H. Res. 188 (7/12/95)	O	H.R. 1976	Agriculture Approps. FY 1996	
H. Res. 190 (7/17/95)	O	H.R. 2020	Treasury/Postal Approps. FY 1996	

Codes: O-open rule; MO-modified open rule; MC-modified closed rule; C-closed rule; A-adoption vote; D-defeated; PQ-previous question vote. Source: Notices of Action Taken, Committee on Rules, 104th Congress.

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

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

Mr. Speaker, we are not opposed to the rule for H.R. 2020, the bill making appropriations for the Treasury Department and Postal Service, Executive Office of the President, and several independent agencies for the fiscal year beginning October 1.

This is an open rule. It is not, however, the "open-plus rule" that the other side of the aisle requested just a year ago for this same appropriations bill. The rule waives several House rules that are violated by provisions of the bill, including the rule prohibiting unauthorized and legislative provisions in an appropriations bill, and the bill prohibiting reappropriations. Those same waivers were strongly criticized last year by our friends across the aisle, but as we have noted before in recent days, this is a new day, and the new leadership has now discovered the importance of those waivers of standing House rules in order to move legislation that is essential to the Federal Government's day-to-day operations.

We do not oppose the waivers provided by the rule. We are, however, concerned that the majority would not permit the same waivers for several key amendments that Members sought to offer. We attempted to make several amendments in order last night when the Committee on Rules considered this resolution. Of particular importance to many of us was an amendment offered by the gentlewoman from Colorado [Mrs. SCHROEDER] which would have opened the Federal employees' health benefit plan to all Americans. The gentlewoman argued, we thought quite convincingly, that since the bill itself opens up the Federal Government's health plan to a significant change, she should be permitted to offer her amendment on this matter.

As my colleagues will recall, this was the one key feature of the health care reform debate that most of us seemed to agree on during that ill-fated debate on the issue last year, that all Americans should be able to participate in

the health care plan that Members of Congress, their staffs, and Federal employees have access to. Unfortunately, we will not be permitted to debate that simple proposition today because the majority on the Committee on Rules voted on a straight party line vote not to provide the amendment with the gentlewoman from Colorado with the waivers it needed.

We also attempted unsuccessfully to make in order the amendment offered by the gentleman from Kentucky [Mr. WARD] which would have authorized the collection of taxes from former American citizens who renounced their citizenship in order to avoid paying taxes. This is a very clearcut issue, Mr. Speaker. We feel strongly that any wealthy American who renounces his or her citizenship in order to avoid paying taxes on the wealth they have amassed while they have enjoyed the benefits of U.S. citizenship should not be rewarded. Unfortunately, the Members of the House have been denied again the right to vote on this amendment.

We also sought to make in order two amendments dealing with the deficit lockbox issue. The Members, including the gentleman from Oklahoma [Mr. BREWSTER] and the gentlewoman from California [Ms. HARMAN], have been tenacious in arguing their position on this important issue. We continue to believe that they should be allowed to offer their amendment to this year's appropriations bills. We understand the leadership has scheduled a markup session for this week on legislation dealing with this issue.

We certainly welcome that response to an issue that we have been discussing for weeks, but it does not completely allay our concerns. That is, after all, only a committee markup session. We do not know what will happen after that.

Mr. Speaker, it simply does not make sense to pass a measure requiring that all money cut be applied directly to deficit reduction after the appropriations process is over. That is too late. The point is to take any spending cut amendments from these appropriations bills, including the one we are discussing today, and apply those to deficit reduction. If we approve a lockbox bill at the end of the process, that is too late. As it is, we are already behind schedule.

As Members should know, one of the Brewster amendments we sought to make in order last night would have amended House rules by creating a deficit reduction lockbox that would have applied all money cut to deficit reduction during not only the remainder of this year's appropriations cycle, but also would have travel locked in any spending cuts made by the House so far this year.

We also sought, Mr. Speaker, to make in order several other amendments, including four offered by the gentleman from Maryland [Mr. HOYER], the ranking minority member of the Subcommittee on Treasury, Postal Service, and General Government of the Committee on Appropriations that would have restored badly needed funding for the Federal Elections Commission and for the White House offices. We are particularly concerned about the political nature of these cuts.

As Members of the minority pointed out in their views on the committee report, the cuts in the President's Office are contrary to the longstanding practices of the committee, regardless of the political party in power in the White House. The Office of the White House is the office of the President, and should be treated in a nonpartisan manner.

In addition, the FEC is already operating under severe budgetary constraints, and the cuts in this bill will severely hamper its ability to carry out its responsibilities to assure the integrity of elections. We should all be very concerned about this cut, Mr. Speaker. We talk constantly about the need to protect our process and keep it free from outside interests, but this cut is clearly an attempt to reduce the effectiveness of the one agency that oversees in some objective manner the election process.

Many of us are deeply disappointed that H.R. 2020 prohibits Federal employees from choosing a health care policy that provides a full range of reproductive health services, including abortions. In 1993, we wisely reversed this policy that had been in place for a decade. The reinstatement of this policy threatens the right of Federal employees to choose to have an abortion, a right that has been guaranteed by the Supreme Court, and it discriminates against women in public service. I regret that we are taking one more step against ensuring that all women have the right to a safe and legal abortion.

Mr. Speaker, we are concerned about many other provisions of H.R. 2020, but we feel most of them can be addressed by the open rule this resolution provides. Unfortunately, we will be unable to address the restoration of funds for the Council on Economic Advisers, a panel that has always provided us with a long-term look at the economy that we in this body too often ignore.

The bill also cuts, we believe unwisely, funds for the Internal Revenue Service. That makes no sense to us, when we are trying to balance the budget to improve the ability of the IRS to bring in more revenues. In any event, Mr. Speaker, we do not oppose the rule, although we are very concerned, as I have tried to make clear, that we were unable to make in order several key amendments that should have been provided waivers by the committee on rules.

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

Mr. DIAZ-BALART. Mr. Speaker, I yield 3 minutes to my distinguished colleague, the gentleman from Florida [Mr. GOSS], a member of the Committee on Rules.

□ 1040

Mr. GOSS. Mr. Speaker, I thank my friend, the gentleman from Florida [Mr. DIAZ-BALART], for yielding me this time.

He is a very, very energetic member of the Committee on Rules and has brought us a very good rule today. I think it is a very fair rule. It is open. It provides necessary protection under the specific rules for the fact that the Congress as a whole we recognize is somewhat behind in all of our authorizing programs, and this rule was set up to help us get back on schedule in completing our appropriations work as soon as possible, which obviously is priority business for our Nation.

As the chairman of the Legislative and Budget Process Subcommittee, which has jurisdiction over the lockbox issue, I want to address the concern we have heard from a number of Members on this subject both in the Committee on Rules hearings and in the corridors and the cloakrooms, Members on both sides of the aisle.

We need to move ahead with the lockbox measure, and we are. Tuesday of last week, our subcommittee held a joint hearing with the Subcommittee on Government Management, Information, and Technology which is chaired by our colleague, the gentleman from California [Mr. HORN].

Our staff has been working practically nonstop since that time, including over the hot days of this weekend, to craft a workable lockbox mechanism. We now have scheduled a full Committee on Rules markup for this Thursday morning.

I know to some Members it seems that this is a simple concept and we should have gotten this done quickly. I would suggest that moving this fast around here is lightning-like, compared to the usual glacial pace.

Locking in savings for deficit reduction once the Congress votes to make cuts in spending bills sounds like a good idea, and it is, and it should be easy to implement, and it is not. There are important rules and technical considerations that simply have to be worked out. There are a lot of players in this.

The Budget Act is a very complicated document, as we all know, and we want to be sure we are closing all the loopholes while we are retaining the power to make the necessary decisions to bring our budget into balance, which we have also promised we will do and voted to do, and we are on that glide path.

It is incumbent upon all of us to make sure we get the thing right the first time, and I do not think I need to

remind my colleagues of the countless times we have rushed headlong into something, swept by the momentum of the moment, only to find we have to go back and rewrite it because we made mistakes. The catastrophic health bill comes to mind, something I remember very well.

It is a bit like speeding to the airport to catch a plane. When the policeman pulls you over and gives you a ticket, you end up missing the plane and having to pay the speeding fine. I do not see any reason to do that.

I assure my colleagues that I and the chairman of our Committee on Rules, who has just entered the Chamber and I am sure will speak to this, are fully committed to bringing forward a workable product on a lockbox that can be applied to the appropriations work we have already done and are continuing to do for the fiscal year. In fact, we have the legislative draft ready and we are working that out now with the interested players. I see no reason why we do not have a good product that will survive the markup very well.

This is on fast track. It will be done. The plane is leaving the runway. We just want to make sure that we get to our destination of deficit reduction without hitting a mountain along the way.

I urge support for this rule. I think it is a good, fair rule. I have spoken on the lockbox because it is an issue of concern to a great many people on both sides. I would point out that if we do this the right way with the lockbox, we will be using as our guideposts our CBO figures, which are considerably better in terms of conserving dollars than the OMB figures, which are statutory, because our budget targets are lower.

I think that is an extremely important point. I realize it is technical, inside-the-beltway baseball to be talking about that, but I think our Members need to be sure that the savings are real and that they are made.

Mr. BEILENSON. Mr. Speaker, I yield 3 minutes to the gentleman from New York [Mr. SCHUMER].

Mr. SCHUMER. I thank the gentleman for yielding me the time.

Mr. Speaker, I rise in opposition to the rule. I rise in opposition because of the lockbox, an issue that I have been greatly concerned with over the last 4 or 5 years. In fact, the origins of this proposal occurred at one of our Democratic retreats when the gentleman from Oklahoma [Mr. BREWSTER], the gentleman from Texas [Mr. EDWARDS], the gentlewoman from California [Ms. HARMAN], and myself were sitting down and wondering why do we not do something like this?

My question to the majority is, why are we stalling on the lockbox? We all know that without this amendment, all spending cuts in appropriations bills are a sham. The funds cut from one program are transferred to another program during a closed-door conference. We have seen this happen year after year after year.

Let us try something completely novel in the appropriations process—honesty. If we are going to say that we are going to cut spending, if we are going to boast to our constituents that we cut waste and saved taxpayer dollars, let us be honest about it. Let us give Members a chance to dedicate those funds that are cut to deficit reduction.

Our constituents would be shocked to learn that spending cuts won in hard-fought floor battles have absolutely no impact on the deficit. I reject the notion that somehow the lockbox is too complicated to work procedurally. My constituents understand it immediately. Mr. Speaker, if there is a will, there is a way.

The lockbox should have been enacted before the House took up this year's appropriation bills because once again these bills are filled with pork. I have heard what the gentleman from Florida has said, but we have no guarantee a separate bill passes the Senate, where every Senator has lots of little goodies in every appropriation bill. We have no guarantee of anything other than that there will be some bill on the floor here. If you put it in the appropriations process, that is where it is going to happen. So let us not fool people.

Last year the Schumer-Crapo-Brewster-Harman lockbox had the support of 135 Members, including then Minority Whip GINGRICH, Representatives KASICH, SOLOMON, and ARMEY, and a whole bevy of spending cutters on the other side.

I do not understand why a bill that made so much sense to the Republican leadership in 1994 is anathema in 1995. I commend both Democrats and Republicans who say "no" to this restrictive rule and "yes" to the lockbox.

Mr. DIAZ-BALART. Mr. Speaker, I yield such time as he may consume to the gentleman from New York [Mr. SOLOMON], the chairman of the Committee on Rules, someone, if there is anyone, who proves that where there is a will, there is a way with regard to fiscal responsibility, so much so that on Thursday, just 2 days from now, he has scheduled a markup precisely of legislation on this lockbox issue.

I am very proud of that. I know we have other Members on the floor such as the gentleman from Florida [Mr. GOSS] and the gentleman from Florida [Mr. FOLEY] here who have worked very hard on this issue. I want to thank the chairman of the Committee on Rules for scheduling that markup and for working so hard and diligently with such extraordinary leadership on this issue.

Mr. SOLOMON. I thank the very distinguished gentleman from Miami, FL, for yielding me the time.

Mr. Speaker, I sort of hesitate to stand up now because I get my hackles up. I have a Siberian Husky dog. When he really gets concerned, the fur stands up on his back, and he is ready to attack. Well, I am not going to attack right now, but I just have to call attention to the previous speaker. He is a colleague of mine that I served with in the New York State Legislature. I will say this with all due respect because he probably is recognizing his constituency in New York City, but he is, according to the National Taxpayers Union, one of the biggest spenders in the Congress and has been since the day he arrived here—following through with his previous record in the New York State Legislature.

So when I hear people that are worried about a lockbox and they want to enact a lockbox because it is going to save money, I just sort of have to chuckle. But nevertheless, I will assume that he is going to vote for a lockbox. We are going to put a lockbox out on this floor. We are going to go to the Committee on Rules on Thursday.

I see some of the Members on the other side of the aisle flinching, because they really are worried about a lockbox becoming part of the law, not just a rule of the House but the law of the land. They are shrinking over there. But I am not. Neither are the sponsors of this legislation, H.R. 1923. This is 1,200 pages of cuts. It cuts everything. We put this together, our balanced budget task force, the gentleman from Florida [Mr. GOSS] and the other Members, so that it would be a guide to all of the Members who really are serious about getting this terrible, terrible deficit under control, this sea of red ink which is just literally turning this country into a debtor nation. What is less compassionate than that when we become a debtor nation, because you are not going to be able to take care of those people that truly need help?

Let me tell what the lockbox does that we will markup on Thursday. It may be subject to change because every Member should have input.

Number one, let me give an example. The House votes to reduce spending in an appropriations bill by $100 million. I am going to vote for it. I have voted for all of these cuts that we see on the floor day by day, whether it is the National Endowment for the Arts, whatever it is. I am voting for it because we have to get this spending under control. But let us say the House passes a $100 million cut. Maybe it eliminates the space station or whatever it does. The Senate, the other body, enacts a $50 million cut on that particular function in the budget. The difference is between $50 and $100 million. Now we go to conference. I see the gentleman from Maryland [Mr. HOYER] sitting over there. This proposal does not tie the hands of the appropriators. It lets the House work its will following the

committee system, as it should, because that is the only way we are going to make sure that this body functions as it has functioned for 219 years.

The difference is now between $50 and $100 million. They compromise it out at $75 million. It goes back to both Houses for approval. Both Houses approve it.

The $75 million then is locked in. We automatically lower the 602(a) allocations, we automatically lower the 602(b) allocation. That is confusing to the people in the galleries and in the audience, but what that does is this: It means that once those 602(b) allocations are lowered, the money can never be spent again. It can never be redistributed. It is gone. But this is fair. To change that, we would have to come back on this floor of the House and the Senate and pass a resolution raising those 602(b) allocations or 602(a) allocations back up again.

Mr. Speaker, that is lockbox. This is not some phony thing to supposedly take some invisible money, put it in a box and leave it there for some later Congress, or later on in this particular Congress, for Congress to change its mind. We do not do that at all. We do not appropriate the money in the first place and we do not allow it to be spent in the second place later on. That is what we are going to do.

I am going to challenge everybody on both sides of the aisle, all the so-called deficit hawks. Put your vote where your mouth is. We are going to come to this floor with a lockbox bill. I expect every one of you to vote for it, especially those that have been standing up here saying "we're for it," and we are going to see how this Congress comes down.

I predict that this Congress will pass that legislation. Once we do pass the lockbox as a freestanding piece of legislation, then we have ready an amendment which we can attach to every appropriations bill if necessary, and we will have true savings in this Congress.

Mr. Speaker, that is what is going to happen. I do not know how we can move any faster than this, particularly when we have Members on the other side of the aisle and Members on our side of the aisle that do not want a lockbox. But the vast majority of us do. This is the we to get it.

Mr. BEILENSON. Mr. Speaker, I yield 3 minutes to the gentlewoman from California [Ms. HARMAN].

Ms. HARMAN. Mr. Speaker, deficit hawks—freshmen Members—lockbox supporters—Members of the House—defeat this rule.

Last week, the distinguished chairman of the Rules Committee told this Member on this floor of his intention to have the committee report a rule before the August recess that permitted consideration of the bipartisan lockbox deficit reduction amendment.

The gentleman is sincere and has worked diligently with me, the gentleman from Oklahoma [Mr. BREWSTER], and other lockbox supporters in that effort. And the news of Thursday's markup is heartening.

But prior experience in a related issue causes me to say, "Fool me once, shame on you; fool me twice, shame on me."

Let me remind my colleagues of similar promises made in the last Congress by leaders of my party. Democratic leaders promised that the A-to-Z bill, cosponsored by a majority of House Members, would come to the floor. "Soon" was the operative word.

Soon Labor Day passed. Soon Halloween passed. Soon Thanksgiving passed. No A-to-Z bill. Soon the Congress adjourned.

Now, with control transferred to the other party, the same kinds of promises are being made. The same kinds of institutional forces are coming into play. The gentleman from New York promised lockbox would be available as an amendment to an appropriations bill. Now we are told that lockbox can't come to the floor until after Labor Day—after the House has passed all its appropriations bills.

Today, however, we can avoid that scenario. We are asking Members to help make the gentleman from New York's commitment a reality. Today, a majority of this House can defeat the bill and direct the Rules Committee to make the bipartisan lockbox amendment in order.

As I said last week, Mr. Speaker, this is the lockbox. Look, it's empty. It's empty despite more than $132 million in savings this body has voted in amendments to five appropriation bills.

It's empty because the Rules Committee has, at the direction of the House leadership, again declined to recommend a rule making in order the Brewster-Harman lockbox amendment requiring spending cuts made to bills during floor debate be used solely for deficit reduction.

And the lockbox will remain empty unless my colleagues join in voting to defeat the previous question and the rule providing for consideration of the Treasury-Postal appropriations bill.

Let the will of majority rule this House.

Vote "no" on ordering the previous question and vote "no" on the rule.

Mr. DIAZ-BALART. Mr. Speaker, I yield 3 minutes to the distinguished gentleman from Florida [Mr. FOLEY], someone who has arrived recently in the House and yet in the short time that he has been here has already distinguished himself on a number of issues and especially this issue of requiring deficit reduction by a specific mechanism that will be targeted to that purpose. Of course it has become known as the lockbox issue. As the chairman of the Committee on Rules has stated, on Thursday, just the day after tomorrow, we are going to mark up in the Committee on Rules specific legislation to carry this out.

Mr. FOLEY. Mr. Speaker, I want to thank my friend, the gentleman from Florida [Mr. DIAZ-BALART], the gentleman from New York [Mr. SOLOMON], chairman of the Committee on Rules, and the gentleman from Florida [Mr. GOSS] for hearing us on this issue.

The lockbox is critical to this freshman and to many like myself who came to Congress. I have heard the discussion from others that suggest that this is merely an attempt to stall and to delay. I have to have some faith in this process and for the Members I serve with in order for this House to work.

I have met with the gentleman from New York [Mr. SOLOMON]. I have met with the gentleman from Georgia [Mr. GINGRICH], the Speaker of the House. I have met with the gentleman from Texas [Mr. ARMEY], the majority leader, on this issue. They have looked me in the eye and assured me that the lockbox will be coming to the floor before the August recess.

The gentleman from New York [Mr. SOLOMON], chairman of the Rules Committee, has guaranteed us a Thursday hearing on the full bill. He has been a vocal proponent of the lockbox and has gone with us to every meeting so that we would not be on that proverbial branch hanging out by ourselves.

For those of my colleagues who are unaware of what the lockbox is, it is a simple accounting mechanism to ensure that spending reductions made in the House on appropriations bills are applied toward deficit reduction and not inserted as additional spending later in the appropriations process.

My friend, the gentlewoman from California [Ms. HARMAN], knows the frustration of saving money in the process, to have it swept away by another appropriator or another Member of this Congress to help them in their districts.

Mr. Speaker, we were elected to represent the entirety of the United States of America. It is time that each Member of Congress stopped looking at their district as the only thing they have to be concerned about. If we are to save this Nation, it is going to take 435 dedicated men and women preserving this democracy and the fiscal freedom that this Nation deserves for itself and future generations.

With the assurance from the chairman, I rise in support of the rule. The newspapers carry stories we were going to oppose the Treasury-Postal rule on the floor today. But I am going to give them this opportunity to prove me right, that the truth and the word of a Member is a bond to another Member.

It is the one thing I learned when I first got elected to the House of Representatives in the State of Florida. A Member's word was his bond. You had

to trust it like the proverbial handshake amongst business associates. We are going to give it this one opportunity. I trust the gentleman from New York [Mr. SOLOMON], the chairman of the Committee on Rules, I do trust the gentleman from Texas [Mr. ARMEY] is going to give us this vote next week, I say to the gentlewoman from California [Ms. HARMAN]. I urge my colleagues, both Democrats and Republicans, to give us this one chance to prove them right. If they are not, we will join together in the next attempt to prove us willing to move this House in the direction of taking savings and making those savings accrue to the benefit of the American taxpayer.

□ 1100

TRIBUTE TO LENORE DONNELLY

The SPEAKER pro tempore (Mr. BARRETT of Nebraska). The Chair acknowledges the contributions of Ms. Lenore Donnelly as chief Democratic page as she announces the Presidential messenger and as she plans to embark upon a well-deserved retirement.

Lenny has been truly instrumental in ensuring the integrity of the page program. She has contributed immeasurably to the education and sense of public service of many young men and young women and the House certainly wishes her well. Congratulations.

(By unanimous consent, Mr. HOYER was allowed to speak out of order for 1 minute.)

TRIBUTE TO LENORE DONNELLY

Mr. HOYER. I join the Speaker in his similar, kind remarks regarding Lenore Donnelly; as we affectionately know her, Lenny. She is an extraordinary public official. Too often the public does not see those who labor. They see the people at the front desk on the television from time to time, but there are so many others around this Chamber who are absolutely critical to the functioning of this organization, to the ensuring that we have the materials at our desks, the CONGRESSIONAL RECORD at our desks.

We recruit and appoint, from all over this country, young people to come here to learn about their democracy. I have, and others have, the opportunity to talk about our pages. But we put into the hands of a few people the stewardship of those pages and Lenny Donnelly is one of those people.

Mr. Speaker, you only need to talk to the pages to understand her vision for them, the affection with which she is held, and the respect with which she is held by so many of them.

We want to tell Lenny at this point in time, and there will be an opportunity over the next 24 hours to say some additional words, how very much all of us in this House appreciate the care and the commitment and contribution she has made to the functioning of this House.

Lenny has done an extraordinary service for her country and an extraordinary service for this House. She has befriended all of us who serve here with her and we thank her so much for that.

Mr. BEILENSON. Mr. Speaker, I yield 4 minutes to the gentleman from Maryland [Mr. HOYER].

Mr. HOYER. Mr. Speaker, I think the rule we have before us today is a mixed blessing. The rule is good because it does not include a number of legislative riders that should be debated on other bills. The Committee on Rules has decided not to make these in order, and I hope it will set an example, frankly, for other bills. We are debating, right now, the VA–HUD bill, which is replete, a third of the bill is authorizing language, very frankly.

But, unfortunately, in an zeal to bring the Treasury-Postal bill to the floor, the Committee on Rules has failed to make in order a number of amendments that I personally wanted to propose. Although they meet the criteria for an appropriation bill, they do not meet the technical qualifications of the new House rule.

It seems to me that this is inappropriate, because they dealt with action taken on appropriations issues within the committee.

For instance, I had hoped to offer an amendment to restore funds for the Council of Economic Advisers, the CEA. The Council of Economic Advisers is a critical agency which advises the President. It was zero-funded in our bill.

This rule, unfortunately, because of the new rule dealing with titles, makes me unable, because there is no language in the bill, to even offer the amendment to have the policy judgment before this House as to whether or not we ought to restore funding, that is an appropriation, for the Council of Economic Advisers. It seems to me that that is right on point on this bill and ought to be allowed. Unfortunately, the Committee on Rules saw fit not to allow that amendment.

In addition, the agency responsible for monitoring Federal mandates, the Advisory Commission on Intergovernmental Relations, was also eliminated and it is not in order for me to suggest the restoration of that.

Mr. Speaker, I understand neither of these provisions are made in order under the rule. I will, however, continue to press for the approval for both of these important areas of government as this process moves forward.

Mr. Speaker, I am also disappointed that the Committee on Rules did not make in order an amendment by the gentleman from Kentucky [Mr. WARD] to close a loophole in the so-called billionaires tax. The amendment of the gentleman from Kentucky [Mr. WARD] would have given the Secretary of the Treasury the authority to collect taxes from individuals who have renounced their U.S. citizenship; billionaires profiting from being Americans in the greatest economic free-market system in the world and who now simply move overseas and say, "Yeah, it was a great country and I earned a lot of money from it, but I am not going to help pay taxes."

I am sure the gentleman from Kentucky [Mr. WARD] will speak about it in the future; billionaires and other wealthy Americans who have renounced their U.S. citizenship yet are no longer participating.

Mr. Speaker, because of these inconsistencies, I regret that I am not going to be able to support this rule and I will oppose the previous question. I am hopeful that that will lose and that then we can offer an alternative rule which will give us an opportunity to consider items which are legitimately within the purview of the appropriations process and are not authorization issues, such as whether we ought to fund certain agencies.

The perverseness of the rule that was adopted at the beginning of this session in effect gags Members, if the Committee on Rules chooses to not protect them, whenever an appropriation committee decides to eliminate an agency. Clearly, Members ought to have the opportunity to come back and say, "No, we ought to restore that agency and have that debate." Under the circumstances of this rule, we will not be able to do that.

Mr. Speaker, I will have a lot to say, of course, on the substance of the bill when and if we get there. But I regret, Mr. Speaker, that I will not be able to support this particular rule.

Mr. DIAZ-BALART. Mr. Speaker, at this time, I do not believe we have any other speakers on this side of the aisle, and I reserve the balance of my time.

Mr. BEILENSON. Mr. Speaker, yield 4 minutes to the gentleman from Kentucky [Mr. WARD].

Mr. WARD. Mr. Speaker, before I begin my remarks on this issue, I want to join with my colleague, the gentleman from Maryland [Mr. HOYER], in talking about Lenny Donnelly. As a new member, she has been helpful and kind and generous with her time and with her advice and she is back doing it again now.

Mr. Speaker, I want to add my thoughts, my comments, to what the gentleman from Maryland [Mr. HOYER] has said. There are many people who work here who were not elected to work here and maybe could find jobs where they got to go home at night.

But Ms. Donnelly, Lenny, as of course we know her, has been here. She has stayed and she has worked and she has made a fine contribution to this body and to this Nation and for that I think we all owe her a special debt of appreciation.

Mr. Speaker, I rise today to speak in favor of voting against the previous question and against the rule. I say it that way because what I think Members need to understand is that today's

vote on the previous question is the only way, the only opportunity we can get the Members of this body on record on this issue of closing the expatriate billionaire's tax loophole.

I have to say it slowly, because it is a mouthful: The expatriate billionaire's tax loophole. What that means in real English is that people who have succeeded, people who have inherited, people who have benefited financially in an incredibly great way from the success that this country offers people and have become so wealthy, they have become so wealthy that it is economically valuable to them to renounce their citizenship are doing so. It is not hundreds, but it is dozens and it is an incredible thing to me.

Mr. Speaker, I ask myself when I think of this issue, and I ask those in the body to think of it this way, can they imagine, they are at home, they are coming out of church or are at a grocery, somewhere in the neighborhood, and somebody says, "Mike, I haven't seen you in a long time. Where have you been?" Can my colleagues imagine saying, "Well, I had to take up residence in the Bahamas, because I wanted to save on my taxes; I have renounced my citizenship"?

Mr. Speaker, I do not think any who are listening today can imagine saying that, but that is what people are doing. All we are asking, as we have asked 12 times before, all we are asking is that they pay their fair share of taxes.

We are not asking them to pay extra. Gracious no. We are not asking them to go beyond what others are doing. We are saying: Pay your fair share. Do what is right, what is expected of you as a citizen, to share in the obligations we have, really, in return for the success that the greatest economic power offers us.

Mr. Speaker, the reason I need an extra minute is to say that this is the 13th time that this issue has been brought up. The 13th time that the Members of this body have had an opportunity, in one form or another, to deal with this issue and do what is right.

So what I am asking my colleagues to do today is to vote "no" on the previous question and to consider that a vote on the issue of making sure that billionaires do not renounce their citizenship without paying their fair share. A "no" on the previous question will put us all on record on this issue.

Mr. BEILENSON. Mr. Speaker, I yield 3 minutes to the gentleman from Oklahoma [Mr. BREWSTER].

Mr. BREWSTER. Mr. Speaker, the House this year has already passed amendments equalling over $132 million in savings. Most of those so-called savings have already been swept up by the Appropriations Committee for additional spending. Just last week the Appropriations Committee reallocated over $800 million in savings for additional spending.

The Brewster-Harman lockbox amendment to the Treasury-Postal appropriations bill would capture all savings achieved from cuts not only from this year, but in the years to come.

This morning I have learned that the Rules Committee has scheduled a markup for the lockbox on Thursday. I commend the committee for also recognizing the urgency and importance of the lockbox.

But, I would point out that the longer we wait to attach the lockbox to an appropriations bill, the more savings we lose, and the more difficult it becomes to ensure the lockbox's passage in the Senate.

I urge the Rules Committee to make a commitment today to bring the lockbox to the floor as an amendment to a appropriations bill before the August recess. We cannot continue to wait any longer to make sure the cuts we make on the floor directly to deficit reduction.

I have worked with many Members of both sides of the aisle over the last 2 years on the lockbox. And, every Member I have worked with agrees that savings from floor amendments should not be swallowed up and spent later. It must go to deficit reduction.

Mr. Speaker, I urge this House to bring the lockbox to the floor today, and allow Members to offer amendments to the lockbox. Let's have a fair and open debate of this House about the merits of the lockbox while we still have the chance to make it apply to this fiscal year.

Vote against this rule, and bring back the lockbox for floor debate today.

Mr. DIAZ-BALART. Mr. Speaker, I reserve the balance of my time.

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

Mr. Speaker, I urge a "no" vote on the previous question. If the previous question is defeated, we shall offer an amendment to the rule that will add two new sections to the rule. The effect would be, first, to incorporate the Brewster-Harman lockbox amendments into House rules; and to make in order three amendments to the Treasury-Postal appropriations bill: The Brewster amendment to the bill, the Ward amendment and the Schroeder amendment, all of which I alluded to in my opening statement.

□ 1115

The new section 2 of the rule would amend House rules to do three things: First, reduce the 602(a) and 602(b) allocation in the House to reflect any amendments adopted by the House to cut Federal spending; second, to create a lockbox, to require all spending cuts made during the remainder of this year's appropriations cycle to deficit reduction; and, third, to retroactively lock in any spending cuts made in the House so far this year.

The new section 3 of the rule would waive points of order against three amendments I just mentioned, a Brewster amendment to apply the lockbox to all appropriations bills, not just the 13 general appropriations bills, the amendment by the gentleman from Kentucky [Mr. WARD] to authorize the IRS to collect taxes from former American citizens who renounce citizenship in order to avoid paying taxes, and, finally, the Schroeder amendment to make all Americans eligible to participate in the Federal employees' health benefits plan.

I urge defeat of the previous question so these good amendments can be made in order.

Mr. Speaker, I am including at this point in the RECORD the amendments that we proposed, as follows:

At the end of the resolution add the following:

(a) clause 4(a) of rule XI of the Rules of the House of Representatives is amended by adding at the end the following new subparagraph:

"(4)(A) Upon the engrossment in the House of any general appropriation bill (or resolution making continuing appropriations (if applicable)), the chairman of the Committee on Appropriations shall—

"(i) reduce the suballocation of new budget authority to the appropriate subcommittee of that committee made under section 602(b)(1) of the Congressional Budget Act of 1974 by the net amount of reductions in new budget authority resulting from amendments agreed to by the House to that bill, and

"(ii) reduce the suballocation of outlays made under section 602(b)(1) of the Congressional Budget Act of 1974 to the appropriate subcommittee of that committee by the net amount of reductions in outlays resulting from amendments agreed to by the House to that bill,

and promptly report those revisions to the House.

"(B) The reductions in suballocations made under subdivision (A) may not be reallocated by the Committee on Appropriations to any other subcommittee.

"(C) In the House of Representatives, the revised suballocations made under subdivision (A) shall be deemed to be suballocations made under section 602(b)(1) of the Congressional Budget Act of 1974.".

(b) Clause 4(b) of rule XI of the Rules of the House of Representatives is amended by adding at the end the following new sentence: "Upon the reporting of revised suballocations to the House by the Committee on Appropriations under paragraph (a), the chairman of the Committee on the Budget shall make appropriate revisions in the allocations to the Committee on Appropriations to reflect the revised suballocations and report those revisions to the House. In the House of Representatives, those revised allocations shall be deemed to be allocations made under section 602(a)(1) of the Congressional Budget Act of 1974.".

(c) Rule XXI of the Rules of the House of Representatives is amended by adding at the end the following new clause:

"9. (a) Any appropriation bill that is being marked up by the Committee on Appropriations (or a subcommittee thereof) of either House shall contain a line item entitled 'Deficit Reduction Lock-box'. The dollar amount

set forth under that heading shall be an amount not to exceed the amount by which the appropriate 602(b) allocation of new budget authority exceeds the amount of new budget authority provided by that bill as reported by that committee.

"(b) Whenever the Committee on Appropriations of either House reports an appropriation bill, that bill shall contain a line item entitled 'Deficit Reduction Account' comprised of the following:

"(1) Only in the case of the first appropriation bill considered following enactment of this resolution, an amount equal to the amounts by which the discretionary spending limit for new budget authority and outlays set forth in the most recent Office of Management and Budget sequestration preview Report pursuant to section 601(a)(2) exceed the section 602(a) allocation for the fiscal year covered by that bill and the amount by which the appropriate 602(b) allocation of new budget authority for appropriations bills adopted by the House prior to enactment of this resolution exceeded the amount of new budget authority provided by such bill.

"(2) Only in the case of any general appropriation bill (or resolution making continuing appropriations (if applicable)), an amount not to exceed the amount by which the appropriate section 602(b) allocation of new budget authority exceeds the amount of new budget authority provided by that bill (as reported by that committee).

"(3) Only in the case of any bill making supplemental appropriations following enactment of all general appropriation bills for the same fiscal year, an amount not to exceed the amount by which the section 602(a) allocation of new budget authority exceeds the sum of all new budget authority provided by appropriation bills enacted for that fiscal year plus that supplemental appropriation bill (as reported by that committee).

"(e) Whenever a Member of either House of Congress offers an amendment (whether in subcommittee, committee, or on the floor) to an appropriation bill to reduce spending, that reduction shall be placed in the deficit reduction lock-box unless that Member indicates that it is to be utilized for another program, project, or activity covered by that bill. If the amendment is agreed to and the reduction was placed in the deficit reduction lock-box, then the line item entitled 'Deficit Reduction Lock-box' shall be increased by the amount of that reduction.".

Sec. 3

All points of order are waived against the following amendments:

1. An amendment to be offered by Representative SCHROEDER of Colorado or her designee.

Page 84, after line 17, insert the following:

SEC. 618. PROVISIONS TO MAKE FEHBP AVAILABLE TO THE GENERAL PUBLIC.—(a) IN GENERAL.—(1) Chapter 89 of title 5, United States Code, is amended by adding at the end the following:

"§ 8915. Provisions to require that benefits be extended to the general public

"(a) A contract may not be made or a plan approved unless the carrier agrees to offer to the general public, throughout each term for which the contract or approval remains effective, the same benefits (subject to the same maximums, limitations, exclusions, and other similar terms or conditions) as would be offered under such contract or plan to employees and annuitants and their family members.

"(b)(1) Premiums for coverage under this section shall be established in conformance with such requirements as the Office of Personnel Management shall be regulation prescribe, including provisions to ensure conformance with generally accepted standards and practices associated with community rating.

"(2) In no event shall the enactment of this section result in—

"(A) any increase in the level of individual or Government contributions required under section 8906 or any other provision of this chapter, including copayments or deductibles;

"(B) any decrease in the types of benefits offered under this chapter; or

"(C) any other change that would adversely affect the coverage afforded under this chapter to employees and annuitants and their family members.

"(c) Benefits under this section shall, with respect to an individual who is entitled to benefits under part A of title XVIII of the Social Security benefits) to the same extend and in the same manner as if coverage were under the preceding provisions of this chapter, rather than under this section.

"(d)(1)A carrier may file an application with the Office setting forth reasons why it, or a plan provided by such carrier, should be excluded from the requirements of this section.

"(2) In reviewing any such application, the Office may consider such factors as—

"(A) any bona fide enrollment restrictions which would make the application of this section inappropriate, including those common to plans which are limited to individuals having a past or current employment relationship with a particular agency or other authority of the Government;

"(B) whether compliance with this section would jeopardize the financial solvency of the plan or carrier, or otherwise compromise its ability to offer health benefits under the preceding provisions of this chapter; and

"(C) the anticipated duration of the requested exclusion, and what efforts the plan or carrier proposes to take in order to be able to comply with this section.

"(e) Except as the Office may be regulation prescribe, any reference to this chapter (or any requirement of this chapter), made in any provision of law, shall not be considered to include this section (or any requirement of this section).".

(2) The table of sections for chapter 89 of title 5, United States Code, is amended by adding at the end the following:

"8915. Provisions to require that benefits be extended to the general public.".

(b) STANDARDIZED CLAIMS PROCESSING.—Section 8902 of title 5, United States Code, is amended by adding at the end the following:

"(o) A claim for payment or reimbursement under this chapter (whether electronic or otherwise) shall be submitted on such a standard form or in such a standard manner as may be required by the Office in relation to health benefit plans. Each contract under this chapter shall include appropriate provisions to carry out the preceding sentence.".

(c) ADVANCE DIRECTIVES.—Section 8907 of title 5, United States Code, is amended by adding at the end the following:

"(c) The Office shall—

"(1) prepare information relating to the use of advance directives regarding the type or intensity of care which an individual desires in the event that such individual becomes unable to communicate by reason of incapacity due to illness or injury; and

"(2) require, as a condition for approval of any contract under section 8902, that appropriate provisions be included so that such information may be made available to enrollees of the plan involved.".

(d) DEMONSTRATION PROJECT TO EXAMINE THE FEASIBILITY OF OFFERING FEHBP ENROLLEES THE OPTION OF USING ARBITRATION INSTEAD OF LITIGATION TO RESOLVE MEDICAL MALPRACTICE CLAIMS.—(1) The Office of Personnel Management shall conduct a demonstration project to assess the feasibility and desirability of offering the use of arbitration, instead of litigation, to resolve medical malpractice claims arising out of covered health care services.

(2) For the purpose of this subsection, the term "covered health care services" means any care, treatment, or other service for which the individual who receives such service has coverage under chapter 89 of title 5, United States Code.

(3)(A) The demonstration project shall be conducted as a demonstration project under section 4703 of title 5, United States Code.

(B) In developing a plan for such project under section 4703 of title 5, United States Code, the Office shall include (in addition to any information otherwise required)—

(i) suggestions for incentives that may be offered in order to obtain the voluntary participation of enrollees, such as reductions in premiums, copayments, or deductibles;

(ii) the criteria for identifying the types of health benefit plans which are appropriate for inclusion, and the procedures and conditions in accordance with which any such plan may participate;

(iii) the general framework for arbitration, including (to the extent the Office considers appropriate) methods for the selection of arbitrators, length of hearings, and limitations on damages; and

(iv) the effect of an award resulting from the arbitration process, and the extent to which review of such an award may be obtained.

(4) The evaluation required under section 4703(h) of title 5, United States Code, with respect to the demonstration project shall include data and analysis relating to matters such as—

(A) the number of claims brought for arbitration;

(B) how those claims were disposed of (whether by settlement, hearing, or otherwise), and the percentage of the total number of claims represented by each;

(C) the average dollar amount of those awards or settlements;

(D) the various costs involved in connection with those claims; and

(E) the advantages and disadvantages of arbitration, relative to other methods of dispute resolution, and the extent to which arbitration should continue to be used under chapter 89 of such title.

(e) APPLICABILITY.—The amendments made by this section shall apply with respect to contract terms beginning after the end of the 6-month period beginning on the date of the enactment of this Act.

2. An amendment to be offered by Representative WARD of Kentucky or his designee.

On page 84, following line 17, insert the following provision:

SEC. 664. The Secretary of the Treasury or a designee of the Secretary of the Treasury is hereby granted the authority to collect taxes in the manner prescribed under the provisions of H.R. 1535, which provides tax rules on expatriation.

3. An amendment to be offered by Representative BREWSTER of Oklahoma or Representative HARMAN of California or their designee.

At the end add the following new title:

TITLE VII—DEFICIT REDUCTION LOCK-BOX

DEFICIT REDUCTION TRUST FUND

DEFICIT REDUCTION LOCK-BOX PROVISIONS OF APPROPRIATION MEASURES

SEC. 701. (a) DEFICIT REDUCTION LOCK-BOX PROVISIONS.—Title III of the Congressional Budget Act of 1974 is amended by adding at the end the following new section:

"DEFICIT REDUCTION LOCK-BOX PROVISIONS OF APPROPRIATION BILLS

"SEC. 314. (a) Any appropriation bill that is being marked up by the Committee on Appropriations (or a subcommittee thereof) of either House shall contain a line item entitled 'Deficit Reduction Lock-box'.

"(b) Whenever the Committee on Appropriations of either House reports an appropriation bill, that bill shall contain a line item entitled 'Deficit Reduction Account' comprised of the following:

"(1) Only in the case of any general appropriation bill containing the appropriations for Treasury and Postal Service (or resolution making continuing appropriations (if applicable)), an amount equal to the amounts by which the discretionary spending limit for new budget authority and outlays set forth in the most recent OMB sequestration preview report pursuant to section 601(a)(2) exceed the section 602(a) allocation for the fiscal year covered by that bill.

"(2) Only in the case of any general appropriation bill (or resolution making continuing appropriations (if applicable)), an amount not to exceed the amount by which the appropriate section 602(b) allocation of new budget authority exceeds the amount of new budget authority provided by that bill (as reported by that committee), but not less than the sum of reductions in budget authority resulting from adoption of amendments in the committee which were designated for deficit reduction.

"(3) Only in the case of any bill making supplemental appropriations following enactment of all general appropriation bills for the same fiscal year, an amount not to exceed the amount by which the section 602(a) allocation of new budget authority exceeds the sum of all new budget authority provided by appropriation bills enacted for that fiscal year plus that supplemental appropriation bill (as reported by that committee).

"(c) It shall not be in order for the Committee on Rules of the House of Representatives to report a resolution that restricts the offering of amendments to any appropriation bill adjusting the level of budget authority contained in a Deficit Reduction Account.

"(d) Whenever a Member of either House of Congress offers an amendment (whether in subcommittee, committee, or on the floor) to an appropriation bill to reduce spending, that reduction shall be placed in the deficit reduction lock-box unless that Member indicates that it is to be utilized for another program, project, or activity covered by that bill. If the amendment is agreed to and the reduction was placed in the deficit reduction lock-box, then the line item entitled 'Deficit Reduction Lock-box' shall be increased by the amount of that reduction. Any amendment pursuant to this subsection shall be in order even if amendment portions of the bill are not read for amendment with respect to the Deficit Reduction Lock-box.

"(e) It shall not be in order in the House of Representatives or the Senate to consider a conference report or amendment of the Senate that modifies any Deficit Reduction Lock-box provision that is beyond the scope of that provision as so committed to the conference committee.

"(f) It shall not be in order to offer an amendment increasing the Deficit Reduction Lock-box Account unless the amendment increases rescissions or reduces appropriations by an equivalent or larger amount, except that it shall be in order to offer an amendment increasing the amount in the Deficit Reduction Lock-box by the amount that the appropriate 602(b) allocation of new budget authority exceeds the amount of new budget authority provided by that bill.

"(g) It shall not be in order for the Committee on Rules of the House of Representatives to report a resolution which waives subsection (c).".

(b) CONFORMING AMENDMENT.—The table of contents set forth in section 1(b) of the Congressional Budget and Impoundment Control Act of 1974 is amended by inserting after the item relating to section 313 the following new item:

"Sec. 314. Deficit reduction lock-box provisions of appropriation measures.".

CHANGES IN SUBALLOCATIONS

SEC. 702. (a) DOWNWARD ADJUSTMENTS.—The discretionary spending limit for new budget authority for any fiscal year set forth in section 601(a)(2) of the Congressional Budget Act of 1974, as adjusted in strict conformance with section 251 of the Balanced Budget and Emergency Deficit Control Act of 1985, shall be reduced by the amount of budget authority transferred to the Deficit Reduction Lockbox for that fiscal year under section 314 of the Budget Control and Impoundment Act of 1974. The adjusted discretionary spending limit for outlays for that fiscal year and each outyear as set forth in such section 601(a)(2) shall be reduced as a result of the reduction of such budget authority, as calculated by the Director of the Office of Management and Budget based upon such programmatic and other assumptions set forth in the joint explanatory statement of managers accompanying the conference report on that bill. All such reductions shall occur within ten days of enactment of any appropriations bill.

(b) DEFINITION.—As used in this section, the term "appropriation bill" means any general or special appropriation bill, and any bill or joint resolution making supplemental, deficiency, or continuing appropriations.

(c) RESCISSION.—Funds in the Deficit Reduction Lockbox shall be rescinded upon reductions in discretionary limits pursuant to subsection (a).

SEC. 703. (a) SECTION 302(E) AMENDMENT.—Section 302(e) of the Congressional Budget Act of 1974 is amended to read as follows:

"(e) CHANGES IN SUBALLOCATIONS.—(1) After a committee reports suballocations under subsection (b), that committee may report a resolution to its House changing its House changing its suballocations, which resolution shall not take effect unless adopted by that House.

"(2) A resolution reported to the House of Representatives under paragraph (1) shall be placed on the Union Calendar and be privileged for consideration in the Committee of the Whole after the report on the resolution has been available to Members for a least three calendar days (excluding Saturday, Sundays and legal holidays). After general debate which shall not exceed one hour to be equally divided and controlled by the chairman and ranking minority member of the committee reporting the resolution, the resolution shall be considered for amendment under the five-minute rule. No amendment shall be in order in the House or in the Committee of the Whole Except amendments in the nature of a substitute containing changes in suballocations under subsection (b) which do not breach any allocation made under subsection (a). Priority in recognition for offering the first such amendment shall be accorded to the chairman of the Committee on the Budget or a designee. No amendments to such amendments shall be in order except substitute amendments. Following the consideration of the resolution for amendment, the Committee shall rise and report the resolution to the House together with any amendment that may have been adopted. The previous question shall be considered as ordered on the resolution to final adoption without intervening motion. It shall not be in order to consider a motion to reconsider the vote by which the resolution is agreed to or disagreed to.".

(b) SECTION 602(B)(1) AMENDMENT.—The last sentence of section 602(b)(1) of the Congressional Budget Act of 1974 is amended by striking "or revised".

CBO TRACKING

SEC. 704. Section 202 of the Congressional Budget Act of 1974 is amended by adding at the end the following new subsection:

"(i) SCOREKEEPING.—To facilitate compliance by the Committee on Appropriations with section 314, the Office shall score all general appropriation measures (including conference reports) as passed by the House of Representatives, as passed the Senate and as enacted into law. The scorecard shall include amounts contained in the Deficit Reduction Lock-Box. The chairman of the Committee on Appropriations of the House of Representatives or the Senate, as the case may be, shall have such scorecard published in the Congressional Record.".

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

Mr. DIAZ-BALART. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I have enjoyed today's debate. I think it is important to emphasize, to recall that what we are bringing forth this morning is the rule to guide the debate on the appropriations bill for the Treasury Department, the Postal Service and the Office of the President. This is not a tax bill. This is the appropriations bill for those agencies of the Federal Government.

With regard to the lockbox issue that was debated, I think very well and at length, I would simply like to remind Members that day after tomorrow the Committee on Rules will hold a markup precisely on the issue of the lockbox. There is specific legislation to address that issue that has been worked on at considerable length that, of course, is always improvable but that we feel confident achieves the purposes that those who have worked so hard on this issue propose to achieve, and so we will be dealing with that issue with specific legislation that will be marked up in the Committee on Rules, as the chairman of the committee has committed to the day after tomorrow.

So this rule, Mr. Speaker, for the deliberation, the debate on the appropriations legislation, the appropriations

bill for the Treasury, the Postal Service and the Office of the President, as I stated before, is an open rule. It is a fair rule. I would urge my colleagues to support it.

Mr. Speaker, I yield back the balance of my time, and I move the previous question on the resolution.

The SPEAKER pro tempore (Mr. BARRETT of Nebraska). The question is on ordering the previous question.

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

Mr. BEILENSON. 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.

Pursuant to the provisions of clause 5 of rule XV, the Chair announces that he will reduce to a minimum of 5 minutes the period of time within which a vote by electronic device, if ordered, will be taken on the question of passage of the resolution.

The vote was taken by electronic device, and there were—yeas 232, nays 192, not voting 10, as follows:

[Roll No. 516]

YEAS—232

Allard
Archer
Armey
Bachus
Baker (CA)
Baker (LA)
Ballenger
Barr
Barrett (NE)
Bartlett
Barton
Bass
Bateman
Bereuter
Bilbray
Bilirakis
Bliley
Blute
Boehlert
Boehner
Bonilla
Bono
Brownback
Bryant (TN)
Bunn
Bunning
Burr
Burton
Buyer
Callahan
Calvert
Camp
Canady
Castle
Chabot
Chambliss
Chenoweth
Christensen
Chrysler
Clinger
Coble
Coburn
Collins (GA)
Combest
Cooley
Cox
Crane
Crapo
Cremeans
Cubin
Cunningham
Davis
Deal
DeLay
Diaz-Balart
Dickey
Doolittle
Dornan
Dreier
Duncan
Dunn
Ehlers
Ehrlich
Emerson
English
Ensign
Everett
Ewing
Fawell
Fields (TX)
Flanagan
Foley
Forbes
Fowler
Fox
Franks (CT)
Franks (NJ)
Frelinghuysen
Frisa
Funderburk
Gallegly
Ganske
Gekas
Gilchrest
Gillmor
Gilman
Goodlatte
Goodling
Goss
Graham
Greenwood
Gunderson
Gutknecht
Hancock
Hansen
Hastert
Hastings (WA)
Hayworth
Hefley
Heineman
Herger
Hilleary
Hobson
Hoekstra
Hoke
Horn
Hostettler
Houghton
Hunter
Hutchinson
Hyde
Inglis
Istook
Johnson (CT)
Johnson, Sam
Jones
Kasich
Kelly
Kim
King
Kingston
Klug
Knollenberg
Kolbe
LaHood
Largent
Latham
LaTourette
Laughlin
Lazio
Leach
Lewis (CA)
Lewis (KY)
Lightfoot
Linder
Livingston
LoBiondo
Longley
Lucas
Manzullo
Martini
McCollum
McCrery
McDade
McHugh
McInnis
McIntosh
McKeon
Metcalf
Meyers
Mica
Miller (FL)
Molinari
Moorhead
Morella
Myers
Myrick
Nethercutt
Neumann
Ney
Norwood
Nussle
Oxley
Packard
Parker
Paxon
Petri
Pombo
Porter
Portman
Pryce
Quillen
Quinn
Radanovich
Ramstad
Regula
Riggs
Roberts
Rogers
Rohrabacher
Ros-Lehtinen
Roth
Roukema
Royce
Salmon
Sanford
Saxton
Scarborough
Schaefer
Schiff
Seastrand
Sensenbrenner
Shadegg
Shaw
Shays
Shuster
Skeen
Smith (MI)
Smith (NJ)
Smith (TX)
Smith (WA)
Solomon
Souder
Spence
Stearns
Stockman
Stump
Talent
Tate
Taylor (NC)
Thomas
Thornberry
Tiahrt
Torkildsen
Traficant
Upton
Vucanovich
Walker
Walsh
Wamp
Watts (OK)
Weldon (FL)
Weldon (PA)
Weller
White
Whitfield
Wicker
Wolf
Young (AK)
Young (FL)
Zeliff
Zimmer

NAYS—192

Abercrombie
Ackerman
Andrews
Baesler
Baldacci
Barcia
Barrett (WI)
Becerra
Beilenson
Bentsen
Berman
Bevill
Bishop
Bonior
Borski
Boucher
Brewster
Browder
Brown (FL)
Brown (OH)
Bryant (TX)
Cardin
Chapman
Clay
Clayton
Clement
Clyburn
Coleman
Collins (IL)
Condit
Conyers
Costello
Coyne
Cramer
Danner
de la Garza
DeFazio
DeLauro
Dellums
Deutsch
Dicks
Dingell
Dixon
Doggett
Dooley
Doyle
Durbin
Edwards
Engel
Eshoo
Evans
Farr
Fattah
Fazio
Fields (LA)
Filner
Flake
Foglietta
Frank (MA)
Frost
Furse
Gejdenson
Gephardt
Geren
Gibbons
Gonzalez
Gordon
Gutierrez
Hall (OH)
Hall (TX)
Hamilton
Harman
Hastings (FL)
Hayes
Hefner
Hilliard
Hinchey
Holden
Hoyer
Jackson-Lee
Jacobs
Jefferson
Johnson, E. B.
Johnston
Kanjorski
Kaptur
Kennedy (MA)
Kennedy (RI)
Kennelly
Kildee
Kleczka
Klink
LaFalce
Lantos
Levin
Lewis (GA)
Lincoln
Lipinski
Lofgren
Lowey
Luther
Maloney
Manton
Markey
Martinez
Mascara
Matsui
McCarthy
McDermott
McHale
McKinney
McNulty
Meehan
Meek
Menendez
Mfume
Miller (CA)
Mineta
Minge
Mink
Mollohan
Montgomery
Moran
Murtha
Nadler
Neal
Oberstar
Obey
Olver
Ortiz
Orton
Owens
Pallone
Pastor
Payne (NJ)
Payne (VA)
Pelosi
Peterson (FL)
Peterson (MN)
Pickett
Pomeroy
Poshard
Rahall
Reed
Rivers
Roemer
Rose
Roybal-Allard
Rush
Sabo
Sanders
Sawyer
Schroeder
Schumer
Scott
Serrano
Sisisky
Skaggs
Skelton
Slaughter
Spratt
Stark
Stenholm
Stokes
Studds
Stupak
Tanner
Tauzin
Taylor (MS)
Tejeda
Thompson
Thornton
Thurman
Torres
Torricelli
Towns
Tucker
Velázquez
Vento
Visclosky
Volkmer
Ward
Waters
Watt (NC)
Waxman
Williams
Wilson
Wise
Woolsey
Wyden
Wynn
Yates

NOT VOTING—10

Brown (CA)
Collins (MI)
Ford
Green
Johnson (SD)
Moakley
Rangel
Reynolds
Richardson
Waldholtz

□ 1139

The Clerk announced the following pair:

On this vote:

Mrs. Waldholtz for, with Mr. Moakley against.

Mr. REED, Mr. BARCIA, Mrs. MEEK of Florida, and Ms. VELÁZQUEZ changed their vote from "yea" to "nay."

Mrs. MEYERS of Kansas, Mr. NEY, and Mr. PORTMAN changed their vote from "nay" to "yea."

So the previous question was ordered.

The result of the vote was announced as above recorded.

The SPEAKER pro tempore (Mr. BARRETT of Nebraska). The question is on the resolution.

The resolution was agreed to.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. LIGHTFOOT. Mr. Speaker, I ask unanimous consent that all Member may have 5 legislative days in which to revise and extend their remarks on the bill (H.R. 2020) making appropriations for the Treasury Department, the U.S. Postal Service, the Executive Office of the President, and certain independent agencies, for the fiscal year ending September 30, 1996, and for other purposes, and that I may be permitted to include tabular and extraneous material.

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

There was no objection.

TREASURY, POSTAL SERVICE, AND GENERAL GOVERNMENT APPROPRIATIONS ACT, 1996

The SPEAKER pro tempore. Pursuant to House Resolution 190 and rule XXIII, the Chair declares the House in the Committee of the Whole House on the State of the Union for the consideration of the bill, H.R. 2020.

□ 1140

IN THE COMMITTEE OF THE WHOLE

Accordingly the House resolved itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 2020) making appropriations for the Treasury Department, the U.S. Postal Service, the Executive Office of the President, and certain independent agencies, for the fiscal year ending September 30, 1996, and for other purposes, with Mr. DREIER in the chair.

The Clerk read the title of the bill.

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

Under the rule, the gentleman from Iowa [Mr. LIGHTFOOT] and the gentleman from Maryland [Mr. HOYER] will each be recognized for 30 minutes.

The Chair recognizes the gentleman from Iowa [Mr. LIGHTFOOT].

Mr. LIGHTFOOT. Mr. Chairman, I am pleased to present H.R. 2020, a bill making appropriations for the Department of Treasury, the Executive Office of the President, General Services Administration, and various independent agencies for fiscal year 1996. The bill being considered today was given a very appropriate number, H.R. 2020.

□ 1145

We call it a bill with vision, starting with a strong vision for a future free of debt and deficits. This bill cuts $403 million in real spending from 1995 enacted levels, and that is 3 percent less than last year.

Mr. Chairman, a couple of points I would like to make about the spending portion of the bill that I think may be of interest to some Members.

There are claims that this bill is over 1995 by $401 million in budget authority. That number has been shown in various charts and reflects a comparison of H.R. 2020 to 1995 assuming enactment of the rescission supplemental. The reason this number looks so high is quite simple. H.R. 1944 includes a rescission of $580 million from GSA's Federal Building Fund. As the number for 1995 comes down, the number for 1996 simply looks bigger.

The fact is, the bill is actually a cut in outlays, and that is a real cut in spending by about $403 million. There seems to be a lack of understanding or misunderstanding about the difference between budget authority and outlays among some of our colleagues, particularly some of our newer Members. The fact is, outlays are the money that is spent. It is quite simple. If you can cut outlays, you cut actual spending. We are cutting $403 million in actual spending; these are dollars that will not be spent. That is the number that counts in deficit reduction, not budget authority, because budget authority is simply authority to spend the money. Until you spend it, it does not really count for anything.

As a result, I would like to remind my colleagues the bill is within its section 602(b) allocation in both budget authority and outlays and there are no Budget Act points of order against consideration of the bill.

Mr. Chairman, I will insert a table in the RECORD that compares the bill by account to the amounts appropriated in 1995 and the amounts requested by the President. I would urge my colleagues to look at this chart because, if they review it, I think they will see that each proposed spending level by program is below the 1995 level in every single instance, except for crimes, parts of IRS, and law enforcement activities.

I also would like to thank my colleague, the gentleman from Maryland [Mr. HOYER], and members of our subcommittee, for their work in helping us put this package together. I think it is important to note that about 90 percent of our budget was off limits. We could not touch it because it supports salaries and fixed expenses. We had to make our contributions to deficit reduction using only 10 percent of our allocation. The 602(b) number that we received was a tough one, and we had to make some tough decisions in the process. I think that will be reflected in the bill if people will take time to study and go through it.

Again I would like to thank the gentleman from Maryland [Mr. HOYER] as well as the other subcommittee Members for their cooperation, and also the great work our staff has done in working through this very difficult bill.

As reported, H.R. 2020 also has a vision of change for programs that are under our jurisdiction. One that requires agencies and activities to tighten their belts, to think better and smarter, and to use their resources more wisely. That vision includes the Executive Office of the President.

Mr. Chairman, this is not a partisan measure, despite some attempts being made to label it so. We have had a lot of years of runaway spending in this body, and, as a result, everyone has shared in the wealth over the years. Unfortunately, that has brought us to the point we are at today, where everyone is going to have to share in the pain of cutting back. That includes the Executive Office of the President as well.

The facts speak for themselves. We held 42 hearings over a three month period, including a week's interruption. We heard from 174 witnesses, including members of the administration, the private sector, and Members of Congress. Everyone was given an opportunity to justify their requests for resources in the upcoming fiscal year.

I would also say that, today, Members have had more than adequate time to take a look at what is in our package. After subcommittee markup, it laid out there for almost a week. I shared it with Mr. HOYER and our colleagues on the minority side several days before we went to subcommittee markup. The full committee markup has been available now for over a week. And if people are running in here at the last minute, I would say maybe we should take a look at some of the staff work that is not being done by Members on both sides who are calling at the last minute saying "We didn't know this." There is no excuse. It has been out there a long time and there has been enough time for people to take a look at it.

In preparing this package, we scrubbed the numbers, we looked at what was being requested, we looked at agency accomplishments, their goals, and their plans for the future because that is an important part of the process. We separated out programs that were merely those that were wanted from programs that were truly needed. After doing that, we sat down and wrote the bill.

First and foremost, H.R. 2020 outright terminates agencies and programs that have outlived their usefulness, that produce work that can be accomplished by others parts of the government or private sector, or simply have a place in a leaner and stronger government.

In many cases we found duplication. Where we found duplication, one of those duplicates departed. We successfully terminated four agencies as a result of that process, for first year savings of $7.7 million and 5-year savings of $40.8 million. Those four agencies are gone, nada, zero. They are zeroed out. They don't exist anymore. There is nothing partisan about it. Not even the termination of the Council of Economic Advisers.

Mr. Chairman, to my critics who claim that we are being partisan, I would simply say, think again. As we prepared the bill, I did not sit down and ponder what would be a strong partisan statement. I do not view myself as a partisan individual. I spent my time a bit more constructively, and simply produced and pondered on what could be and should be good Government. Then we sat down and made the mark.

I will challenge my critics who say this bill goes too far as we debate H.R. 2020 here today on the floor. Ironically, H.R. 2020 is also being criticized by those who believe it does not go far enough.

That is right. On the first hand we are being criticized for going too far, and on the second hand, the measure is being criticized for not going far enough. We have a lot of people angry, so that probably tells us we probably have a pretty good bill. If we have everyone upset on all sides, it may be because we are in the mode of making cuts.

But to our critics who say we have not gone far enough, I would simply say to them, stop and think. We need to be smart about the process.

This is a first step in a multiyear process, the bill we will consider today. We have taken programs, we have merged their activities, and started a serious downsizing. Rome was not built in a day, nor did it burn down in a day. I think it took 3 or 4, if I recall history correctly, and the Federal Government cannot stop in its tracks overnight.

It is a big train, and it has been moving for a lot of years, and it cannot be stopped simply by throwing a brick wall up in front of it. If we are going to avoid a crash, what we have to do is apply the brakes in a very slow, a very deliberate, and a very positive manner,

to bring this runaway freight train under control.

I remind my colleagues that the programs and accounts funded in this bill serve specific constituencies and meet specific statutory requirements. Public law requires us to do and fund certain activities, the very activities that are funded in this bill.

I would caution my colleagues who think this bill does not go far enough. Not all of our vision for change can be achieved in a year or a single appropriations bill. It takes longer than that. We have, I think, some well thought out plans to achieve a balanced budget over a period of 7 years, and you have to go about that in a very deliberate fashion. This is step one out of six more steps to go in order to get there.

So I urge my colleagues to support the measure. This measure, with 20/20 vision, a healthy vision for agencies under our jurisdiction, and a bill with a vision for a future free of deficits for our children and our grandchildren.

I would say, Mr. Chairman, that the primary rule that we applied in looking at everything that was in this particular package was the notion that there is a great difference between wanting something and actually needing it. In a case where it was determined that an item was merely wanted, it has been downsized or terminated. In a case where it is a need item, we looked very carefully at the needs. In some cases there are slight increases, particularly in the area of the Secret Service, which is faced with an election cycle with security at the Olympics that are coming up at Atlanta. We tried to use some common sense in putting this thing together, and I very strongly urge my colleagues to support the package.

FY 1996 Treasury, Postal Service, and General Government Appropriations Bill (H.R. 2020)

	FY 1995 Enacted	FY 1996 Estimate	Bill	Bill compared with Enacted	Bill compared with Estimate
TITLE I - DEPARTMENT OF THE TREASURY					
Departmental Offices	104,378,000	120,408,000	104,000,500	-378,500	-16,407,500
Office of Inspector General	28,700,000	31,864,000	29,319,000	+361,000	-2,545,000
Financial Crimes Enforcement Network	19,823,000	22,198,000	20,273,000	+450,000	-1,925,000
Treasury Forfeiture Fund (limitation on availability of deposits)	15,000,000	15,000,000		-15,000,000	-15,000,000
Federal Law Enforcement Training Center:					
Salaries and Expenses	56,813,000	35,828,000	36,070,000	-62,743,000	+242,000
Transfers of unobligated balances		(11,600,000)			(-11,600,000)
Acquisition, Construction, Improvements, and Related Expenses	5,815,000	8,163,000	8,163,000	+2,348,000	
Transfer to Salaries and Expenses		(-11,600,000)			(+11,600,000)
Total, Federal Law Enforcement Training Center	64,628,000	43,991,000	44,233,000	-20,395,000	+242,000
Foreign Law Enforcement		14,460,000			-14,460,000
Financial Management Service	183,729,000	189,259,000	181,837,000	-1,892,000	-7,422,000
Bureau of Alcohol, Tobacco and Firearms	490,136,000	490,685,000	461,035,000	-29,103,000	-9,650,000
United States Customs Service:					
Salaries and Expenses	1,386,783,000	1,381,550,000	1,389,829,000	-6,954,000	+8,279,000
(By transfer)	(13,200,000)			(-13,200,000)	
Harbor Maintenance Fee Collection		3,000,000	3,000,000	+3,000,000	
Operation and Maintenance, Air & Marine Interdiction Programs	88,041,000	60,993,000	60,993,000	-28,048,000	
Unobligated balances carried forward (non-add)		(19,733,000)	(19,733,000)	(+19,733,000)	
Customs Facilities, Construction, Improvements and Related Expenses	1,000,000			-1,000,000	
Customs Services at Small Airports (to be derived from fees collected)	1,408,000	1,408,000	1,408,000		
Total, United States Customs Service	1,457,240,000	1,446,949,000	1,455,228,000	-32,012,000	+8,279,000
United States Mint	55,740,000	58,261,000		-55,740,000	-58,261,000
Bureau of the Public Debt	183,456,000	178,865,000	170,000,000	-13,456,000	-8,865,000
Payment of Government Losses in Shipment	800,000	800,000	800,000		
Internal Revenue Service:					
Administration and Management	225,832,000			-225,832,000	
Processing, Assistance, and Management	1,511,288,000	1,805,042,000	1,682,742,000	+171,478,000	-122,300,000
Tax Law Enforcement	4,385,459,000	4,594,351,000	4,254,478,000	-130,983,000	-339,873,000
Information Systems	1,388,510,000	1,379,582,000	1,575,218,000	+186,708,000	-204,364,000
Total, Internal Revenue Service	7,508,867,000	8,208,975,000	7,512,434,000	+3,567,000	-696,541,000
United States Secret Service	493,606,000	541,256,000	542,461,000	+48,855,000	+1,205,000
Violent Crime Reduction Programs:					
Departmental Offices	2,400,000	4,850,000		-2,400,000	-4,850,000
Financial Crimes Enforcement Network	2,700,000	2,221,000	2,221,000	-479,000	
Bureau of Alcohol, Tobacco and Firearms	7,000,000	25,305,000	3,100,000	-3,900,000	-22,205,000
Gang Resistance Education and Training: Grants	8,000,000	7,200,000	12,200,000	+3,200,000	+5,000,000
United States Customs Service	4,000,000	4,865,000	33,865,000	+29,865,000	+29,180,000
Internal Revenue Service: Tax Law Enforcement	7,000,000	19,049,000		-7,000,000	-19,049,000
United States Secret Service	6,600,000	9,800,000	10,000,000	+3,400,000	+200,000
Federal Law Enforcement Training Center		5,090,000	2,500,000	+2,500,000	-2,590,000
Total, Violent Crime Reduction Programs	38,700,000	78,200,000	63,886,000	+25,186,000	-14,314,000
Procurement reform	-33,437,000			+33,437,000	
Total, Title I, Department of the Treasury	10,592,071,000	11,349,203,000	10,515,208,500	-46,864,500	-833,998,500
TITLE II - POSTAL SERVICE					
Payment to the Postal Service Fund	92,317,000	109,094,000	85,080,000	-7,237,000	-24,014,000
Payment to the Postal Service Fund for Nonfunded Liabilities	37,776,000	36,828,000	36,828,000	-948,000	
Total, Title II, Postal Service	130,093,000	145,922,000	121,908,000	-8,185,000	-24,014,000
TITLE III - EXECUTIVE OFFICE OF THE PRESIDENT AND FUNDS APPROPRIATED TO THE PRESIDENT					
Compensation of the President	250,000	250,000	250,000		
The White House Office	40,022,000	40,193,000	39,459,000	-563,000	-734,000
Executive Residence at the White House:					
Operating Expenses	7,827,000	7,827,000	7,522,000	-305,000	-305,000
White House Repair and Restoration		2,200,000			-2,200,000
Official Residence of the Vice President	394,000	394,000	394,000		
Special Assistance to the President	3,280,000	3,280,000	3,175,000	-105,000	-105,000
Council of Economic Advisers	3,438,000	3,438,000		-3,438,000	-3,438,000
Office of Policy Development	5,058,000	3,867,000	3,867,000	-1,191,000	
National Security Council	6,648,000	6,648,000	6,459,000	-189,000	-189,000
Office of Administration	26,217,000	26,100,000	25,736,000	-481,000	-364,000
Procurement reform	-117,000			+117,000	
Office of Management and Budget	57,754,000	56,272,000	55,428,000	-2,326,000	-846,000
Office of National Drug Control Policy	9,942,000	9,942,000	20,062,000	+10,120,000	+10,120,000
Unanticipated Needs	1,000,000	1,000,000	1,000,000		

FY 1996 Treasury, Postal Service, and General Government Appropriations Bill (H.R. 2020)—Continued

	FY 1995 Enacted	FY 1996 Estimate	Bill	Bill compared with Enacted	Bill compared with Estimate
Federal Drug Control Programs:					
High Intensity Drug Trafficking Areas Program	107,000,000	110,000,000	104,000,000	-3,000,000	-6,000,000
Special Forfeiture Fund	41,800,000	37,000,000		-41,800,000	-37,000,000
Transfer to other agencies:					
El Paso Intelligence Center	(1,800,000)			(-1,800,000)	
SAMHSA	(14,000,000)			(-14,000,000)	
CTAC (FandD)	(8,000,000)			(-8,000,000)	
ONDCP Director Discretion	(18,100,000)			(-18,100,000)	
United States Customs Service	(13,200,000)			(-13,200,000)	
Total, Federal Drug Control Programs	148,800,000	147,000,000	104,000,000	-44,800,000	-43,000,000
(Transfer to other agencies)	(55,100,000)			(-55,100,000)	
Total, Title III, Executive Office of the President	310,544,000	308,342,000	267,260,000	-43,284,000	-41,082,000
TITLE IV - INDEPENDENT AGENCIES					
Administrative Conference of the United States	1,800,000	2,358,000		-1,800,000	-2,358,000
Advisory Commission on Intergovernmental Relations	1,000,000	1,400,000		-1,000,000	-1,400,000
Committee for Purchase from People Who Are Blind or Severely Disabled	1,882,000	1,800,000	1,882,000		-118,000
Federal Election Commission	25,710,000	28,021,000	28,521,000	+811,000	-2,500,000
Federal Labor Relations Authority	21,341,000	32,230,000	19,742,000	-1,599,000	-12,488,000
General Services Administration:					
Federal Buildings Fund:					
Appropriation	310,167,000	-358,112,000		-310,167,000	+358,112,000
Rescissions	(-715,532,000)			(+715,532,000)	
Limitations on availability of revenue:					
Construction and acquisition of facilities	(804,002,000)		(357,777,000)	(-338,225,000)	(+357,777,000)
Alfred P. Murrah Federal Office Building	(40,400,000)			(-40,400,000)	
Repairs and alterations	(723,684,000)	(811,000,000)	(713,088,000)	(-10,775,000)	(-197,914,000)
Installment acquisition payments	(127,531,000)	(181,563,000)	(181,963,000)	(+54,432,000)	
Rental of space	(2,181,300,000)	(2,339,000,000)	(2,341,100,000)	(+159,800,000)	(+2,100,000)
Building operations	(1,322,025,000)	(1,392,551,000)	(1,389,463,000)	(+67,438,000)	(+36,912,000)
Transfer to Construction and Acquisition		(554,813,000)			(-554,813,000)
Repayment of Debt		(73,439,000)	(73,439,000)	(+73,439,000)	
Emergency funding	(-68,800,000)			(+68,800,000)	
Total, Federal Buildings Fund	310,167,000	-358,112,000		-310,167,000	+358,112,000
(Limitations)	(4,932,322,000)	(5,412,760,000)	(5,066,822,000)	(+134,500,000)	(-345,938,000)
Real Property Activities:					
Appropriation		1,022,213,000			-1,022,213,000
Transfer from FBF		(554,813,000)			(-554,813,000)
Construction and Acquisition - Limitation:					
(Construction - Limitation)		(1,017,213,000)			(-1,017,213,000)
(Acquisition - Limitation)		(5,000,000)			(-5,000,000)
Subtotal		(1,022,213,000)			(-1,022,213,000)
Policy and Oversight		111,827,000	62,499,000	+62,499,000	-49,328,000
Operating Expenses	130,038,000	53,878,000	49,130,000	-80,908,000	-4,748,000
Office of Inspector General	33,080,000	34,407,000	32,546,000	-541,000	-1,861,000
Allowances and Office Staff for Former Presidents	2,215,000	2,181,000	2,181,000	-34,000	
Procurement reform	-4,858,000			+4,858,000	
Total, General Services Administration	466,579,000	985,394,000	146,359,000	-320,220,000	-819,035,000
John F. Kennedy Assassination Record Review Board	2,150,000	2,418,000	2,150,000		-268,000
Merit Systems Protection Board:					
Salaries and Expenses	24,549,000	24,549,000	21,129,000	-3,420,000	-3,420,000
(Limitation on administrative expenses)	(2,250,000)	(2,430,000)	(2,430,000)	(+180,000)	
Morris K. Udall Scholarship and Excellence in National Environmental Policy Foundation	10,000,000			-10,000,000	
National Archives and Records Administration	195,238,000	195,291,000	195,291,000	-1,947,000	-2,000,000
Reduction of debt	-3,882,000	-4,012,000	-4,012,000	-330,000	
Procurement reform	-325,000			+325,000	
National Historical Publications and Records Commission:					
Grants program	9,000,000	4,000,000	4,000,000	-5,000,000	
Information Security Oversight Office		1,482,000			-1,482,000
Office of Government Ethics	8,104,000	8,328,000	7,776,000	-328,000	-552,000
Office of Personnel Management:					
Salaries and Expenses	111,999,000	108,572,000	95,524,000	-96,475,000	-13,048,000
(Limitation on administrative expenses)	(93,834,000)	(102,536,000)	(102,536,000)	(+8,702,000)	
Office of Inspector General	4,009,000	4,067,000	4,008,000		-59,000
(Limitation on administrative expenses)	(8,156,000)	(8,181,000)	(8,181,000)	(+25,000)	
Government Payment for Annuitants, Employees Health Benefits	4,210,560,000	3,746,337,000	3,746,337,000	-464,223,000	
Government Payment for Annuitants, Employee Life Insurance	28,159,000	32,647,000	32,647,000	+4,488,000	
Payment to Civil Service Retirement and Disability Fund	7,339,638,000	7,945,998,000	7,945,998,000	+606,360,000	
Employees Life Insurance Fund (limitation on administrative expenses)	(753,000)	(993,000)	(993,000)	(+240,000)	
Retired Employees Health Benefits Fund (limitation on administrative expenses)	(91,000)			(-91,000)	
Procurement reform	-1,266,000			+1,266,000	
Total, Office of Personnel Management	11,693,109,000	11,837,591,000	11,814,515,000	+121,406,000	-23,076,000

FY 1996 Treasury, Postal Service, and General Government Appropriations Bill (H.R. 2020)—Continued

	FY 1995 Enacted	FY 1996 Estimate	Bill	Bill compared with Enacted	Bill compared with Estimate
Office of Special Counsel	7,865,000	8,888,000	7,840,000	-115,000	-728,000
United States Tax Court	34,038,000	34,088,000	32,889,000	-1,140,000	-1,140,000
Total, Title IV, Independent Agencies	12,499,239,000	13,134,288,000	12,273,882,000	-624,347,000	-860,404,000
(Limitation on administrative expenses)	(4,319,994,000)	(8,547,113,000)	(5,178,982,000)	(+858,988,000)	(-1,368,131,000)
Total appropriations	23,500,947,000	24,637,922,000	23,176,288,500	-322,660,500	-1,759,538,500
(Limitations)	(4,319,994,000)	(8,547,113,000)	(5,178,982,000)	(+858,988,000)	(-1,368,131,000)
Scorekeeping adjustments:					
Bureau of The Public Debt (Permanent)	119,496,000	126,840,000	126,840,000	+7,344,000	
Funding for IRS compliance	-186,000,000			+186,000,000	
Mint revolving fund	-3,100,000		60,230,000	+63,330,000	+60,230,000
Black Lung savings	-4,800,000			+4,800,000	
Compensation of Members and Judges	-5,950,000			+5,950,000	
Emergency funding	-43,598,000			+43,598,000	
GSA: Federal building fund	-580,412,000			+580,412,000	
Bureau of the Public Debt	-1,800,000			+1,800,000	
Rent reductions	-4,041,000			+4,041,000	
Excess IRS receipts	-27,800,000			+27,800,000	
GSA Federal building fund obligational authority			-60,237,000	-60,237,000	-60,237,000
Total, scorekeeping adjustments	-729,505,000	126,840,000	126,833,000	+876,338,000	+9,993,000
Total mandatory and discretionary	22,781,442,000	25,094,883,000	23,315,119,500	+553,677,500	-1,749,543,500
Mandatory	11,736,379,000	11,888,400,000	11,889,400,000	+153,021,000	
Discretionary:					
Crime trust fund	38,700,000	79,200,000	65,886,000	+25,186,000	-14,314,000
General purpose	10,986,363,000	13,097,083,000	11,361,833,500	+375,470,500	-1,735,239,500
Total, Discretionary	11,025,063,000	13,176,283,000	11,435,719,500	+400,656,500	-1,749,543,500

Note: Amounts shown in FY 1995 Enacted include effect of pending rescission bill.

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

Mr. HOYER. Mr. Chairman, I yield myself such time as I may consume. Mr. Chairman, I thank the gentleman for yielding time.

Mr. Chairman, before I speak about the specifics of the bill, I want to pay tribute to the gentleman from Iowa [Mr. LIGHTFOOT]. This is his first year as chairman of the committee. As I said on a number of occasions, I would not have planned that he be chairman of the committee, because it means, of course, that I am not chairman of the committee. But if we had to have a new chairman and I was going to be replaced, I am very thankful that it was the gentleman from Iowa, [Mr. LIGHTFOOT].

The gentleman is one of our finest Members, he is a conscientious, effective leader on his side of the aisle, and he is first an American who cares about the efficiency and effectiveness of the application of the tax dollars of our citizens. He is a pleasure to work with, and I congratulate him for the work he has done to date. He has cooperated with the minority side and with me individually each step of the way, and I would like to thank him for that.

I particularly want to thank the staff, some of whom have been with the committee, and I want to say that they have also cooperated very closely with me individually and other members of the minority side of the committee, and with our staffs. That cooperation, I think, has helped the confidence that each of us have in dealing with one another. We have not agreed on every issue, but we are working cooperatively together.

Having said that, Mr. Chairman, let me make an observation that I make almost every time I start to talk on an appropriations bill. The American public and our colleagues need to understand that we have a financial problem at the Federal level. We have a deficit that must be dealt with. We have a deficit that has been growing. We have a deficit that is crowding out capital funds for economic expansion. I am a supporter of the balance budget amendment, because I believe we need an extrinsic constraint which will force us and, yes, force the American public to make tough choices.

Having said that, Mr. Chairman, it is important for us to realize that the expansion of Federal expenditures has not, and I underline has not, occurred in the discretionary spending items over which the Committee on Appropriations has jurisdiction. In point of fact, as we have pointed out on a number of occasions, the Committee on Appropriations has appropriated less money than the Presidents have asked for since 1981, and, indeed, even before that. But particularly in the administrations of Mr. Reagan and Mr. Bush, Presidents Reagan and Bush, we appropriated about $100 million less than they asked for.

It was not that the appropriation process got out of hand that led to the substantial operating deficits during the last decade. The fact of the matter is entitlements have grown exponentially. The fact of the matter is that we have not come to grips with that, and if we do not come to grips with it, very frankly, we are going to crowd out all discretionary spending, all investment spending, all of the decisionmaking process in which we involve ourselves annually as to where to apply the resources of our Nation.

In point of fact, Mr. Speaker, since 1953 until today, we have gone from spending approximately 18 percent of our Gross Domestic Product in discretionary spending, making decisions where to invest on defense and on the domestic side, to where now less than 8 percent of our GDP at the Federal level is spent on discretionary spending between defense and nondefense discretionary spending.

□ 1200

Why do I make that preface? Because we are going to have on the floor perhaps an amendment to cut this million dollars or $10 million or $20 million. That is significant money, of course. But the fact of the matter is, it will not solve the deficit. And it is not the reason the deficit grew, notwithstanding what the National Taxpayers Union says on the voting on these individual, sometimes small and sometimes significant, dollar amendments.

The Treasury, Postal bill, Mr. Chairman, has been a hard bill to put together for fiscal year 1996. Based on the deck we have been dealt, however, with our 602(b) allocation, it is an inadequate allocation to fund the priorities and responsibilities in this bill for law enforcement, for tax collection and for other matters.

In addition to law enforcement and revenue collection, the Customs is also in this bill, and every American is worried about the integrity of our borders. Every American is worried about the commerce and the stealing of jobs from the U.S. workers. Customs plays a critical role in that, and they are being sorely tested in terms of the resources that have been made available to them in this bill.

Within the limited resources of which I have just spoken, however, I think the chairman and the committee have tried to do the best job possible in funding the allocations of the agencies under this bill. The $23.2 billion provided in the bill is about $322 million below the amount we appropriated last year and $1.8 billion below the amount requested by the administration; in other words, almost 10 percent below what the administration requested. And I might say, of course, this bill is divided about half discretionary spending, half on the mandatory side in terms of Federal retirement and Federal employment health benefits.

On the positive side, Customs and law enforcement have been funded pretty much at the administration's request. The IRS tax system modernization has been accommodated under the administration's new estimate for fiscal year 1996. The committee bill also includes funding for tax systems modernization at the Internal Revenue Service. This broad effort to update all aspects of IRS's computer and processing systems is, Mr. Chairman, a very high priority for our country.

On the negative side, we have not been able to proceed with the funding of the IRS tax enforcement program off budget and, therefore, have had to spread the program over 7 years, a decision with which I did not agree, do not agree now and which will cost us money.

Mr. Chairman, you will recall that last year we unanimously in a bipartisan fashion had agreement that we would fund the tax enforcement program off budget. Why? It was a $2 billion, 5-year initiative that would gain us over $9 billion, in other words a $4 return for every dollar invested. CBO, OMB and the Congress agreed that it made sense to put that off budget in light of the fact it was a money maker, not a money loser.

However, we have not done that this year. In fairness to the chairman, however, the administration suggested that we put it on budget. Now, to the extent that it does appropriately and accurately reflect expenditures, that made sense. On the other hand, it forced the chairman and the committee to stretch this program over 7 years, and that will cost us revenues and make it difficult to administer at the Treasury Department.

Mr. Chairman, those are some of the more positive aspects. Unfortunately, I and this side of the aisle are very concerned about some aspects of this bill. I believe that there are a number of political decisions. I know the chairman disagrees with that. He says these are economic decisions, fiscal decisions, but I believe we are making some political decisions in this bill which are wrong. The elimination of the Council of Economic Advisors, every head of the Council of Economic Advisors, an institution which advises the President on macroeconomic issues, an institution which everybody that I have talked to says is one of the more objective, outside-of-government advisory groups that we have in Government to advise the President on macro- and micro-economic issues, this is critically important. The President, every day, needs to confront issues which are impacted by his information and perception of what the macroeconomic

and microeconomic impacts are of decisions to be made by the White House.

It is wrong to eliminate this agency in the way it was done. There were no hearings. Now, I want to say that we cut the Administrative Conference of the United States the same way. I though we were incorrect and we changed that decision. But the fact of the matter is there were no hearings which were directed at elimination of this agency. And every head, Republican and Democrat, for the last two decades opposes this provision.

The most recent former administration head of the Council of Economic Advisors, Michael Boskin, has written a letter opposing this provision, as have Charlie Schultze and Herb Stein, CEA directors under President Nixon and President Carter.

Furthermore, Mr. Chairman, we have cut the White House office. We have not cut it a great deal, but significantly enough to adversely affect the ability of the White House to run its shop. I will discuss this later in the bill, but this is wrong.

In fact, from 1981 to 1992, under a Democratic House and for the last 6 years of that period, under a Democratic Senate, we essentially accepted the White House's request. For the last 2 years this President has been subjected to cuts from the Republican side not based upon the finances of the office but based upon, in my opinion, the intent to impact adversely the political independence of the President of the United States to make policy judgment as he or she sees fit.

Mr. Chairman, that is wrong. There is not going to be an amendment offered, I understand, which will affect the transportation of the White House. But there are too frequently now folks who are willing to undermine the historical, two-century comity between the President and the legislative branch in the Congress, where the President says to the legislature, you pass your budget, and I will pass mine. Neither will impact the other because both of us have to go to the American public.

I am not talking about the executive departments. I am talking about the White House office. The Office of Management and Budget, and other executive branch offices were cut. I think that is unfortunate. We oppose that.

All reflect an initiative that is politically aimed at the President. The Committee on Appropriations has honored presidential requests, as I have said, in the last period of time that I have been on the committee. I have opposed cuts to President Reagan and President Bush's budget for exactly that reason.

Also, Mr. Chairman, there are cuts to the Federal Election Commission. The inclusion of language restricting the choices for Federal health insurance which we will oppose. They take on a political tone that I do not think is helpful for the bipartisan nature of this bill. I also believe that the elimination of the Advisory Commission on Intergovernmental Relations will interfere, Mr. Chairman, with the executive branch's responsibility to monitor unfunded mandates.

The irony of this bill is we eliminate the Administrative Conference on Intergovernmental Relations, the Commission on Intergovernmental Relations for the purposes of saving $1.4 million. We then provide in this bill a committee provision, protected under the rule language, which provides for an advisory committee on the mandates which we have just eliminated another agency to do. In other words, on the one hand we are going to have money spent, $300-some-odd thousands to accomplish the purpose of an agency that we are now doing away with. It simply does not makes sense, in my opinion.

Mr. Chairman, I am pleased that the full Committee on Appropriations took out a provision which was very foolishly included by the Subcommittee on Treasury, Postal Service, and General Government at markup that would have provided background checks for rich felons so that they could have received approval to have their guns back. We had information at the subcommittee and the full committee that we brought out where you had murderers reapplying for reinstatement of their privileges to have a gun and they were approved. That made no sense. No taxpayer is asking me to spend their money to make sure that criminals get their guns back. That does not make sense, and I am pleased that the chairman saw fit at the full committee to offer language to reinstate language included in our bill in 1992. That language was good then, it is good now. And I am pleased that the chairman put it back in.

Finally, Mr. Chairman, I am concerned that neither the President nor the committee has provided the full 5.9 percent increase that the Civil Service is due as employment cost index and locality pay increases under the Federal Employees Pay Comparability Act. This was an act signed by President Bush in 1990. It tried to provide and did provide for a rational way to compare the private sector and the public sector and to make sure that our work force would be competitive and would be comparable to the private sector. Unfortunately, the President has only provided 2.4 percent in his recommendation. The bill is silent on this issue. And unless the President provides for a higher sum come August, next month, that will be limited to 2.4 percent.

I will be discussing with the President, and I know others will, as to the distribution of that 2.4 percent between comparability adjustment and locality pay, but is it very unfortunate that we are going to be falling further behind the private sector in pay comparability as a result of the actions of the President and of this committee.

Mr. Chairman, in closing, I hope that the provisions that detract from the positive side of the bill can be changed on the floor and during the full legislative consideration of the bill. Again, I thank the chairman for all of his cooperation and inclusion in the work of this committee. I look forward to working with him as we consider the individual titles of this bill.

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

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

I would respond very briefly and thank the gentleman from Maryland for his kind words. When neither of us were chairman on this subcommittee, we started to forge a working relationship and that has continued through both of us having the opportunity to serve as chairman of the subcommittee.

Quite frankly, there are certain things that we have agreed to disagree upon and that is what this whole business is all about.

We both realize it is important that we get this spending bill through. It has to go through. We have to do it in a manner that I think has some common sense. Again, I appreciate his kind words and his cooperation as well.

Mr. Chairman, one of those areas that we agree to disagree on is the Council of Economic Advisers. We in effect cut the offices of the White House about 1.8 percent. I would just call to our colleagues' attention that through the legislative branch appropriation that went through the House, we cut our own budgets there about 8 percent. It is just part of the sharing concept, I think that is necessary as we move toward a balanced budget in 7 years.

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

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

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

Mr. LAZIO of New York. Mr. Chairman, I rise in strong support of H.R. 2020, the FY 1996 Treasury Postal Service, and General Government Appropriations Act. I particularly would like to commend the chairman of the Treasury, Postal Service, and General Government Appropriations Subcommittee, the gentleman from Iowa [Mr. LIGHTFOOT] and his colleagues for their efforts in crafting this important legislation.

The bill contains $75.641 million in continued funding for a vitally important project in my district on Long Island, the Central Islip Federal Courthouse. I deeply appreciate the willingness of Chairman Lightfoot and the other members of the subcommittee in working with me to meet this essential need. First announced by the General Services Administration [GSA] in 1991, the Central Islip Courthouse was designed to solve the problems of

the only "space emergency" in our nation declared by the U.S. Judicial Conference. That "space emergency" for the Eastern District of New York, was first declared in 1989 and renewed in 1992. These declarations are unique in that these are the only times the Judicial Conference has ever taken such an action.

Without the completion of the Central Islip Federal Courthouse, eastern Long Island's 2.5 million people will continue to have to tolerate what has been described as a "security nightmare," with Federal judges facing the heaviest case load in its history while enduring dangerous, inefficient, costly temporary facilities scattered in five rented locations.

Unlike some other federal courthouse projects, the cost per square foot of the Central Islip Courthouse is well below the GSA average for similar projects. The courthouse will be cost effective, saving taxpayers huge amounts now paid for rent.

I urge my colleagues to support this bill and sufficient funding for the timely completion of the Central Islip Federal Courthouse.

Mr. COLEMAN. Mr. Chairman, I rise in support of H.R. 2020, the Treasury, Postal Service and General Government Appropriations bill, but my enthusiasm for it is tempered by the cuts in valuable programs this legislation proposes.

As a former member of this subcommittee, I feel that the agencies that are funded by this legislation are extremely important to our government. Agencies like the Treasury Department, and its component divisions such as the Customs Service, the Bureau of Alcohol Tobacco and Firearms, the IRS, the Secret Service and others are extremely important to the efficient functioning of our federal government. This legislation also funds the Executive Office of the President, a portion of the Postal Service, and some independent agencies such as the Federal Election Commission, the Federal Labor Relations Commission, the General Services Administration and others.

Because of the importance of all of the above, I am extremely disheartened by some of the cuts this bill makes to some of these agencies. For example, the bill proposes to eliminate the Council of Economic Advisers. The Council has served presidents of both parties for the past 50 years. This group provides long-term economic advice to the President that is both impartial and apolitical. This kind of advice is increasingly important during a time when economic advice a president gets is usually laced with political undertones.

I am also bothered by the reductions made to the Federal Election Commission [FEC] in an upcoming presidential election year. The $2.5 million reduction made to the FEC combined with an earmark of $1.5 million for computer modernization will interfere with the ability of FEC to carry out its duties and ensure the integrity of the upcoming elections. This is not the only agency that suffers a reduction in its budget. Other agencies take significant cuts to their budgets that will affect their ability to carry out their functions.

This bill is also silent on Federal pay. Neither the President nor the Committee has provided the full 5.9 percent increase that the Civil Service is due as employment cost index and locality pay increases under the Federal Employees Pay Comparability Act. Since 1981, Federal employees have lost more than $163 billion in pay and benefits that they were scheduled to receive.

The 2.4 percent raise recommended by the President, which is adopted by this bill, is not fully funded. Even further, this is less than half of the raise owed to Federal workers under existing law. Agencies not involved in law enforcement are forced to absorb the additional cost of the pay increase from their program budgets. This unwise policy results in a hidden 2.4 percent cut in programs at agencies that are already facing severe budget constraints.

Another provision that bothers me directed toward Federal employees is the majority's decision to reinstate a provision in the bill which restricts a Federal employee's choice of a health care insurance plan by prohibiting "Federal funds" from being used to purchase a policy which provides coverage for pregnancy termination, except in instances where the life of the mother is at risk.

Let me be clear, Mr. Chairman, that there are no Federal funds used for the purchasing of health care coverage for Federal employees. The compensation of Federal employees is in the form of salary, health care benefits and retirement benefits. Like private sector employees, they can use their compensation as they see fit. Federal workers choose a health insurance plan and a portion of that is paid for with their health coverage benefit. There are no "Federal funds" involved when a Federal employee decides what to do with his/her salary. The choice of policies is the employee's alone. The reasoning of the Committee that it is the employer's right to restrict the scope of coverage for legal medical services is wrong.

This tampering with the rights of Federal employees is wrong because they are one of our Nation's greatest assets. They are important to my congressional district where they number approximately 13,000 persons. Federal employees are among the finest, most honorable workers in this country. Yet, in this House, many insist on perpetuating an attitude of hostility toward Federal employees. They call them lazy bureaucrats, government vultures or worthless do-nothing Federal employees. This is wrong, Mr. Chairman, and it must be stopped. It should not take an incident like the Oklahoma bombing to change the minds of many in this country with regards to Federal employees.

While I have thus far focused on items I have not liked in this legislation, it does not have some good points. For one, the bill funds the Customs Service at a level that exceeds the President's request. I feel this is important because the Customs Service has a difficult job as the Nation's principal border agency. Customs' responsibilities run the gamut from fighting the scourge of illegal drug trafficking to assessing and collecting duties and tariffs. I would also like to mention that the Customs Service section of the report included items of importance to my congressional district. For instance, there is language supporting: additional Customs inspectors for El Paso, Texas, unified port management, and drug interdiction technologies such as cargo x-ray systems and FLIR's for UH–60 Black Hawk helicopters.

The report also includes $560,000 for security improvements to the El Paso Federal Building. Other items of interest to my congressional district include report language supporting the Gang Resistance Education and Training Program, the Southwest Border High Intensity Drug Trafficking Area, and Operation Alliance.

Finally, Mr. Chairman, I would like to commend the leadership of Chairman LIGHTFOOT. Throughout our hearings and deliberations, the Chairman was very fair and amenable by allowing of minority views and consideration. I am very grateful for his policy of "opening up" the hearings to questioning after allotted time for testimony had expired. The other members of the subcommittee, are also to be complemented for their diligence in pursuing the issues under the subcommittee's jurisdiction. I also would like to thank the staff of both sides for the hard work they displayed in putting together this legislation. They worked many long hours to put together the final product we are debating today.

Mr. Chairman, I will support H.R. 2020, but it is my hope that some of the troubling provisions I have mentioned will be moderated by the Senate and we can settle those differences in conference.

Mr. LIGHTFOOT. 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. WATTS of Oklahoma) having assumed the chair, Mr. DREIER, Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill (H.R. 2020) making appropriations for the Treasury Department, the United States Postal Service, the Executive Office of the President, and certain Independent Agencies, for the fiscal year ending September 30, 1996, and for other purposes, had come to no resolution thereon.

□ 1215

PERMISSION FOR CERTAIN COMMITTEES AND THEIR SUBCOMMITTEES TO SIT TODAY DURING 5-MINUTE RULE

Mr. LIGHTFOOT. Mr. Speaker, I ask unanimous consent that the following committees and their subcommittees be permitted to sit today while the House is meeting in the Committee of the Whole House under the 5-minute rule: the Committee on Agriculture, the Committee on Commerce, the Committee on Government Reform and Oversight, the Committee on House Oversight, the Committee on International Relations, the Committee on the Judiciary, the Committee on Resources, the Committee on Small Business, and the Permanent Select Committee on Intelligence.

It is my understanding that the minority has been consulted and there are no objections.

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

Mr. HOYER. Reserving the right to object, Mr. Speaker, and I will not object, it is my understanding the minority has been consulted about each and every one of these exceptions to the rule that we adopted in the beginning of the year, and we will not object.

Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore (Mr. WATTS of Oklahoma). Is there objection to the request of the gentleman from Iowa?

There was no objection.

REPORT ON CONTINUING NATIONAL EMERGENCY WITH RESPECT TO THE FEDERAL REPUBLIC OF YUGOSLAVIA AND THE BOSNIAN SERBS—MESSAGE FROM THE PRESIDENT OF THE UNITED STATES (H. DOC. 104–101)

The Speaker pro tempore laid before the House the following message from the President of the United States, which was read and, together with the accompanying papers, without objection, referred to the Committee on International Relations and ordered to be printed.

To the Congress of the United States:

On May 30, 1992, in Executive Order No. 12808, the President declared a national emergency to deal with the threat to the national security, foreign policy, and economy of the United States arising from actions and policies of the Governments of Serbia and Montenegro, acting under the name of the Socialist Federal Republic of Yugoslavia or the Federal Republic of Yugoslavia, in their involvement in and support for groups attempting to seize territory in Croatia and the Republic of Bosnia and Herzegovina by force and violence utilizing, in part, the forces of the so-called Yugoslav National Army (57 FR 23299, June 2, 1992). I expanded the national emergency in Executive Order No. 12934 of October 25, 1994, to address the actions and policies of the Bosnian Serb forces and the authorities in the territory of the Republic of Bosnia and Herzegovina that they control. The present report is submitted pursuant to 50 U.S.C. 1641(c) and 1703(c). It discusses Administration actions and expenses directly related to the exercise of powers and authorities conferred by the declaration of a national emergency in Executive Order No. 12808 and Executive Order No. 12934 and to expanded sanctions against the Federal Republic of Yugoslavia (Serbia and Montenegro) (the "FRY (S/M)") and the Bosnian Serbs contained in Executive Order No. 12810 of June 5, 1992 (57 FR 24347, June 9, 1992), Executive Order No. 12831 of January 15, 1993 (58 FR 5253, Jan. 21, 1993), Executive Order No. 12846 of April 25, 1993 (58 FR 25771, April 27, 1993), and Executive Order No. 12934 of October 25, 1994 (59 FR 54117, October 27, 1994).

1. Executive Order No. 12808 blocked all property and interests in property of the Governments of Serbia and Montenegro, or held in the name of the former Government of the Socialist Federal Republic of Yugoslavia or the Government of the Federal Republic of Yugoslavia, then or thereafter located in the United States or within the possession or control of U.S. persons, including their overseas branches.

Subsequently, Executive Order No. 12810 expanded U.S. actions to implement in the United States the United Nations sanctions against the FRY (S/M) adopted in United Nations Security Council ("UNSC") Resolution 757 of May 30, 1992. In addition to reaffirming the blocking of FRY (S/M) Government property, this order prohibited transactions with respect to the FRY (S/M) involving imports, exports, dealing in FRY-origin property, air and sea transportation, contract performance, funds transfers, activity promoting importation or exportation or dealings in property, and official sports, scientific, technical, or other cultural representation of, or sponsorship by, the FRY (S/M) in the United States.

Executive Order No. 12810 exempted from trade restrictions (1) transshipments through the FRY (S/M), and (2) activities related to the United Nations Protection Force ("UNPROFOR"), the Conference on Yugoslavia, or the European Community Monitor Mission.

On January 15, 1993, President Bush issued Executive Order No. 12831 to implement new sanctions contained in U.N. Security Council Resolution 787 of November 16, 1992. The order revoked the exemption for transshipments through the FRY (S/M) contained in Executive Order No. 12810, prohibited transactions within the United States or by a U.S. person relating to FRY (S/M) vessels and vessels in which a majority or controlling interest is held by a person or entity in, or operating from, the FRY (S/M), and stated that all such vessels shall be considered as vessels of the FRY (S/M), regardless of the flag under which they sail.

On April 25, 1993, I issued Executive Order No. 12846 to implement in the United States the sanctions adopted in UNSC Resolution 820 of April 17, 1993. That resolution called on the Bosnian Serbs to accept the Vance-Owen peace plan for the Republic of Bosnia and Herzegovina and, if they failed to do so by April 26, called on member states to take additional measures to tighten the embargo against the FRY (S/M) and Serbian controlled areas of the Republic of Bosnia and Herzegovina and the United Nations Protected Areas in Croatia. Effective April 26, 1993, the order blocked all property and interests in property of commercial, industrial, or public utility undertakings or entities organized or located in the FRY (S/M), including property and interests in property of entities (wherever organized or located) owned or controlled by such undertakings or entities, that are or thereafter come within the possession or control of U.S. persons.

On October 25, 1994, in view of UNSC Resolution 942 of September 23, 1994, I issued Executive Order No. 12934 in order to take additional steps with respect to the crisis in the former Yugoslavia. (59 FR 54117, October 27, 1994.) Executive Order No. 12934 expands the scope of the national emergency declared in Executive Order No. 12808 to address the unusual and extraordinary threat to the national security, foreign policy, and economy of the United States posed by the actions and policies of the Bosnian Serb forces and the authorities in the territory in the Republic of Bosnia and Herzegovina that they control, including their refusal to accept the proposed territorial settlement of the conflict in the Republic of Bosnia and Herzegovina.

The Executive order blocks all property and interests in property that are in the United States, that hereafter come within the United States, or that are or hereafter come within the possession or control of United States persons (including their overseas branches) of: (1) the Bosnian Serb military and paramilitary forces and the authorities in areas of the Republic of Bosnia and Herzegovina under the control of those forces; (2) any entity, including any commercial, industrial, or public utility undertaking, organized or located in those areas of the Republic of Bosnia and Herzegovina under the control of Bosnian Serb forces; (3) any entity, wherever organized or located, which is owned or controlled directly or indirectly by any person in, or resident in, those areas of the Republic of Bosnia and Herzegovina under the control of Bosnian Serb forces; and (4) any person acting for or on behalf of any person within the scope of the above definitions.

The Executive order also prohibits the provision or exportation of services to those areas of the Republic of Bosnia and Herzegovina under the control of Bosnian Serb forces, or to any person for the purpose of any business carried on in those areas, either from the United States or by a U.S. person. The order also prohibits the entry of any U.S.-flagged vessel, other than a U.S. naval vessel, into the riverine ports of those areas of the Republic of Bosnia and Herzegovina under the control of Bosnia Serb forces. Finally, any transaction by any U.S. person that evades or avoids, or has the purpose of evading or avoiding, or attempts to violate any of the prohibitions set forth in the order is prohibited. Executive Order No. 12934 became effective at 11:59 p.m., e.d.t., on October 25, 1994.

2. The declaration of the national emergency on May 30, 1992, was made

pursuant to the authority vested in the President by the Constitution and laws of the United States, including the International Emergency Economic Powers Act (50 U.S.C. 1701 et seq.), the National Emergencies Act (50 U.S.C. 1601 et seq.), and section 301 of title 3 of the United States Code. The emergency declaration was reported to the Congress on May 30, 1992, pursuant to section 204(b) of the International Emergency Economic Powers Act (50 U.S.C. 1703(b)) and the expansion of that National Emergency under the same authorities was reported to the Congress on October 25, 1994. The additional sanctions set forth in related Executive orders were imposed pursuant to the authority vested in the President by the Constitution and laws of the United States, including the statutes cited above, section 1114 of the Federal Aviation Act (49 U.S.C. App. 1514), and section 5 of the United Nations Participation Act (22 U.S.C. 287c).

3. There have been no amendments to the Federal Republic of Yugoslavia (Serbia and Montenegro) Sanctions Regulations (the "Regulations"), 31 C.F.R. Part 585, since the last report. The Treasury Department had previously published 853 names in the Federal Register on November 17, 1994 (59 FR 59460), as part of a comprehensive listing of all blocked persons and specially designated nationals ("SDNs") of the FRY (S/M). This list identified individuals and entities determined by the Department of the Treasury to be owned or controlled by or acting for or on behalf of the Government of the FRY (S/M), persons in the FRY (S/M), or entities located or organized in or controlled from the FRY (S/M). All prohibitions in the Regulations pertaining to the Government of the FRY (S/M) apply to the entities and individuals identified. U.S. persons, on notice of the status of such blocked persons and specially designated nationals, are prohibited from entering into transactions with them, or transactions in which they have an interest, unless otherwise exempted or authorized pursuant to the Regulations.

On February 22, 1995, pursuant to Executive Order 12934 and the Regulations, Treasury identified 85 individuals as leaders of the Bosnian Serb forces or civilian authorities in the territories in the Republic of Bosnia and Herzegovina that they control. Also on February 22, Treasury designated 19 individuals and 23 companies as SDNs of the FRY (S/M). These designations include FRY (S/M)-connected companies around the world that are being directed from Cyprus, two Cypriot-owned firms that have had a central role in helping establish and sustain sanctions-evading FRY (S/M) front companies in Cyprus, and the head of the FRY (S/M)'s Central Bank who is also the architect of the FRY (S/M) economic program.

Additionally, on March 13, 1995, Treasury named 32 firms and eight individuals that are part of the Karic Brothers' family network of companies as SDNs of the FRY (S/M). Their enterprises span the globe and are especially active in former East Bloc countries. These additions and amendments, published in the Federal Register on April 18, 1995 (60 FR 19448), bring the current total of Blocked Entities and SDNs of the FRY (S/M) to 938 and the total number of individuals identified as leaders of the Bosnian Serb military or paramilitary forces or civilian authorities in the territories in the Republic of Bosnia and Herzegovina that they control to 85. A copy of the notice is attached.

Treasury's blocking authority as applied to FRY (S/M) subsidiaries and vessels in the United States has been challenged in court. In *Milena Ship Management Company, Ltd.* v. *Newcomb*, 804 F.Supp. 846, 855, and 859 (E.D.L.A. 1992) *aff'd*, 995 F.2d 620 (5th Cir. 1993), *cert.* denied, 114 S.Ct. 877 (1994), involving five ships owned or controlled by FRY (S/M) entities blocked in various U.S. ports, the blocking authority as applied to these vessels was upheld. In *IPT Company, Inc.* v. *United States Department of the Treasury*, No. 92 CIV 5542 (S.D.N.Y. 1994), the district court also upheld the blocking authority as applied to the property of a Yugoslav subsidiary located in the United States. The latter case is currently on appeal to the Second Circuit.

4. Over the past 6 months, the Departments of State and Treasury have worked closely with European Union (the "EU") member states and other U.N. member nations to coordinate implementation of the U.N. sanctions against the FRY (S/M). This has included visits by assessment teams formed under the auspices of the United States, the EU, and the Organization for Security and Cooperation in Europe (the "OSCE") to states bordering on Serbia and Montenegro; continued deployment of OSCE sanctions assistance missions ("SAMs") to Albania, Bulgaria, Croatia, the former Yugoslav Republic of Macedonia, Hungary, Romania, and Ukraine to assist in monitoring land and Danube River traffic; support for the International Conference on the Former Yugoslavia ("ICFY") monitoring missions along the Serbia-Montenegro-Bosnia border; bilateral contacts between the United States and other countries for the purpose of tightening financial and trade restrictions on the FRY (S/M); and ongoing multilateral meetings by financial sanctions enforcement authorities from various countries to coordinate enforcement efforts and to exchange technical information.

5. In accordance with licensing policy and the Regulations, FAC has exercised its authority to license certain specific transactions with respect to the FRY (S/M) that are consistent with U.S. foreign policy and the Security Council sanctions. During the reporting period, FAC has issued 109 specific licenses regarding transactions pertaining to the FRY (S/M) or assets it owns or controls, bringing the total as of April 25, 1995, to 930. Specific licenses have been issued (1) for payment to U.S. or third-country secured creditors, under certain narrowly-defined circumstances, for pre-embargo import and export transactions; (2) for legal representation or advice to the Government of the FRY (S/M) or FRY (S/M)-located or controlled entities; (3) for the liquidation or protection of tangible assets of subsidiaries of FRY (S/M)-located or controlled firms located in the U.S.; (4) for limited transactions related to FRY (S/M) diplomatic representation in Washington and New York; (5) for patent, trademark and copyright protection in the FRY (S/M) not involving payment to the FRY (S/M) Government; (6) for certain communications, news media, and travel-related transactions; (7) for the payment of crews' wages, vessel maintenance, and emergency supplies for FRY (S/M) controlled ships blocked in the United States; (8) for the removal from the FRY (S/M), or protection within the FRY (S/M), of certain property owned and controlled by U.S. entities; (9) to assist the United Nations in its relief operations and the activities of the U.N. Protection Force; and (10) for payment from funds outside the United States where a third country has licensed the transaction in accordance with U.N. sanctions. Pursuant to U.S. regulations implementing UNSC Resolutions, specific licenses have also been issued to authorize exportation of food, medicine, and supplies intended for humanitarian purposes in the FRY (S/M).

During the past 6 months, FAC has continued to oversee the liquidation of tangible assets of the 15 U.S. subsidiaries of entities organized in the FRY (S/M). Subsequent to the issuance of Executive Order No. 12846, all operating licenses issued for these U.S.-located Serbian or Montenegrin subsidiaries or joint ventures were revoked, and the net proceeds of the liquidation of their assets placed in blocked accounts.

In order to reduce the drain on blocked assets caused by continuing to rent commercial space, FAC arranged to have the blocked personalty, files, and records of the two Serbian banking institutions in New York moved to secure storage. The personalty is being liquidated, with the net proceeds placed in blocked accounts.

Following the sale of the M/V Kapetan Martinovic in January 1995, five Yugoslav-owned vessels remain blocked in the United States. Approval of the UNSC's Serbian Sanctions Committee was sought and obtained for the sale of the M/V Kapetan Martinovic (and the M/V Bor, which was sold in

June 1994) based on U.S. assurances that the sale would comply with four basic conditions, which assure that both U.S. and U.N. sanctions objectives with respect to the FRY (S/M) are met: (1) the sale will be for fair market value; (2) the sale will result in a complete divestiture of any interest of the FRY (S/M) (or of commercial interests located in or controlled from the FRY (S/M)) in the vessel; (3) the sale would result in no economic benefit to the FRY (S/M) (or commercial interests located in or controlled from the FRY (S/M)); and (4) the net proceeds of the sale (the gross proceeds less the costs of sale normally paid by the seller) will be placed in a blocked account in the United States. Negotiations for the sale of the M/V Bar, now blocked in New Orleans, are underway and are likely to be concluded prior to my next report.

Other than the M/V Bar, the four remaining Yugoslav-owned vessels are beneficially owned by Jugooceanija Plovidba of Kotor, Montenegro, and managed by Milena Ship Management Co. Ltd. in Malta. These vessels have many unpaid U.S. creditors for services and supplies furnished during the time they have been blocked in the United States; moreover, the owner appears to have insufficient resources to provide for the future upkeep and maintenance needs of these vessels and their crews. The United States is notifying the UNSC's Serbian Sanctions Committee of the United States's intention to license some or all of these remaining four vessels upon the owner's request.

With the FAC-licensed sales of the M/V Kapetan Martinovic and the M/V Bor, those vessels were removed from the list of blocked FRY entities and merchant vessels maintained by FAC. The new owners of several formerly Yugoslav-owned vessels, which have been sold in other countries, have petitioned FAC to remove those vessels from the list. FAC, in coordination with the Department of State, is currently reviewing the sale terms and conditions for those vessels to ascertain whether they comply with U.N. sanctions objectives and UNSC's Serbian Sanctions Committee practice.

During the past 6 months, U.S. financial institutions have continued to block funds transfers in which there is an interest of the Government of the FRY (S/M) or an entity or undertaking located in or controlled from the FRY (S/M), and to stop prohibited transfers to persons in the FRY (S/M). Such interdicted transfers have accounted for $125.6 million since the issuance of Executive order No. 12808, including some $9.3 million during the past 6 months.

To ensure compliance with the terms of the licenses that have been issued under the program, stringent reporting requirements are imposed. More than 279 submissions have been reviewed by FAC since the last report, and more than 125 compliance cases are currently open.

6. Since the issuance of Executive Order No. 12810, FAC has worked closely with the U.S. Customs Service to ensure both that prohibited imports and exports (including those in which the Government of the FRY (S/M) or Bosnian Serb authorities have an interest) are identified and interdicted, and that permitted imports and exports move to their intended destination without undue delay. Violations and suspected violations of the embargo are being investigated and appropriate enforcement actions are being taken. There are currently 37 cases under active investigation. Since the last report, FAC has collected nine civil penalties totaling nearly $20,000. Of these, five were paid by U.S. financial institutions for violative funds transfers involving the Government of the FRY (S/M), persons in the FRY (S/M), or entities located or organized in or controlled from the FRY (S/M). Three U.S. companies and one air carrier have also paid penalties related to exports or unlicensed payments to the Government of the FRY (S/M) or persons in the FRY (S/M) or other violations of the Regulations.

7. The expenses incurred by the Federal Government in the 6-month period from November 30, 1994, through May 29, 1995, that are directly attributable to the authorities conferred by the declaration of a national emergency with respect to the FRY (S/M) and the Bosnian Serb forces and authorities are estimated at about $3.5 million, most of which represent wage and salary costs for Federal personnel. Personnel costs were largely centered in the Department of the Treasury (particularly in FAC and its Chief Counsel's Office, and the U.S. Customs Service), the Department of State, the National Security Council, the U.S. Coast Guard, and the Department of Commerce.

8. The actions and policies of the Government of the FRY (S/M), in its involvement in and support for groups attempting to seize and hold territory in the Republics of Croatia and Bosnia and Herzegovina by force and violence, and the actions and policies of the Bosnian Serb forces and the authorities in the areas of Bosnia and Herzegovina under their control, continue to pose an unusual and extraordinary threat to the national security, foreign policy, and economy of the United States. The United States remains committed to a multilateral resolution of the conflict through implementation of the United Nations Security Council resolutions.

I shall continue to exercise the powers at my disposal to apply economic sanctions against the FRY (S/M) and the Bosnian Serb forces, civil authorities, and entities, as long as these measures are appropriate, and will continue to report periodically to the Congress on significant developments pursuant to 50 U.S.C. 1703(c).

WILLIAM J. CLINTON.

THE WHITE HOUSE, *July 18, 1995.*

GENERAL LEAVE

Mr. REGULA. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on H.R. 1977, the legislation which we are about to consider, and that I may be permitted to include tables, charts, and other material.

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

There was no objection.

DEPARTMENT OF THE INTERIOR AND RELATED AGENCIES APPROPRIATIONS ACT, 1996

The SPEAKER pro tempore. Pursuant to House Resolution 187 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. 1977.

□ 1222

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. 1977), making appropriations for the Department of the Interior and related agencies for the fiscal year ending September 30, 1996, and for other purposes, with Mr. BURTON in the chair.

The Clerk read the title of the bill.

The CHAIRMAN. When the Committee of the Whole House rose on Monday, July 17, 1995, title III was open for amendment at any point.

Mr. REGULA. Mr. Chairman, I ask unanimous consent to strike the last word, in order that I may address the House to explain the vote situation.

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

There was no objection.

Mr. REGULA. Mr. Chairman, there are two votes pending at this point that were rolled over from title II last night. The first will be a vote on the question of a sale of 7 million barrels of oil from Weeks Island in order to pay for the cost of moving the balance of the oil from Weeks Island to another location in SPR. Presently, Weeks Island is leaking and the oil has to be moved.

There is an amendment pending that would eliminate the language that allows the sale of the 7 million barrels to provide the necessary funds to move the oil and make whatever repairs would be required on the balance of SPR.

The second amendment, Mr. Chairman is an amendment offered by the

gentleman from Ohio [Mr. CHABOT] that would eliminate the funding for the National Endowment for the Humanities. Those would be the two amendments that will be before us. The first will be the amendment of the gentleman from Colorado [Mr. SCHAEFER] on the Weeks Island issue; the second will be on the amendment of the gentleman from Ohio [Mr. CHABOT] to defund NEH.

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

Mr. REGULA. I yield to the gentleman from Colorado.

Mr. SCHAEFER. Mr. Chairman, I have a very short comment. These both were debated last night in full, and I recognize the work the chairman has put in on this particular piece of legislation. We just disagree on this point.

Mr. Chairman, I would ask, am I understanding this correctly, that both of these amendments will have recorded votes? May I ask if both of these amendments have recorded votes?

The CHAIRMAN. The requests for recorded votes are pending from last night.

Mr. REGULA. That is correct. The plan would be a recorded vote on both, probably 15 minutes on the first, and 5 minutes on the second. Would that be correct, Mr. Chairman?

The CHAIRMAN. The votes have not yet been ordered, but the Chair will put that question shortly.

Mr. REGULA. Mr. Chairman, there would then be a 15-minute vote on Weeks Island and a 5-minute vote on the amendment offered by the gentleman from Ohio [Mr. CHABOT].

The CHAIRMAN. That is the intention of the Chair.

Mr. REGULA. If they are ordered, yes.

Mr. SCHAEFER. Mr. Chairman, I intend to move that a quorum is not present, if indeed it is not ordered.

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

Mr. REGULA. I yield to the gentleman from Illinois.

Mr. YATES. Mr. Chairman, as the chairman explained, there are two votes pending on the Department of the Interior appropriation bill. The first, of course, is on the amendment by the gentleman from Colorado [Mr. SCHAEFER] respecting Weeks Island; to strike the provision which allows the Secretary of Energy to sell on a one-time basis 7 million barrels of oil from storage at Weeks Island, LA.

The amount to be sold is less than 1 day of oil imports. It is only a little more than 1 percent of the total reserve. If the oil is not sold, this bill will be over its 602(b) allocation, and in conference, $100 million more would have to be covered out of a bill that is already very, very tight. This would place Park Service in jeopardy, Indian health in jeopardy, and place revenue-producing programs in jeopardy.

In addition, Mr. Chairman, if the Department of Energy is unable to attend to the problems at Weeks Island, we are going to be faced with the distinct possibility of an oil spill of far greater magnitude than the *Exxon Valdez*.

The second amendment we will be voting on is the amendment offered by the gentleman from Ohio [Mr. CHABOT] to eliminate all funding for the National Endowment for the Humanities.

□ 1230

His amendment does not accord with either the authorizing committee or the appropriations committee.

As I indicated last night, Mr. Chairman, the National Endowment for the Humanities is a unique organization. It is an organization that promotes the essence, the elements of democracy in our country. To my mind it is one of the must powerful educational forces we have in this country. The NEH helps teachers obtain the tools with which they can better transmit their subjects to more pupils.

The National Endowment for the Humanities has already been cut much too much in my opinion. It has been cut from an appropriation of $172 million to $99.5 million, 42 percent cut. I think that both amendments should be defeated.

SEQUENTIAL VOTES POSTPONED IN COMMUNITTEE OF THE WHOLE

The CHAIRMAN. Pursuant to House Resolution 189, proceedings will now resume on those amendments on which further proceedings were postponed, in the following order: Amendment No. 41 offered by the gentleman from Colorado [Mr. SCHAEFER]; amendment No. 11 offered by the gentleman from Ohio [Mr. CHABOT].

The Chair will reduce to 5 minutes the time for any electronic vote after the first vote in this series.

AMENDMENT NO. 41 OFFERED BY MR. SCHAEFER

The CHAIRMAN. The unfinished business is the demand for a recorded vote on amendment No. 41 offered by the gentleman from Colorado [Mr. SCHAEFER] on which further proceedings were postponed and on which the noes prevailed by division vote.

The Clerk will redesignate the amendment.

The text of the amendment is as follows:

Amendment No. 41 offered by Mr. SCHAEFER: Page 57, line 7, strike "$287,000,000" and all that follows through "Reserve" on line 21, and insert the following: $187,000,000, to remain available until expended, which shall be derived by transfer of unobligated balances from the "SPR petroleum account".

RECORDED VOTE

The CHAIRMAN. A recorded vote has been demanded.

A recorded vote was ordered.

The CHAIRMAN. This is a 15-minute vote, to be followed by a possible 5-minute vote.

The vote was taken by electronic device, and there were—ayes 157, noes 267, not voting 10, as follows:

[Roll No. 517]

AYES—157

Archer
Armey
Bachus
Baesler
Baker (LA)
Ballenger
Barcia
Barr
Barrett (WI)
Barton
Bateman
Bentsen
Bilbray
Bilirakis
Bliley
Browder
Brownback
Bryant (TN)
Bryant (TX)
Bunning
Burr
Burton
Callahan
Calvert
Camp
Cardin
Chambliss
Chenoweth
Christensen
Coburn
Condit
Cooley
Cramer
Crapo
Cunningham
Danner
de la Garza
Deal
Deutsch
Diaz-Balart
Dingell
Edwards
Engel
Everett
Fawell
Fields (LA)
Fields (TX)
Filner
Franks (CT)
Frisa
Frost
Funderburk
Ganske
Gejdenson
Gephardt
Geren
Gillmor
Gordon
Graham
Greenwood
Gunderson
Hall (TX)
Hansen
Harman
Hastert
Hastings (WA)
Hayes
Hayworth
Hefley
Heineman
Herger
Hilleary
Hinchey
Houghton
Hunter
Hutchinson
Hyde
Jackson-Lee
Jefferson
Jones
Kasich
Kennedy (MA)
Kennelly
Kildee
King
Kingston
Kleczka
LaFalce
Largent
Laughlin
Levin
Lincoln
Linder
Lipinski
LoBiondo
Lucas
Manzullo
Markey
McCollum
McCrery
McHugh
McInnis
McIntosh
McKeon
McNulty
Menendez
Mink
Molinari
Montgomery
Moorhead
Moran
Nadler
Neal
Ney
Norwood
Nussle
Ortiz
Orton
Oxley
Pallone
Parker
Paxon
Pickett
Pombo
Quinn
Roberts
Ros-Lehtinen
Salmon
Schaefer
Scott
Sisisky
Skelton
Slaughter
Smith (MI)
Smith (WA)
Solomon
Spratt
Stenholm
Stockman
Stump
Stupak
Tanner
Tauzin
Taylor (MS)
Thurman
Upton
Visclosky
Wamp
Weller
White
Whitfield
Williams
Wilson
Woolsey
Wyden
Wynn
Young (AK)

NOES—267

Abercrombie
Ackerman
Allard
Andrews
Baker (CA)
Baldacci
Barrett (NE)
Bartlett
Bass
Becerra
Beilenson
Bereuter
Berman
Bevill
Bishop
Blute
Boehlert
Boehner
Bonilla
Bonior
Bono
Borski
Boucher
Brewster
Brown (CA)
Brown (FL)
Brown (OH)
Bunn
Buyer
Canady
Castle
Chabot
Chapman
Chrysler
Clay
Clayton
Clement
Clinger
Clyburn
Coble
Coleman
Collins (GA)
Collins (IL)
Combest
Costello
Cox
Coyne
Crane
Cremeans
Cubin
Davis
DeFazio
DeLauro
DeLay
Dellums
Dickey
Dicks
Dixon
Doggett
Dooley
Doolittle
Dornan
Doyle
Dreier
Duncan
Dunn
Durbin
Ehlers
Ehrlich
Emerson
English
Ensign
Eshoo
Evans
Ewing
Farr
Fattah
Fazio
Flanagan
Foglietta
Foley
Forbes
Ford
Fowler
Fox
Frank (MA)
Franks (NJ)
Frelinghuysen
Furse
Gallegly
Gekas
Gibbons
Gilchrest
Gilman
Gonzalez
Goodlatte
Goodling
Goss
Green
Gutierrez
Gutknecht
Hall (OH)
Hamilton
Hancock
Hastings (FL)
Hefner
Hilliard
Hobson
Hoekstra
Hoke
Holden

Horn
Hostettler
Hoyer
Inglis
Istook
Jacobs
Johnson (CT)
Johnson, E. B.
Johnson, Sam
Johnston
Kanjorski
Kaptur
Kelly
Kim
Klink
Klug
Knollenberg
Kolbe
LaHood
Lantos
Latham
LaTourette
Lazio
Leach
Lewis (CA)
Lewis (GA)
Lewis (KY)
Lightfoot
Livingston
Lofgren
Longley
Lowey
Luther
Maloney
Manton
Martinez
Martini
Mascara
Matsui
McCarthy
McDade
McDermott
McHale
McKinney
Meehan
Meek
Metcalf
Meyers
Mfume
Mica
Miller (CA)
Miller (FL)
Mineta
Minge
Mollohan
Morella
Murtha
Myers
Myrick
Nethercutt
Neumann
Oberstar
Obey
Olver
Owens
Packard
Pastor
Payne (NJ)
Payne (VA)
Pelosi
Peterson (FL)
Peterson (MN)
Petri
Pomeroy
Porter
Portman
Poshard
Pryce
Quillen
Radanovich
Rahall
Ramstad
Rangel
Reed
Regula
Riggs
Rivers
Roemer
Rogers
Rohrabacher
Rose
Roth
Roukema
Roybal-Allard
Royce
Rush
Sabo
Sanders
Sanford
Sawyer
Saxton
Scarborough
Schiff
Schroeder
Schumer
Seastrand
Sensenbrenner
Serrano
Shadegg
Shaw
Shays
Shuster
Skaggs
Skeen
Smith (NJ)
Smith (TX)
Souder
Spence
Stark
Stearns
Stokes
Studds
Talent
Tate
Taylor (NC)
Tejeda
Thomas
Thompson
Thornberry
Thornton
Tiahrt
Torkildsen
Torres
Torricelli
Towns
Traficant
Tucker
Velazquez
Vento
Vucanovich
Walker
Walsh
Ward
Waters
Watt (NC)
Watts (OK)
Waxman
Weldon (FL)
Weldon (PA)
Wicker
Wise
Wolf
Yates
Young (FL)
Zeliff
Zimmer

NOT VOTING—10

Collins (MI)
Conyers
Flake
Johnson (SD)
Kennedy (RI)
Moakley
Reynolds
Richardson
Volkmer
Waldholtz

□ 1256

Mrs. CUBIN, Messrs. KIM, WISE, JOHNSTON of Florida, CHRYSLER, ZELIFF, COBLE, TATE, CRANE, PAYNE of New Jersey, GONZALEZ, SMITH of Texas, INGLIS of South Carolina, LAHOOD, and GUTIERREZ changed their vote from "aye" to "no."

Messrs. MENENDEZ, GEJDENSON, KING, KLECZKA, CRAMER, SCOTT, HERGER, ENGEL, NADLER, SALMON, KENNEDY of Massachusetts, Ms. WOOLSEY, and Ms. SLAUGHTER changed their vote from "no" to "aye."

So the amendment was rejected.

The result of the vote was announced as above recorded.

PERSONAL EXPLANATION

Mr. JOHNSON of South Dakota. Mr. Speaker, I rise today to inform the House that I inadvertently missed two votes, rollcall Nos. 516 and 517, earlier today due to a malfunction in the House electronic pager system. Had I been present I would have voted "nay" in each instance.

PARLIAMENTARY INQUIRY

Mr. DICKS. Mr. Chairman, I have a parliamentary inquiry.

The CHAIRMAN. The gentleman will state it.

Mr. DICKS. Mr. Chairman, will the next amendment eliminate all funding for the National Endowment for the Humanities, after the committee cut it by 40 percent?

The CHAIRMAN. The gentleman has not stated a proper parliamentary inquiry.

AMENDMENT NO. 11 OFFERED BY MR. CHABOT

The CHAIRMAN. The unfinished business is the demand for a recorded vote on amendment No. 11 offered by the gentleman from Ohio [Mr. CHABOT] on which further proceedings were postponed and on which the "noes" prevailed by voice vote.

The Clerk will redesignate the amendment.

The text of the amendment is as follows:

Amendment No. 11 offered by Mr. CHABOT:

Page 73, strike line 16 and all that follows through page 74, line 15.

RECORDED VOTE

The CHAIRMAN. A recorded vote has been demanded.

A recorded vote was ordered.

The CHAIRMAN. This is a 5-minute vote.

The vote was taken by electronic device, and there were—ayes 148, noes 277, not voting 9, as follows:

[Roll No. 518]

AYES—148

Allard
Archer
Armey
Baker (CA)
Barcia
Barr
Bartlett
Barton
Bateman
Bilirakis
Bliley
Boehner
Bono
Brewster
Brownback
Bryant (TN)
Bunning
Burton
Callahan
Calvert
Canady
Chabot
Chambliss
Chapman
Chenoweth
Christensen
Chrysler
Coble
Coburn
Collins (GA)
Combest
Condit
Cooley
Cox
Crane
Crapo
Cremeans
Cubin
Cunningham
Deal
DeLay
Dickey
Doolittle
Dreier
Duncan
Dunn
Emerson
Everett
Ewing
Fields (TX)
Foley
Frisa
Funderburk
Gallegly
Gekas
Geren
Gillmor
Goodlatte
Gutknecht
Hall (TX)
Hancock
Hastert
Hastings (WA)
Hayworth
Hefley
Heineman
Herger
Hilleary
Hostettler
Hunter
Hutchinson
Inglis
Istook
Johnson, Sam
Jones
Kasich
King
Kingston
Largent
Latham
Laughlin
Lewis (CA)
Lewis (KY)
Lightfoot
Linder
Lucas
Manzullo
McInnis
McIntosh
McKeon
Metcalf
Mica
Molinari
Montgomery
Moorhead
Myrick
Neumann
Ney
Norwood
Nussle
Orton
Oxley
Parker
Paxon
Petri
Pombo
Quillen
Radanovich
Ramstad
Roberts
Rogers
Rohrabacher
Roth
Royce
Salmon
Scarborough
Schaefer
Seastrand
Sensenbrenner
Shadegg
Shaw
Shuster
Smith (TX)
Smith (WA)
Solomon
Souder
Stearns
Stenholm
Stockman
Stump
Talent
Tate
Tauzin
Taylor (MS)
Taylor (NC)
Thomas
Thornberry
Tiahrt
Walker
Wamp
Watts (OK)
Weldon (FL)
Weller
Whitfield
Wicker
Young (AK)
Young (FL)
Zimmer

NOES—277

Abercrombie
Ackerman
Andrews
Bachus
Baesler
Baker (LA)
Baldacci
Ballenger
Barrett (NE)
Barrett (WI)
Bass
Becerra
Beilenson
Bentsen
Bereuter
Berman
Bevill
Bilbray
Bishop
Blute
Boehlert
Bonilla
Bonior
Borski
Boucher
Browder
Brown (CA)
Brown (FL)
Brown (OH)
Bryant (TX)
Bunn
Burr
Buyer
Camp
Cardin
Castle
Clay
Clayton
Clement
Clinger
Clyburn
Coleman
Collins (IL)
Conyers
Costello
Coyne
Cramer
Danner
Davis
de la Garza
DeFazio
DeLauro
Dellums
Deutsch
Diaz-Balart
Dicks
Dingell
Dixon
Doggett
Dooley
Doyle
Durbin
Edwards
Ehlers
Ehrlich
Engel
English
Ensign
Eshoo
Evans
Farr
Fattah
Fawell
Fazio
Fields (LA)
Filner
Flanagan
Foglietta
Forbes
Ford
Fowler
Fox
Frank (MA)
Franks (CT)
Franks (NJ)
Frelinghuysen
Frost
Furse
Ganske
Gejdenson
Gephardt
Gibbons
Gilchrest
Gilman
Gonzalez
Goodling
Gordon
Goss
Graham
Green
Greenwood
Gunderson
Gutierrez
Hall (OH)
Hamilton
Hansen
Harman
Hastings (FL)
Hayes
Hefner
Hilliard
Hinchey
Hobson
Hoekstra
Hoke
Holden
Horn
Houghton
Hoyer
Hyde
Jackson-Lee
Jacobs
Jefferson
Johnson (CT)
Johnson (SD)
Johnson, E. B.
Johnston
Kanjorski
Kaptur
Kelly
Kennedy (MA)
Kennelly
Kildee
Kim
Kleczka
Klink
Klug
Knollenberg
Kolbe
LaFalce
LaHood
Lantos
LaTourette
Lazio
Leach
Levin
Lewis (GA)
Lincoln
Lipinski
Livingston
LoBiondo
Lofgren
Longley
Lowey
Luther
Maloney
Manton
Markey
Martinez
Martini
Mascara
Matsui
McCarthy
McCollum
McCrery
McDade
McDermott
McHale
McHugh
McKinney
McNulty
Meehan
Meek
Menendez
Meyers
Mfume
Miller (CA)
Miller (FL)
Mineta
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Mink
Mollohan
Moran
Morella
Murtha
Myers
Nadler
Neal
Nethercutt
Oberstar
Obey
Olver
Ortiz
Owens
Packard
Pallone
Pastor
Payne (NJ)
Payne (VA)
Pelosi
Peterson (FL)
Peterson (MN)
Pickett
Pomeroy
Porter
Portman
Poshard
Pryce
Quinn
Rahall
Rangel
Reed
Regula
Riggs
Rivers
Roemer
Ros-Lehtinen
Rose
Roukema
Roybal-Allard
Rush
Sabo
Sanders
Sanford
Sawyer
Saxton
Schiff
Schroeder
Schumer
Scott
Serrano
Shays
Sisisky
Skaggs
Skeen
Skelton
Slaughter
Smith (MI)
Smith (NJ)
Spence
Spratt
Stark
Stokes
Studds
Stupak
Tanner
Tejeda
Thompson
Thornton
Thurman
Torkildsen
Torres
Torricelli
Towns
Traficant
Tucker
Upton
Velazquez
Vento
Visclosky
Vucanovich
Walsh
Ward
Waters
Watt (NC)
Waxman
Weldon (PA)
White
Williams
Wilson
Wise

Wolf	Wyden	Yates
Woolsey	Wynn	Zeliff

NOT VOTING—9

Collins (MI)	Kennedy (RI)	Richardson
Dornan	Moakley	Volkmer
Flake	Reynolds	Waldholtz

□ 1305

So the amendment was rejected.

The result of the vote was announced as above recorded.

The CHAIRMAN. Are there amendments to title III?

AMENDMENT OFFERED BY MR. OLVER

Mr. OLVER. Mr. Chairman, I offer an amendment, amendment No. 70.

The CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment offered by Mr. OLVER:

AMENDMENT NO. 70

At the end of the bill add the following new section:

"SEC. . None of the funds made available in this Act may be used by the Department of Energy in implementing the Codes and Standards Program to plan, propose, issue, or prescribe any new or amended standard—

"(1) when it is made known to the Federal official having authority to obligate or expend such funds that the Attorney General, in accordance with section 325(o)(2)(B) of the Energy Policy and Conservation Act (42 U.S.C. 6295(o)(2)(B)), determined that the standard is likely to cause significant anticompetitive effects;

"(2) that the Secretary of Energy, in accordance with such section 325(o)(2)(B), has determined that the benefits of the standard do not exceed its burdens; or

"(3) that is for fluorescent lamps ballasts.".

POINT OF ORDER

Mr. WALKER. Mr. Chairman, I have a point of order.

The CHAIRMAN. The gentleman from Pennsylvania will state his point of order.

Mr. WALKER. At this point in the bill, the amendment is not raised timely. It has to come at the end of this title rather than in the middle of the title.

The CHAIRMAN. Does the gentleman from Massachusetts wish to be heard on the point of order?

Mr. OLVER. I accept the point of order.

The CHAIRMAN. Until the Clerk reads the last two lines of the bill, limitation amendments are not in order where that point is raised.

Are there amendments to title III?

Mr. GUNDERSON. Mr. Chairman, I move to strike the last word for the purposes of entering into a colloquy with the distinguished chairman of the committee.

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

There was no objection.

The CHAIRMAN. The gentleman from Wisconsin is recognized for 5 minutes.

Mr. GUNDERSON. Mr. Chairman, I want to thank the distinguished chairman of the Interior appropriations subcommittee for engaging in this colloquy with me. All of us in the Congress are faced, as we know, with tough fiscal choices this year. There is nobody who has faced that any more than the chairman of the Interior appropriations subcommittee, as he has tried to deal with the difficult decisions in this area.

I rise, however, this afternoon to caution the chairman that some of the cuts that are being proposed may actually have negative consequences of costing us more than we intended to save. The bill before us does not specify exactly where the money cut from the National Biological Survey is to be taken. However, without specific guidance or direction as to where those cuts should be made, I fear that cuts will be based on some formula that focuses more heavily on meeting the internal agenda of the Department of the Interior rather than on focusing on more broadly what is best for our Nation as a whole.

In fact, this is already illustrated by a recent decision by the Department of the Interior to issue a list outlining labs currently under the jurisdiction of the National Biological Survey that would be closed. One lab slated for closure is the national fisheries lab within the Upper Mississippi Science Center in LaCrosse, WI. I have a letter I would like to insert from Secretary Babbitt at this point in the RECORD that articulates this.

The Upper Mississippi Science Center is a one-of-a-kind research facility. The work this facility performs is unique and essential to the Nation.

Under a contract with 40 different States, the center conducts research which is necessary for registering chemicals and drugs used in aquaculture and marine fisheries. This center is the only research institute in the country with the facilities, personnel, experience, and laboratory practices for the development of information necessary to drug and chemical registration processes.

I am convinced that without an adequate and diverse supply of these chemical and drug products, public safety would obviously be compromised, especially with consumption of seafood products, as that continues to increase. Currently, we inspect seafood products using a system that is both risk-based and science-based. Loss of the national fisheries lab would threaten the supply of products that helps to minimize these risks. Loss of this lab would undoubtedly force us to reinvest greater funding in seafood inspection activities, since a system that is risk-based increases the size and scope in direct proportion with the risk it attempts to curtail.

I would assure the distinguished chairman that my subcommittee, the committee on Agriculture Subcommittee on Livestock, Dairy, and Poultry, will be proceeding with legislative reform of our Nation's meat, poultry, and seafood inspection systems.

If we cut at this time funding to the National Biological Survey for this particular lab without providing specific guidance on where the money should be taken from, it would put this entire process in jeopardy and we would simply have to recreate that inspection and that scientific research process later on.

Therefore, I would request that the chairman would take the necessary actions to ensure that we can reach our combined legislative objectives without forcing us to actually raise the budget deficit.

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

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

Mr. REGULA. I thank the gentleman for yielding.

Mr. Chairman, I thank the distinguished chairman of the Livestock, Dairy, and Poultry Subcommittee for his remarks. I especially appreciate his acknowledgement of and support for the deficit reduction activities that my subcommittee is engaged in.

I do not envy the task ahead of the distinguished chairman as he takes up legislation to reform our Nation's systems of meat, poultry, and seafood inspection.

I recognize the fact that any cuts to the Upper Mississippi Science Center put you in a precarious position of having to potentially develop a more intense and costly system of seafood inspection.

Certainly, maintaining the safest, most abundant, highest quality, and most affordable food supply on the planet is in the best interest of all Americans.

I would like to assure the gentleman that while this bill reduces funding by over $60 million for biological research programs, and transfers programs to a research arm within the U.S. Geological Survey, nothing in this bill specifically requires where specific cuts should be made. Those decisions will be made on a priority basis solely within the Department of the Interior.

Towards that end, I would encourage the Secretary of the Interior to proceed cautiously in determining what the highest priority research needs are for lands administered by the Department of the Interior, making those decisions on the basis of national priorities.

Mr. GUNDERSON. I appreciate the gentleman's remarks and would hope that the Department of the Interior would recognize that the decisions we make here in the National Biological Survey in no way are meant to direct specific decisions regarding specific labs.

The CHAIRMAN. Are there further amendments to title III?

AMENDMENT OFFERED BY MR. OWENS

Mr. OWENS. Mr. Chairman, I offer an amendment.

The CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment offered by Mr. OWENS: Page 94, after line 23, insert the following new section:

SEC. 318. (a) RESERVATION OF ROYALTY.—Production of all locatable minerals from any mining claim located under the general mining laws, or mineral concentrates or products derived from locatable minerals from any mining claim located under the general mining laws, as the case may be, shall be subject to a royalty of 8 percent of the gross income from such production. The claimholder and any operator to whom the claimholder has assigned the obligation to make royalty payments under the claim and any person who controls such claimholder or operator shall be jointly and severally liable for payment of such royalties.

(b) DUTIES OF CLAIM HOLDERS, OPERATORS, AND TRANSPORTERS.—(1) A person—

(A) who is required to make any royalty payment under this section shall make such payments to the United States at such times and in such manner as the Secretary may by rule prescribe; and

(B) shall notify the Secretary, in the time and manner as may be specified by the Secretary, of any assignment that such person may have made of the obligation to make any royalty or other payment under a mining claim.

(2) Any person paying royalties under this section shall file a written instrument, together with the first royalty payment, affirming that such person is liable to the Secretary for making proper payments for all amounts due for all time periods for which such person as a payment responsibility. Such liability for the period referred to in the preceding sentence shall include any and all additional amounts billed by the Secretary and determined to be due by final agency or judicial action. Any person liable for royalty payments under this section who assigns any payment obligation shall remain jointly and severally liable for all royalty payments due for the claim for the period.

(3) A person conducting mineral activities shall—

(A) develop and comply with the site security provisions in operations permit designed to protect from theft the locatable minerals, concentrates or products derived therefrom which are produced or stored on a mining claim, and such provisions shall conform with such minimum standards as the Secretary may prescribe by rule, taking into account the variety of circumstances on mining claims; and

(B) not later than the 5th business day after production begins anywhere on a mining claim, or production resumes after more than 90 days after production was suspended, notify the Secretary, in the manner prescribed by the Secretary, of the date on which such production has begun or resumed.

(4) The Secretary may by rule require any person engaged in transporting a locatable mineral, concentrate, or product dervied therefrom to carry on his or her person, in his or her vehicle, or in his or her immediate control, documentation showing, at a minimum, the amount, origin, and intended destination of the locatable mineral, concentrate, or product derived therefrom in such circumstances as the Secretary determines is appropriate.

(c) RECORDKEEPING AND REPORTING REQUIREMENTS.—(1) A claim holder, operator, or other person directly involved in developing, producing, processing, transporting, purchasing, or selling locatable minerals, concentrates, or products derived therefrom, subject to this Act, through the point of royalty computation shall establish and maintain any records, make any reports, and provide any information that the Secretary may reasonably require for the purposes of implementing this section or determining compliance with rules or orders under this section. Such records shall include, but not be limited to, periodic reports, records, documents, and other data. Such reports may also include, but not be limited to, pertinent technical and financial data relating to the quantity, quality, composition volume, weight, and assay of all minerals extracted from the mining claim. Upon the request of any officer or employee duly designated by the Secretary or any State conducting an audit or investigation pursuant to this section, the appropriate records, reports, or information which may be required by this section shall be made available for inspection and duplication by such officer or employee or State.

(2) Records required by the Secretary under this section shall be maintained for 6 years after cessation of all mining activity at the claim concerned unless the Secretary notifies the operator that he or she has initiated an audit or investigation involving such records and that such records must be maintained for a longer period. In any case when an audit or investigation is underway, records shall be maintained until the Secretary releases the operator of the obligation to maintain such records.

(d) AUDITS.—The Secretary is authorized to conduct such audits of all claim holders, operators, transporters, purchasers, processors, or other persons directly or indirectly involved in the production or sales of minerals covered by this title, as the Secretary deems necessary for the purposes of ensuring compliance with the requirements of this section. For purposes of performing such audits, the Secretary shall, at reasonable times and upon request, have access to, and may copy, all books, papers and other documents that relate to compliance with any provision of this section by any person.

(e) COOPERATIVE AGREEMENTS.—(1) The Secretary is authorized to enter into cooperative agreements with the Secretary of Agriculture to share information concerning the royalty management of locatable minerals, concentrates, or products derived therefrom, to carry out inspection, auditing, investigation, or enforcement (not including the collection of royalties, civil or criminal penalties, or other payments) activities under this section in cooperation with the Secretary, and to carry out any other activity described in this section.

(2) Except as provided in paragraph (4)(A) of this subsection (relating to trade secrets), and pursuant to a cooperative agreement, the Secretary of Agriculture shall, upon request, have access to all royalty accounting information in the possession of the Secretary respecting the production, removal, or sale of locatable minerals, concentrates, or products derived therefrom from claims on lands open to location under the general mining laws.

(3) Trade secrets, proprietary, and other confidential information shall be made available by the Secretary pursuant to a cooperative agreement under this subsection to the Secretary of Agriculture upon request only if—

(A) the Secretary of Agriculture consents in writing to restrict the dissemination of the information to those who are directly involved in an audit or investigation under this section and who have a need to know;

(B) the Secretary of Agriculture accepts liability for wrongful disclosure; and

(C) the Secretary of Agriculture demonstrates that such information is essential to the conduct of an audit or investigation under this subsection.

(f) INTEREST AND SUBSTANTIAL UNDERREPORTING ASSESSMENTS.—(1) In the case of mining claims where royalty payments are not received by the Secretary on the date that such payments are due, the Secretary shall charge interest on such under payments at the same interest rate as is applicable under section 6621(a)(2) of the Internal Revenue Code of 1986. In the case of an underpayment, interest shall be computed and charged only on the amount of the deficiency and not on the total amount.

(2) If there is any underreporting of royalty owed on production from a claim for any production month by any person liable for royalty payments under this section, the Secretary may assess a penalty of 10 percent of the amount of that underreporting.

(3) If there is a substantial underreporting of royalty owed on production from a claim for any production month by any person responsible for paying the royalty, the Secretary may assess an additional penalty of 10 percent of the amount of that underreporting.

(4) For the purposes of this subsection, the term "underreporting" means the difference between the royalty on the value of the production which should have been reported and the royalty on the value of the production which was reported, if the value which should have been reported is greater than the value which was reported. An underreporting constitutes a "substantial underreporting" if such difference exceeds 10 percent of the royalty on the value of production which should have been reported.

(5) The Secretary shall not impose the assessment provided in paragraphs (2) or (3) of this subsection if the person liable for royalty payments under this section corrects the underreporting before the date such person receives notice from the Secretary that an underreporting may have occurred, or before 90 days after the date of the enactment of this section, whichever is later.

(6) The Secretary shall waive any portion of an assessment under paragraph (2) or (3) of this subsection attributable to that portion of the underreporting for which the person responsible for paying the royalty demonstrates that—

(A) such person had written authorization from the Secretary to report royalty on the value of the production on basis on which it was reported, or

(B) such person had substantial authority for reporting royalty on the value of the production on the basis on which it was reported, or

(C) such person previously had notified the Secretary, in such manner as the Secretary may by rule prescribe, of relevant reasons or facts affecting the royalty treatment of specific production which led to the underreporting, or

(D) such person meets any other exception which the Secretary may, by rule, establish.

(7) All penalties collected under this subsection shall be deposited in the Treasury.

(g) EXPANDED ROYALTY OBLIGATIONS.—Each person liable for royalty payments under this section shall be jointly and severally liable for royalty on all locatable minerals, concentrates, or products derived therefrom lost or wasted from a mining claim located or converted under this section when such loss or waste is due to negligence on the part of any person or due to the failure to comply with any rule, regulation, or order issued under this section.

(h) EXCEPTION.—No royalty shall be payable under subsection (a) with respect to minerals processed at a facility by the same person or entity which extracted the minerals if an urban development action grant has been made under section 119 of the Housing and Community Development Act of 1974 with respect to any portion of such facility.

(i) EFFECTIVE DATE.—The royalty under this section shall take effect with respect to the production of locatable minerals after the enactment of this Act, but any royalty payments attributable to production during the first 12 calendar months after the enactment of this Act shall be payable at the expiration of such 12-month period.

POINT OF ORDER

Mr. POMBO. Mr. Chairman, I make a point of order.

The CHAIRMAN. The gentleman will state his point of order.

Mr. POMBO. Mr. Chairman, the amendment offered by the gentleman from New York [Mr. OWENS] violates clause 2 of rule XXI of the Rules of the House. The amendment is clearly a legislative provision and, therefore, should not be added to the appropriations bill.

The CHAIRMAN. Does the gentleman from New York desire to be heard on the point of order?

Mr. OWENS. Yes, Mr. Chairman.

The point of order which has been raised against this amendment represents gross hypocrisy.

While my amendment does include authorizing language, that is, by proper observance of the rules, not permitted in an appropriations bill, by now it is crystal clear to all of us that this appropriation bill is riddled with scores of authorization provisions, and there are many more appropriations bills on their way through the subcommittee and the committee process which have even more examples of authorization provisions.

This point of order represents an unbridled hypocrisy because both Democratic and Republican Members on the floor here are prevented from proposing the same types of substantive changes to bills that the authors of the appropriations bills clearly are being allowed to propose in subcommittee and in committee.

I will just give you one example in this particular bill, page 478, line 14. There is a $50 million earmark to remain available indefinitely for construction of forest roads by timber purchasers, $50 million. That is legislating. It is legislating in favor of corporate welfare, pure and simple, corporate welfare, but in the bill.

Specifically, in this case, by possibly blocking a vote on my amendment, this point of order would rob the American people of the opportunity to reduce the deficit by almost $2 billion over 7 years, and we all want to reduce the deficit.

Here is a creative way to reduce the deficit. Here is a creative way to get new revenue without taxes. We are all looking for new ways to get revenue without taxes, I am sure.

It is a golden opportunity to also exhibit truth in budget balancing. If you really want to balance the budget, let us deal with some of the giveaways that we are always protecting. With all of the talk I hear about deficit reduction from the other side of the aisle, I am shocked some of my Republican colleagues prefer to continue to allow rich mining companies to continue to pocket the money of hard-working American taxpayers.

This amendment would provide that the royalties would be charged, 8 percent royalty would be charged on the value of minerals produced from hardrock mining by private companies on Federal lands. Currently, the Federal Government does not collect a single dollar in royalties from these companies.

This is precisely the type of taxpayer swindle that the Republicans are not willing to talk about. It is a kind of corporate welfare that exists in the budget and in the appropriations process.

Mr. POMBO. Point of order. I do not believe the gentleman is addressing the point of order which I raised. I believe he does feel very strongly about his amendment, which is out of order, but he is not addressing the point of order which I raised.

□ 1315

The CHAIRMAN. The gentleman's point is well taken. The gentleman will confine his remarks to the point of order.

Mr. OWENS. The point of order relates to the fact that there is in this appropriation bill, and all the others, legislation of this kind. I just gave my colleagues one example, and this is proposing one that will be very beneficial for the American people in that it will reclaim a giveaway of gold——

Mr. POMBO. Again point of order, Mr. Chairman. He is not addressing the point of order in which I raised.

The CHAIRMAN. The gentleman's point is well taken. The gentleman will confine his remarks to the point of order, whether or not this amendment legislates on an appropriations bill.

Mr. OWENS. Well, I would like to know from the gentleman what is the difference between my amendment at page 47, line 14, of this particular bill which has a $50 million earmark to remain available indefinitely for the construction of forest roads——

Mr. POMBO. Again, Mr. Chairman——

The CHAIRMAN. The gentleman's point of order is well taken. The gentleman will confine his remarks to the point of order at hand.

The Chair is prepared to respond to the point of order.

Mr. OWENS. I am responding to the point of order in that there are under way numerous provisions of the same kind that I have here in appropriation bills. There are examples in this bill. I want to know what is the difference between the kind of amendment that I am proposing and the kind of provisions that are routinely based in the appropriations bills now. Mine would be of great benefit to the American people because it would stop allowing mining companies to rake in $1.2 million a year for mining hard-rock minerals on public lands that belong to——

Mr. POMBO. Again, Mr. Chairman, I have to raise a point of order.

The CHAIRMAN. The gentleman's point is well taken.

The Chair is prepared to rule on this point of order.

For the reasons stated by the gentleman from California the point of order is sustained. This amendment legislates on an appropriation bill——

Mr. OWENS. I appeal——

The CHAIRMAN. The fact that the other language is in the bill against which points of order have been waived, is not relevant.

Mr. OWENS. Mr. Chairman, I appeal the ruling of the Chair.

The CHAIRMAN. The question is, Shall the decision of the Chair stand as the judgment of the Committee?

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

So the decision of the Chair stood as the judgment of the Committee.

The CHAIRMAN. Are there further amendments to title III?

AMENDMENT OFFERED BY MR. GUTKNECHT

Mr. GUTKNECHT. Mr. Chairman, I offer an amendment.

The CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment offered by Mr. GUTKNECHT:

Page 94, after line 24, insert the following new section:

SEC. 318. None of the funds provided in this Act may be made available for the Mississippi River Corridor Heritage Commission.

The CHAIRMAN. Pursuant to the rule, the gentleman from Minnesota [Mr. GUTKNECHT] and a Member opposed will each be recognized for 5 minutes.

The Chair recognizes the gentleman from Minnesota [Mr. GUTKNECHT].

Mr. GUTKNECHT. Mr. Chairman, I yield myself a minute and a half.

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

Mr. Chairman, Jefferson once said that "The will of the people is the only legitimate foundation of any government." I have heard the will of the people of my district loud and clear and

this afternoon I am asking Congress to act upon that will.

These 3 books contain over 12,000 names of constituents from Minnesota, Wisconsin, and Iowa who strongly oppose designating the Mississippi River as a National Heritage Corridor. They believe that such a designation may be the Federal Government's first step towards increased Federal regulation in the 120 counties and parishes along the Mississippi.

The amendment we are offering would eliminate funds for the Mississippi River Heritage Corridor Commission.

Mark Twain once said that the closest thing to eternal life on earth is a government program. Congress created the Commission in 1990 for a 3 year period. They were extended once, and now they're seeking an additional $142,000 for a fifth year. It is time to put an end to this Commission before it grows roots.

There are basically two ways of looking at this Corridor Commission. Either it is, as 12,000 constituents believe, the early stages of a Federal takeover of the Mississippi corridor, or it is, as the Commission supporters have said, an innocuous group with no real power. If the latter is true, continuing to fund the Commission is a waste of taxpayer money. If the people are correct, we should do everything we can to make sure that the Father of Waters does not become the "Mother of all Federal land grabs."

The Commission has had 5 years to get public input on the National Heritage Corridor. To say that it needs an additional $142,000 to conduct 10 meetings is outrageous. Only in Washington could $14,000 per public meeting be considered a bargain.

Mr. Chairman, I yield 1 minute to the gentleman from Missouri [Mr. EMERSON].

Mr. EMERSON. Mr. Chairman, I rise today in strong support of the Gutknecht amendment and commend the gentleman's leadership in bringing this important matter for our action.

For those of you who may not be familiar with this issue, the actual Mississippi River Corridor Study Commission Act of 1989 stated that the final report of the Commission must be submitted no later than 3 years after the date of the first meeting of the Commission. Proponents of this Commission believed this would be a sufficient amount of time and money to complete its work. Well, we are in the fifth year and the study has yet to be completed, and now they are asking for more money.

More alarming, however, is the direction taken by the Commission since its creation. The plan would allow the Federal Government to designate the 120 counties and parishes that border the Mississippi River as an environmental corridor along the river with restrictive zoning requirements. If allowed to take place, this plan would seek to control all land use in adjacent river areas and override all local land use plans in these river counties. It's nothing more than a Federal land grab.

Furthermore, the Mississippi River Heritage Corridor would designate preserve areas to be controlled as the Federal Government sees fit. Even the National Park Service admits that while the general public believes the Heritage Corridor to be an economic revitalization program, it is in reality more preservation oriented. Likewise, I object to the cost of this project which would be seized from the pockets of Missouri taxpayers and I am staunchly opposed to giving Federal bureaucrats the say over the use of private property in these river areas.

Property owners, farmers, ranchers, and true conservationists up and down the river are opposed to this unjust governmental takings and other such efforts, such as The Mississippi River Heritage Corridor, to snatch control of their property. Clearly, we cannot allow preservationist and radical environmental interest groups along with a faceless Washington bureaucracy to dictate the use of thousands of acres of farmland in my home State and throughout the Upper and Lower Mississippi River Valley.

Mr. Chairman, I have heard from hundreds of my constituents on this issue and they oppose it. The Mississippi River Valley produces many millions of dollars worth of agricultural products for both domestic use and export throughout the world. This Federal land use undertaking is misguided and ill-conceived. The Gutknecht amendment must be adopted, and I urge my colleagues to support it.

Mr. YATES. Mr. Chairman, I rise in opposition to the amendment offered by the gentleman from Minnesota [Mr. GUTKNECHT].

Mr. Chairman, I think the gentleman from Missouri has a point, when he talks about the fact that the hearings were to have been completed and a report was to have been issued. Nevertheless, I want to rise in opposition to the amendment because there is nothing in the Corridor Commission feasibility report that would in any way provide for the takeover by the Federal Government of Private lands. The authority of the Commission does not in any way allow them to affect private property rights. It does not threaten property rights at all. It does not impose any regulatory burden on businesses or farms. There is nothing in this report that even suggests big government control of the Mississippi River.

I do not know why the Commission should not be allowed to complete its work. I think that there ought to be a deadline imposed on when the final report should be issued and that deadline should be strictly enforced so that any worries that private property owners along the river have can be allayed. Mr. Chairman, I see no basis for this amendment at all, and I oppose the amendment.

Mr. GUTKNECHT. Mr. Chairman, I yield 1 minute to the gentleman from Ohio [Mr. REGULA].

Mr. REGULA. Mr. Chairman, we have no problem with this amendment. I think there have been long delays out there in getting anything accomplished, and adding another year of money does not do anything constructive. I have discussed it with the Members up and down the corridors that are involved, and they are very much in favor of the amendment.

Therefore, at least on our side, we are perfectly willing to accept it.

Mr. GUTKNECHT. Mr. Chairman, I would just say that this amendment is being supported by most of the Members who have property adjoining or have parts of their district that adjoin the Mississippi River.

It is also supported by the Minnesota Farm Bureau, Americans for Tax Reform Foundation, the National Taxpayers Union, the National Hardwood Lumber Association, the Illinois Association of Drainage Districts, Private Landowners of Wisconsin, Ogle County Farm Bureau, Blackhawk Area Landowners Association, CRZLR, Inc., Minnesota Agri-Growth Council, Inc., and B.A. Mulligan Lumber & Manufacturing Co.

Mr. Chairman, I say to my colleagues, "I would appreciate your support."

Mr. GUNDERSON. Mr. Chairman, this amendment would essentially eliminate funding for the Mississippi River Heritage Corridor Study Commission, a commission which, like so many study commissions established by Congress, would endure eternally if given the chance.

The Commission was established in 1990 by Public Law 101–398. The purpose of the Commission was to study and determine the feasibility of designating the Mississippi River corridor a national heritage corridor. In addition, the Commission was directed to make recommendations to Congress for preserving and enhancing the unique natural, recreational, scenic and cultural resources of the river corridor.

The law authorized the Commission for 3 years to complete the study, issue a final report and hold public hearings in each of the 10 States bordering the Mississippi River. The law authorized $500,000 a year for the Commission for a 3-year period beginning on the date the Commission initially met. Since July, 1991, when the Commission held its first meeting, Congress has appropriated to the Commission $200,000 for fiscal year 1991, $150,00 for fiscal year 1993, $149,000 for fiscal year 1994, and $149,000 for fiscal year 1995. The Commission has argued that it has been unable to meet its obligations under the law because it has not received the full funding authorized for the study. Given the current

fiscal climate and the nature of the Commission, this was an unrealistic expectation.

Authorization for the Commission expired last year. At that time, the Commission had failed to meet any of its obligations. While the Commission completed a draft final report in March 1995, it returned this year and asked that Congress provide another $149,000 so that it could print its final report and hold the required 10 hearings. Congressman REGULA's subcommittee reduced that funding to $142,000, but I strongly urge that no funds appropriated in this bill be allocated to the Commission.

I want to stress that this amendment is not necessarily anti-Commission or anti-heritage area. I believe in preserving the valuable natural resources of the Mississippi River Corridor and feel Congress should be given the opportunity to consider every alternative for providing such protection. In fact, I have consistently supported the Commission, voting in favor of its appropriations every year since the Commission was formed. The Commission approached me last year during the appropriations process and asked for my support on further funding. While I had reservations about funding an unauthorized commission, I felt obligated to my constituents to ensure that Congress was presented with all the facts surrounding heritage area designation. I supported the $149,000 appropriation for the Commission based on Commission members' assurances that they would meet their obligations under the law and complete a final report by the end of 1995.

Despite those assurances, the Commission has returned to this Congress looking for funds, yet there is no final report, and not one hearing has been held. While I don't necessarily think the Commission was a poor idea, the rules have changed this year. We have made a commitment to balance the budget over the next 7 years. An appropriation of $142,000 may not seem like a great sum of money, but if we are going to act responsibly and balance the budget, we cannot continue to provide funds for perpetual commissions and studies.

The Chairman of the Commission has informed me that the Commission will be able to issue its final report regardless of whether Congress provides them these funds. I am glad that funding provided the Commission since 1991 has not gone to waste and that Congress will have the opportunity to review the Commission's recommendations. In addition, this amendment does not preclude any Member from offering a bill in the future to designate the Mississippi River a heritage corridor.

Study commissions such as this have a history of continuing on interminably if provided the funding. This amendment will simply ensure that Congress does not provide funding for an unauthorized program that is failing to get its job done.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Minnesota [Mr. GUTKNECHT].

The amendment was agreed to.

The CHAIRMAN. The Clerk will read the last 2 lines of the bill.

The Clerk read as follows:

This Act may be cited as the "Department of the Interior and Related Agencies Appropriations Act, 1996".

AMENDMENT OFFERED BY MR. PARKER

Mr. PARKER. Mr. Chairman, I offer an amendment.

The CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment offered by Mr. PARKER:

Amendment No. 61:

At the end of the bill, insert after the last section (preceding the short title) the following new section:

SEC. . (a) LIMITATION ON USE OF FUNDS.—None of the funds made available in this Act may be used by the Department of Energy in implementing the Codes and Standards Program to plan, propose, issue, or prescribe any new or amended standard.

(b) CORRESPONDING REDUCTION IN FUNDS.—The aggregate amount otherwise provided in this Act for "DEPARTMENT OF ENERGY—Energy Conservation" is hereby reduced by $12,799,000.

The CHAIRMAN. Pursuant to the rule, the gentleman from Mississippi [Mr. PARKER] and a Member opposed will each be recognized for 10 minutes.

The Chair recognizes the gentleman from Mississippi [Mr. PARKER].

Mr. PARKER. Mr. Chairman, I yield myself 3 minutes.

Mr. Chairman, my amendment will effectively block for 1 year new rulemakings under the Department of Energy's codes and standards program. DOE has long conducted research and information campaigns to develop and promote energy conservation and efficiency. I applaud those efforts, and my amendment allows continued funding for the DOE's testing and labeling programs, but my amendment will stop funding of standard setting rulemakings currently underway that actually steal away consumer choice. Such rules are supposed to promote energy efficiency and appliances. The problem is that when DOE wrote these rules, they set product standards so high that they end up banning whole types of products and make others uneconomic. If the DOE rules go into effect, jobs in my State will be eliminated, thousands of jobs across America will be destroyed, U.S. manufactured products will be banned, consumer choice will be limited, and whole factories in this country will close.

This is not a proper function of government. The rule in question does not even make sense. For example, DOE's proposed standard will ban the common magnetic ballast last used in fluorescent lighting and permit only a newer electronic ballast. Aside from the fact that this outright eliminates the magnetic ballast industry, the use of electronic ballast has grown from 2 percent of the market in 1987 to 40 percent today. Clearly the market is being driven towards energy efficiency without a new DOE rule. So why are we wasting tax resources on such rulemaking?

Also consider that the electronic ballast that DOE is promoting is presently manufactured mostly in Asia. The band magnetic ballast is made in the United States. It is not our job to pick light bulbs, or dishwashers or washing machines. That job belongs to the consumer. U.S. manufacturers and workers should be able to produce and sell safe products that meet the needs of their customers. When we let DOE make that decision, our citizens loose their consumer choices, and thousands lose their jobs. We need to stop this.

My amendment will save slightly over 12.7 million taxpayer dollars, will redirect DOE efforts to research and provide consumer information, will save tens of thousands of jobs and preserve billions in investments. This amendment provides a 1-year time out and sends a clear signal to the DOE that they have gone too far. To help the department reform this program, I intend to work with the gentleman from Virginia [Mr. BLILEY] and the gentleman from Colorado [Mr. SCHAEFER] of the Committee on Commerce on authorizing legislation to fully remedy this situation, and I ask for my colleagues' vote.

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

□ 1330

Mr. YATES. Mr. Chairman, I claim the time in opposition to the amendment.

The CHAIRMAN. The gentleman from Illinois [Mr. YATES] is recognized for 10 minutes.

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

This amendment is a very drastic measure to fix a problem regarding lamp ballast that no longer exists. The rulemaking programs for building codes and equipment standards is absolutely essential. Secretary of Energy O'Leary wrote to Chairman REGULA on July 12 and said, "I am aware that the proposed rule on lamp ballast has created considerable debate and may be the impetus for Mr. PARKER's amendment, but I want to assure you as strongly as I can that we are listening to the National Electrical Manufacturer's Association, the Electronic Industry's Association, and companies like Magnetek and Philips, who fear that the rule could inherently favor electronic over electromagnetic ballasts. We are examining the economic impacts of standards on manufacturers and on competition, whether there are application differences which warrant separate classes, and we will consider issues such as timing and the stringency of standards."

So said the Secretary of Energy, Mrs. O'Leary, and I think that is reassurance that the evils and the wrongdoings suggested by my friend from Mississippi, Mr. PARKER, have no basis.

There are several other points worth noting about the appliance and building standards program, Mr. Chairman. This program will result in energy savings of 23 quads or 4 billion barrels of oil through the year 2015. Consumers and businesses will receive savings of $1.7 billion annually. Federal standards have been supported by manufacturers and other interested parties because they replaced a patchwork of State standards which were unmanageable and burdensome to industry.

This is a most destructive amendment, and I hope it will be defeated.

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

Mr. PARKER. Mr. Chairman, I yield 3 minutes to the gentleman from Pennsylvania [Mr. WALKER].

Mr. WALKER. Mr. Chairman, I want to congratulate the gentleman from Mississippi for this amendment. This amendment simply implements authorization language already adopted by the Committee on Science which I chair. That authorization was passed by a voice vote. In fact, an amendment designed to gut this particular approach was defeated overwhelmingly in the committee by a 27 to 9 vote.

What this amendment does is just implements common sense. It says that the big brother, namely the Federal Government, should not tell the U.S. consumer what products they can and cannot buy. Without this amendment, what you have is DOE bureaucrats intending to impose new Federal regulations that deny consumers certain appliances like lights, televisions, washing machines, air conditioners and ovens. The Government wants to decree that certain appliances that use what it considers too much electricity are going to be illegal. That is right, you will not be able to buy them because they will be illegal in the marketplace. These tend to be the less expensive models that middle and working class families can afford. So what you are going to do is take the middle and working class families out of the market and in favor of high-priced appliances that only the wealthy will be able to buy.

So what we are really doing with the Parker amendment is killing the regressive regulatory tax that is being imposed by DOE, unless we go this particular direction.

Just think, with the heat wave that we had this last week, if you had low income Americans unable to buy low cost air conditioners, the fact is you would have even more people suffering. That is typical of what we get in command and control benevolence when the Federal Government comes in. They simply say to low income people, guess what, folks, we are going to price you out of the marketplace. The Parker amendment says let us not price them out of the marketplace.

When I was asked what would be the practical effect of the new DOE rules, I was told I did not have to worry, because they would only raise the price for low income housing, because of the unavailability of lower priced appliances.

That is exactly the point. What we are doing is taxing the poor through higher prices, and giving them a lower quality of life, to please the idealists who want to keep in place this idea that the Federal Government knows all and can do all. I think this amendment is exactly the right approach. I would urge the adoption of it.

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

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

Mr. REGULA. Mr. Chairman, I want to be sure I understand. The gentleman has legislation that is moving through your committee that will actually then modify or repeal the Energy Policy Act of 1992 and the one of 1988, and so on down the list, because this present authority flows from these. I just want to be sure I understand there is a potential authorizing bill to repeal that.

Mr. WALKER. Mr. Chairman, reclaiming my time, just to clarify, what we are attempting to repeal is some of the standards for the future. We do maintain the energy efficiency product standards, as does the Parker amendment, the State preemption provisions are retained, and it provides $3.8 million for DOE to continue to test products in order to enforce the current standards, grant waivers and ensure consistent, reliable and uniform product energy efficiency product labeling. We are going to keep the labeling in place; the information would stay in place. We are simply not going to allow the Federal Government to rule products illegal.

Mr. REGULA. But you continue to preempt the States so manufacturers would have one uniform set of standards?

Mr. WALKER. The State preemption standards remain in the Parker amendment, and that is our intention as well.

Mr. YATES. Mr. Chairman, I yield 2 minutes to the gentleman from Massachusetts [Mr. OLVER].

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

Mr. Chairman, I rise in opposition to the Parker amendment, and I join at the same time the strong disagreement with the fluorescent lamp ballast standard which the Department of Energy proposed last program for national energy efficiency standards.

Now, since the rule that we are operating under prevents me from offering a substitute to the Parker amendment, I will have an alternative to this amendment, one which meets the concerns of fluorescent light ballast manufacturers and workers, as well as the environmental organizations, along the way.

If you total the energy savings for all household appliances from efficiency standards which have been implemented over the last 5 years, each American family is saving $210 and every year. But efficiency helps businesses, too. Well-formulated standards would save industry enough money to create 160,000 additional jobs, and reduced demand for energy helps the environment.

Further, the standard setting process does not have to be contentious. A new standard for refrigerators has been jointly proposed by States, environmental associations, electrical utilities, and the Association of Home Manufacturers. The amendment which has been offered by the gentleman from Mississippi would prevent that new standard from going into effect, even though it has the support of every affected group and would benefit everyone who ever has to buy a refrigerator.

Let us fix the problem of the lamp ballast, which my alternative which I will offer in a few minutes does, by prohibiting any issuance of standards in the fluorescent lamp ballast case, but does not throw out all of our program, which allows us to save money for all Americans.

Mr. Chairman, I would urge that we defeat the Parker amendment and then adopt the Olver amendment, which we will be debating shortly.

Mr. PARKER. Mr. Chairman, I yield myself 20 seconds.

Mr. Chairman, let me just point out the simple fact that the gentleman from Massachusetts [Mr. OLVER] is offering an amendment which separates fluorescent lights and ballast is an admission there is a problem with the new rulemaking. That is the reason why my amendment should pass.

Mr. Chairman, I yield 30 seconds to the gentleman for Illinois [Mr. GUTIERREZ].

Mr. GUTIERREZ. Mr. Chairman, I would like to congratulate the gentleman from Mississippi [Mr. PARKER] on offering this amendment and ask all the Members to support the amendment.

It is 350 jobs and two plants in my district alone. It is a 1-year moratorium. We can return after that year and after all of the discussions are settled, and then come back and see just what the new rules are. That way everybody can work on a level playing field. Three hundred fifty jobs is something, and thousands of jobs across the country, is something that we should consider before we vote on this amendment.

Mr. Chairman, I would like to congratulate the gentleman from Mississippi [Mr. PARKER].

Mr. YATES. Mr. Chairman, I yield 2 minutes to the distinguished gentleman from Massachusetts [Mr. MARKEY].

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

Mr. Chairman, you know, this amendment is really the Luddite

amendment of 1955 thus far. In this one amendment, we embody all of the lost lessons of the 1970's in our country. While the Japanese and Germans and others move to a much more energy efficient culture, we continue to pretend that we do not have to make our society more energy efficiency.

In 1987 and 1988 and 1990 again, we passed laws to push the appliance industry, to push these other industries, toward making their appliances, which would in fact otherwise demand we import more oil from the Middle East, to a standard which could meet competition from overseas. We have saved and will continue to save 4 billion barrels of imported oil from the Middle East because of these standards, which have increased the efficiency of every light bulb and every stove and refrigerator in our country. That is all oil fired electricity is, is nothing more than every light bulb and air conditioner being turned on.

If we want to roll back the clock, we can just ignore this morning's news that we have had a dramatic increase in crude oil imports this morning, which resulted in the largest trade imbalance number we have seen for a long time, and we can pretend we live on an island, we can pretend that we do not need to import oil, we can pretend that the Middle East is not in a huge crisis, and we can pretend somehow or another by denying the Federal Government the ability to do it and preempting the States simultaneously, we are not going to fall back into the same trap we had in the 1970's and early 1980's again.

That is why this amendment goes right at the heart of the question of whether or not this Congress has learned the lessons of the crisis in the 1970's in our country. We save on imported oil 4 billion barrels. We in fact make these appliances much more environmentally benign, so we are not polluting as much, and we reduce costs and the need to deal with the Clean Air Act. We in fact create more jobs, which is why Honeywell, Whirlpool, Owens Corning, Firestone, and all the rest of the companies oppose the Parker amendment.

Mr. PARKER. Mr. Chairman, I yield 1 minute to the gentleman from Illinois [Mr. HYDE].

Mr. HYDE. Mr. Chairman, I rise in enthusiastic support for the Parker amendment. It will save American jobs, jobs which are being threatened by regulatory maneuvering by the Department of Energy. This amendment would cut $12.8 million in regulatory fat from DOE's budget and preserve a competitive marketplace and promote sensible energy conservation. More specifically, it would prohibit further departmental action on a proposed rulemaking concerning energy efficient standards for certain products.

It is no wonder the Department of Energy received over 8,000 comments on place and promote sensible energy conservation. More specifically, it would prohibit further departmental action on a proposed rulemaking concerning energy efficient standards for certain products.

It is no wonder the Department of Energy received over 8,000 comments on the 1994 proposals. We are talking about one absurd regulation after another. For example, were DOE's proposals to take effect, the size of ovens would have to be so drastically reduced they could not even accommodate a traditional 18-pound Thanksgiving turkey. Refrigerators would have to be made so large they would not be able to fit through standard size doors in apartments and many homes. Consumers would be required to purchase larger air conditioners, even if the room size did not require it.

The proposal for fluorescent lamp ballast, the devices used to start and operate fluorescent lamps, was so misdirected it would actually eliminate the primary ballast technology currently in use, known as electromagnetic ballast. DOE would simply wipe out this useful technology, made exclusively in the United States, in favor of another one, known as the electronic ballast manufactured in Mexico and Asia.

Mr. Chairman, I support the Parker amendment.

Mr. Chairman, electromagnetic ballasts are manufactured in my congressional district. And I can tell you first hand, that this proposed regulation would put some of my constituents out of work. Had the proposal gone into effect, literally thousands of American workers involved in the manufacture of electromagnetic ballasts would have faced unemployment, and estimates suggest that manufacturers of electromagnetic ballasts would have lost hundreds of millions of dollars in capital investment writeoffs. The companies that supply materials for ballasts, and their employees, would also have been severely impacted.

Mr. Chairman, the proposals for ballasts and the other products I mentioned not only would cost American jobs but would severely chill free and open marketplace competition. The Department of Justice itself recognizes this. Let me just read an excerpt from a September 1994 letter from the Assistant Attorney General in charge of the Antitrust Division to the Energy Department:

> For television sets, fluorescent lamp ballasts and professional-style or high-end kitchen ranges it is the Department's judgment based on the available evidence that significant anticompetitive effects are likely to occur.

So, this administration's own Justice Department told DOE that its regulatory proposal would likely cause significant anticompetitive effects. And these anticompetitive effects don't stop there. The DOJ review also said that such anticompetitive effects might also result, under certain circumstances, from the proposed rule for electric water heaters. For microwave ovens, oil-fired water heaters, room air conditioners, and direct heating equipment, the review found there was evidence indicating that anticompetitive effects could result.

Mr. Chairman, not only is DOE attempting to restrain competition, but the evidence shows that competition, without additional regulation, can achieve the very objective DOE purports to seek. Take ballasts for example. The original fluorescent lamp ballast standards working in tandem with market forces are already achieving the program's energy saving objectives. The market penetration of electronic ballasts, the devices that would have been mandated by DOE's 1994 proposal, has increased from 2 percent in 1987 to almost 40 percent in 1994. Moreover, without the heavy hand of DOE it is expected that electronic ballasts will comprise over 50 percent of the market by 1998. A free market approach is resulting in expansion of electronic ballasts, and it is doing so without causing severe economic hardships, creating significant anticompetitive effects, or sacrificing existing energy saving opportunities.

Mr. Chairman, this amendment would save the thousands of American jobs being threatened by these regulatory activities, result in greater energy conservation, and cut almost $13 million in fat from DOE's proposed budget. In addition, it is important to note that the amendment will not prevent implementation of certain useful aspects of the program, relating to establishing testing procedures for products, labeling, and enforcement.

I urge my colleagues to join me in supporting this common sense amendment to save American jobs, cut more regulatory fat from the budget, preserve a competitive marketplace, and promote sensible energy conservation.

Mr. YATES. Mr. Chairman, I yield 1 minute to the gentleman from Michigan [Mr. DINGELL], the distinguished former chairman of the Committee on Energy and Commerce.

□ 1345

Mr. DINGELL. Mr. Chairman, I rise in opposition to the Parker amendment and urge my colleagues to vote against it in the knowledge that they will be able to vote for the Olver amendment which will very shortly afford Members of this body full opportunity to protect the ballast question in a manner which will be satisfactory. It is totally untrue that this is going, that the energy requirements now in place are going to impose burdens on oven manufacturers and on refrigerator manufacturers. That is totally without fact.

My colleagues have forgotten the reason we have these energy efficiency standards. It was to save energy. We did that because of the massive impact on the American economy because of cutoff of oil from the Middle East. If you ever have that happen again, you will understand how Members of Congress react when we have this kind of situation.

I want to observe to my colleagues one thing that is important: The standards-making authority which this amendment would do away with is something which is supported and

sought by American industry in the full knowledge that it avoids the problem of standards being imposed by 50 different States. You cannot run a nation when you have 50 different States imposing different standards at the borders. I urge my colleagues to reject this. Vote for the Olver amendment which is coming up next.

Mr. PARKER. Mr. Chairman, I yield 30 seconds to the gentleman from Alabama [Mr. CRAMER].

Mr. CRAMER. Mr. Chairman, I rise in support of the Parker-Walker amendment. I hope our colleagues will pay attention to this. This amendment eliminates funding for unnecessary DOE energy efficiency rulemaking. The proposed rulemaking, if left as proposed, would eliminate thousands of American jobs. In my district alone, it would eliminate 1,000 jobs. This amendment solves this problem. The market competition is achieving the objectives sought by the proposed DOE rule. We do not need this kind of rulemaking. Support the Parker amendment.

Mr. YATES. Mr. Chairman, I yield 1 minute to the gentleman from Ohio [Mr. OXLEY].

Mr. OXLEY. Mr. Chairman, I rise in opposition to the amendment by the gentleman from Mississippi [Mr. PARKER].

The energy efficiency standards which our committee so assiduously worked on and finally passed on a strong bipartisan basis is truly in danger if the Parker amendment passes. I want to give a lot of credit to the chairman of the appropriations subcommittee, my friend, the gentleman from Ohio [Mr. REGULA], for sticking to his principles on this issue. We have set a strong record.

This is the kind of case where the industry came in, as the gentleman from Michigan and the gentleman from Massachusetts talked about, into our committee and said, we need a national standard for these energy efficiency products. Virtually all of the industry that I am aware of signed off on this. Now when we have some industries that have had the foresight to actually follow the rules and regulations, they are going to be punished if the Parker amendment passes.

That does not make a whole lot of sense. So my sense is, let us support the Committee on Appropriations who knew what they were doing when they passed this particular provision in the committee and certainly the Committee on Commerce that did such yeoman work in setting these standards.

Mr. PARKER. Mr. Chairman, I yield 1 minute to the gentleman from Wisconsin [Mr. GUNDERSON].

Mr. GUNDERSON. Mr. Chairman, it is one thing for us to lose jobs because we cannot compete with foreign competitors. It is quite another thing for us to intentionally regulate jobs out of existence in this country, and that is exactly what this regulation will do.

They talk about the fact that there are 8,000 comments that have come in. That ought to tell somebody something. But will the department go back and start over? No. What they have done is they have piecemealed this up into eight different sections so nobody knows where anybody is at. That is why we have no choice but to come here today and to try to do something like this.

One of my colleagues on the other side suggested earlier that somehow or another the bipartisan commitment was in opposition to the gentleman from Mississippi [Mr. PARKER]. Well, I would reject that. I would suggest if you look at those who support the Parker amendment, you will find the National Electrical Manufacturers Association, the Electronic Industries Association, the International Brotherhood of Electrical Workers, the Industrial Union Department of the AFL-CIO, the National Association of Home Builders, the Flint Glass Workers Union, the National Multi Housing Council, and the National Apartment Association.

Support the Parker amendment.

Mr. PARKER. Mr. Chairman, I yield myself the balance of my time.

Let me just close by saying that a lot has been said about what this amendment will do. The Parker amendment will not affect existing energy efficiency standards and the benefits that they have provided. Its existing national energy efficiency standards will remain in effect. Label requirements to enable consumers to make informed choices among products will remain in effect. Testing procedures to ensure reliability of claims regarding energy efficiency will remain in effect.

People keep talking about pretending. Let us pretend, for instance, that 90 percent of the jobs, 90 percent of the electronic ballasts are not made in Asia. Let us pretend that we are not going to lose all of these jobs.

Please support the Parker amendment. It is the right thing to do, and it gives us a situation where we can correct what has been going on for some time.

Mr. YATES. Mr. Chairman, I yield such time as he may consume to the gentleman from California [Mr. BROWN].

Mr. BROWN of California. Mr. Chairman, I rise in strong opposition to the Parker amendment. This amendment would effectively undermine what has been one of our most successful, cost-effective energy conservation programs.

I can only note with bemusement that the sponsors of this effort are many of the staunchest advocates of risk-cost-benefit analysis. Over the past several months, these members have spared no effort to inform us of the costs to society of regulation, which some industry groups have estimated at $600 billion a year.

Now here is a DOE regulatory program that actually has saved or will save American society a total of about $132 billion in energy costs. For some reason, the authors of this amendment have also seen fit to oppose this cost-saving program, and have made an effort in the Science Committee and now here to kill it.

Now this House has, for better or worse, adopted the position that economic cost-benefit analyses should become the new gold standard for Government regulatory action. We should just sum the benefits, sum the costs, subtract, and then reach our decision with arithmetic certitude.

Well, that calculation has in fact been done for the appliance efficiency program. It happens that the costs of the program to consumers are $59 billion, the benefits are $191 billion, and the benefits exceed the costs by a margin of 3.2 to one.

Now the supporters of this amendment would apparently have us believe that we shouldn't really use a cost-benefit test—we should just trust them to make a subjective and political judgment about the value of this program.

Let's look at the real facts concerning the efficiency program. There has been a great deal of controversy about fluorescent light ballasts, and there is a lot of misinformation on this subject. It is true that there are jobs in the magnetic ballast industry in Mississippi and elsewhere that are in jeopardy.

It is also true, however, that other U.S. firms like Motorola in Buffalo Grove, IL, are producing electronic ballasts and reaping large profits. The electronic ballast business, in which several other U.S. firms participate, is a business of the future and it will grow at the expense of older industries regardless of what DOE does with efficiency standards.

In fact, DOE has sufficient confidence in market forces that they have withdrawn the proposed ballast standard and are considering not issuing any standard in this area.

Unfortunately, the controversy over ballasts and televisions, for which the proposed rule was also withdrawn, is being used as ammunition to eliminate the entire appliance efficiency program.

Much of this program is not controversial at all. Last year, for example, the refrigeration industry sat down with the environmentalists and worked out an agreement on refrigeration efficiency standards for the next century. All the significant refrigerator manufacturers were party to this agreement, which will provide a net savings of about $13 billion for U.S. consumers and reduce refrigerator energy consumption by 25 to 30 percent.

DOE was only too happy to accept this universal and hard-won compromise. It seems to me that this process is exactly the kind of enterprise that this House, Republicans and Democrats, should rally around and support. No new bureaucracy—no litigation—just progress and benefits for the environment, for our balance of payments, and for the pocketbooks of ordinary Americans.

Under Parker-Walker, even this refrigeration standard that has already been agreed could not be implemented. The Parker amendment will also prevent DOE from developing the energy efficiency measurement standards that are used for consumer appliance labeling.

The consumer labeling program, although completely nonregulatory, relies upon accurate

energy use determination based on DOE standards that promulgated by rule. These measurement standards need to be revised periodically as usage and design patterns change—the washing machine measurement method is already 15 years out of date and is growing older by the day.

Under Parker, not only will there be no baseline efficiency requirements for appliances, but the information accessible to consumers for making their own marketplace decisions will be increasingly unreliable.

Now before this national program was created in 1987, there was an emerging patchwork of State appliance efficiency standards. Industry finally wanted a national program to ensure consistent standards and greatly simplify business planning and manufacturing. The 1987 law does grant DOE the power to allow separate State standards by petition.

If we gut the DOE program here today, it is highly likely that the Department will use its statutory power to grant a number of State requests for waivers. In fact, just in the past few days California has put such a process in motion, anticipating our action today.

Returning to a patchwork system is not in the interests of anyone—industrialists, environmentalists, or consumers.

In summary, the Parker amendment would set a very unwise policy course for this Nation. Let's stop our reflexive environment bashing, regulation bashing, and bureaucrat bashing and take some sensible, moderate steps to save money for consumers and provide for a sound energy future for our children. Defeat the Parker amendment, support Mr. OLVER's compromise, and I yield back any remaining time.

Mr. YATES. Mr. Chairman, I yield the balance of my time to the gentleman from Ohio [Mr. REGULA], chairman of our subcommittee.

The CHAIRMAN. The gentleman from Ohio [Mr. REGULA] is recognized for 2 minutes.

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

I would point out to my colleagues that on October 5, 1992, by a vote of 363 to 60, we established in this body the following policy: It added commercial products to a standards program, setting initial standards for electric motors, central air conditioners, heat pumps, gas and oil furnaces, boilers, water heaters, plumbing equipment lamps—that is the subject of this amendment. It requires the DOE to maintain test procedures and establish a labeling program.

We said, as a national policy, there should be a uniform set of standards established by the Department of Energy on energy efficiency. I think that what the gentleman from Mississippi is discussing should be the subject of an authorizing bill. This is not the proper place to deal with this matter. I would hope that the gentleman would take this issue to the authorizing committee, and, if they should recommend that we modify the action of this body, as I just outlined in the Energy Policy Act that is now the law and passed by an overwhelming majority, this should be discussed in that forum.

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

Mr. REGULA. I yield to the gentleman from Mississippi.

Mr. PARKER. Mr. Chairman, I have to say to the gentleman that is exactly what I want to do. That is the reason we need this time out. Because the Committee on Commerce will not be meeting until after the first of the year to discuss this issue.

If we allow the rulemaking to go through, what we are going to wind up with is a situation where the jobs are already going to be destroyed, and we are not going to be getting them back. That is the reason we need a postponement of a year in order to get to the point where the gentleman from Virginia [Mr. BLILEY] can take this up in the committee, the gentleman from Colorado [Mr. SCHAEFER] can take it up in the subcommittee and we can resolve these issues.

Mr. REGULA. Reclaiming my time, Mr. Chairman, I understand the gentleman, but I think he would agree that the Olver amendment would accomplish that objective.

Mr. PARKER. Mr. Chairman, if the gentleman will continue to yield, it would accomplish the objective for my little part of it, as far as the jobs in my district. But I am more concerned about the total outlook of what we are doing with this rule.

Mr. REGULA. Mr. Chairman, I am reluctant to go to a total repeal. That would invite the states, in effect, to set different standards. I sympathize with the gentleman's problem, but I think the Olver amendment would solve it.

Mr. SCHAEFER. Mr. Chairman, I support the amendment offered by Mr. PARKER to limit funding for the Department of Energy to conduct rulemakings on energy efficiency standards.

In the past, I have been very supportive of energy efficiency standards. Valuable energy resources, as well as money is saved by reducing our consumption of energy. In addition, by adopting national energy efficiency standards, appliance manufacturers and others have had only one standard to comply with rather than 50 conflicting standards.

However, this year, industry representatives have come to us complaining about how DOE is implementing appliance efficiency standards. Complaints that DOE through its rulemaking, is interfering with the operation of free markets.

Thus, I support this amendment. It will slow down the process at DOE and give the authorizing committee time to look at the merits of the issue. In fact my subcommittee will be holding hearings on this issue before the end of the year.

Thus I support this amendment.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Mississippi [Mr. PARKER].

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

RECORDED VOTE

Mr. YATES. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 261, noes 165, answered "present" 1, not voting 7, as follows:

[Roll No. 519]

AYES—261

Allard	Flanagan	McNulty
Andrews	Foley	Menendez
Archer	Forbes	Metcalf
Armey	Fox	Mfume
Bachus	Franks (NJ)	Mica
Baesler	Frelinghuysen	Miller (FL)
Baker (CA)	Frisa	Minge
Baker (LA)	Frost	Molinari
Ballenger	Funderburk	Mollohan
Barcia	Gallegly	Montgomery
Barr	Ganske	Moorhead
Barrett (NE)	Gekas	Morella
Bartlett	Geren	Murtha
Barton	Gilchrest	Myrick
Bass	Goodlatte	Nethercutt
Bateman	Goodling	Neumann
Bentsen	Gordon	Ney
Bereuter	Goss	Norwood
Bevill	Graham	Nussle
Bliley	Gunderson	Ortiz
Blute	Gutierrez	Orton
Boehlert	Gutknecht	Packard
Boehner	Hall (TX)	Pallone
Bonilla	Hancock	Parker
Bonior	Hansen	Pastor
Bono	Harman	Paxon
Brewster	Hastert	Payne (VA)
Brownback	Hayes	Peterson (MN)
Bryant (TN)	Hayworth	Petri
Bunning	Hefley	Pickett
Burr	Hefner	Pombo
Burton	Heineman	Portman
Buyer	Herger	Poshard
Callahan	Hilleary	Quillen
Calvert	Hobson	Quinn
Camp	Hoekstra	Radanovich
Canady	Hoke	Rahall
Castle	Holden	Ramstad
Chabot	Houghton	Riggs
Chambliss	Hunter	Roberts
Chapman	Hyde	Rogers
Chenoweth	Inglis	Rohrabacher
Christensen	Istook	Ros-Lehtinen
Chrysler	Johnson, Sam	Rose
Clement	Jones	Roth
Clinger	Kanjorski	Royce
Clyburn	Kasich	Salmon
Coble	Kelly	Scarborough
Coburn	Kim	Schaefer
Collins (GA)	King	Schiff
Combest	Kingston	Seastrand
Condit	Kleczka	Sensenbrenner
Cooley	Klink	Shadegg
Costello	Klug	Shuster
Cox	Knollenberg	Sisisky
Cramer	Kolbe	Skeen
Crane	LaHood	Skelton
Crapo	Latham	Smith (MI)
Cremeans	LaTourette	Smith (TX)
Cubin	Laughlin	Smith (WA)
Cunningham	Leach	Solomon
Danner	Lewis (CA)	Souder
Davis	Lewis (KY)	Spence
Deal	Lightfoot	Stearns
DeLay	Lincoln	Stenholm
Dickey	Linder	Stockman
Doolittle	Lipinski	Stump
Dornan	Livingston	Stupak
Doyle	LoBiondo	Talent
Dreier	Longley	Tanner
Duncan	Lucas	Tate
Dunn	Manzullo	Tauzin
Durbin	Martinez	Taylor (MS)
Ehrlich	Martini	Taylor (NC)
Emerson	Mascara	Tejeda
Engel	McCollum	Thomas
English	McCrery	Thornberry
Ensign	McHale	Thornton
Everett	McHugh	Tiahrt
Ewing	McInnis	Traficant
Fawell	McIntosh	Vucanovich
Fields (TX)	McKeon	Waldholtz

Walker	Weldon (PA)	Williams
Walsh	Weller	Young (AK)
Wamp	White	Young (FL)
Watts (OK)	Whitfield	Zeliff
Weldon (FL)	Wicker	Zimmer

NOES—165

Abercrombie	Gilman	Owens
Ackerman	Gonzalez	Oxley
Baldacci	Green	Payne (NJ)
Barrett (WI)	Greenwood	Pelosi
Becerra	Hall (OH)	Peterson (FL)
Beilenson	Hamilton	Pomeroy
Berman	Hastings (FL)	Porter
Bilbray	Hastings (WA)	Pryce
Bilirakis	Hilliard	Rangel
Bishop	Hinchey	Reed
Borski	Horn	Regula
Boucher	Hostettler	Rivers
Brown (CA)	Hoyer	Roemer
Brown (FL)	Hutchinson	Roukema
Brown (OH)	Jackson-Lee	Roybal-Allard
Bryant (TX)	Jacobs	Rush
Bunn	Jefferson	Sabo
Cardin	Johnson (CT)	Sanders
Clay	Johnson (SD)	Sanford
Clayton	Johnson, E. B.	Sawyer
Coleman	Johnston	Saxton
Collins (IL)	Kaptur	Schroeder
Conyers	Kennedy (MA)	Schumer
Coyne	Kennelly	Scott
de la Garza	Kildee	Serrano
DeFazio	LaFalce	Shaw
DeLauro	Lantos	Shays
Dellums	Largent	Skaggs
Deutsch	Lazio	Slaughter
Diaz-Balart	Levin	Smith (NJ)
Dicks	Lewis (GA)	Spratt
Dingell	Lofgren	Stark
Dixon	Lowey	Stokes
Doggett	Luther	Studds
Dooley	Maloney	Thompson
Edwards	Manton	Thurman
Ehlers	Markey	Torkildsen
Eshoo	Matsui	Torres
Evans	McCarthy	Torricelli
Farr	McDade	Towns
Fattah	McDermott	Tucker
Fazio	McKinney	Velazquez
Fields (LA)	Meehan	Vento
Filner	Meek	Visclosky
Flake	Meyers	Ward
Foglietta	Miller (CA)	Waters
Ford	Mineta	Watt (NC)
Fowler	Mink	Waxman
Frank (MA)	Moran	Wilson
Franks (CT)	Myers	Wise
Furse	Nadler	Wolf
Gejdenson	Neal	Woolsey
Gephardt	Oberstar	Wyden
Gibbons	Obey	Wynn
Gillmor	Olver	Yates

ANSWERED "PRESENT"—1

Upton

NOT VOTING—7

Browder	Moakley	Volkmer
Collins (MI)	Reynolds	
Kennedy (RI)	Richardson	

□ 1413

Mr. LEWIS of Georgia and Mr. WYNN changed their vote from "aye" to "no."

Messrs. ENGLISH of Pennsylvania, HEFLEY, CLYBURN, BONO, FROST, COSTELLO, and BLUTE changed their vote from "no" to "aye."

So the amendment was agreed to.

The result of the vote was announced as above recorded.

PERSONAL EXPLANATION

Mr. UPTON. Mr. Chairman, I voted "present" on the Parker amendment to H.R. 1977, rollcall No. 519 because it almost singularly affects a firm in which I have major personal financial interests.

AMENDMENT OFFERED BY MR. OLVER

Mr. OLVER. Mr. Chairman, I offer an amendment.

The CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment offered by Mr. OLVER: Amendment No. 70: At the end of the bill add the following new section:

"SEC. . None of the funds made available in this act may be used by the Department of Energy in implementing the Codes and Standards Program to plan, propose, issue, or prescribe any new or amended standard—

"(1) when it is made known to the Federal official having authority to obligate or expend such funds that the Attorney General, in accordance with section 325(o)(2)(B) of the Energy Policy and Conservation Act (42 U.S.C. 6295(o)(2)(B)), determined that the standard is likely to cause significant anticompetitive effects;

"(2) that the Secretary of Energy, in accordance with such section 325(o)(2)(B), has determined that the benefits of the Standard do not exceed its burdens; or

"(3) that is for fluorescent lamps ballasts.".

The CHAIRMAN. Pursuant to the rule, the gentleman from Massachusetts [Mr. OLVER] and a Member opposed will each be recognized for 5 minutes.

The Chair recognizes the gentleman from Massachusetts.

Mr. OLVER. Mr. Chairman I yield myself such time as I may consume.

Mr. Chairman, let me say that my amendment meets the concerns of labor unions such as the IBEW in relation to the fluorescent light ballast issue, and of environmental organizations such as the League of Conservation Voters, and of businesses such as Honeywell and Whirlpool. My amendment specifically and explicitly prohibits the promulgation of the fluorescent lamp ballast standard without throwing national energy efficiency standards out the window.

□ 1415

My amendment prohibits the Department of Energy from promulgating an efficiency standard if the Attorney General has determined in the course of her review, which is required by law, that the standard is likely to be anticompetitive. Furthermore, all proposed standards would have to show benefits greater than costs in an analysis which considers economic impact of the proposed standard on manufacturers and consumers.

By adopting this language, we prevent regulatory excess without killing off a valuable program that saves the average American family hundreds of dollars in hard cash each year. Furthermore, we do not kill off the possibility of new standards being established for things like the refrigerator standards which have been jointly proposed by States, the environmental organizations and electric utilities, and the Association of Home Appliance Manufacturers.

Mr. Chairman, the Olver amendment helps consumers, businesses, the environment and the economy, and prohibits the anticompetitive effects of the fluorescent ballast standard. I would urge my colleagues to support this amendment.

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

The CHAIRMAN. Does any Member wish to speak in opposition to the amendment?

If not, does the gentleman wish to speak further?

Mr. OLVER. Mr. Chairman, I yield 1 minute to the gentleman from Michigan [Mr. EHLERS].

Mr. EHLERS. Mr. Chairman, I rise in support of the amendment offered by my fellow scientist, Mr. OLVER. Something that many of you may not be aware of is that I spent a considerable amount of my earlier scientific career dealing with subjects relating to energy conservation.

I can assure my colleagues that there is no other source of energy available as cheaply and as readily as that which is obtained through conservation of energy. I believe it is very important for us to have appropriate energy standards which inform the public of the use of energy by the appliances they buy.

I label the Olver amendment as a consumer information amendment. It is very important that the Federal Government serve as a neutral source of information that is available to the public so that they can buy appliances which are energy efficient.

I can relate a simple experience I had when my wife and I first got married and we went shopping for a refrigerator. She decided on the refrigerators she liked because of the features it had, and narrowed it down to two models. One refrigerator cost $250, and one cost $500. Obviously, it seemed, the cheaper refrigerator would be the better buy.

However, I did an energy consumption analysis of those refrigerators, because it was before the time of energy standards, and discovered that in fact the $500 refrigerator over its anticipated lifetime would cost considerably less than the $250 refrigerator. We bought the more expensive model and saved a lot of money.

I hope we, as the Federal Government, can provide enough information so that everyone can make those kinds of decisions.

Mr. DICKS. Mr. Chairman, I rise in opposition to the amendment.

The CHAIRMAN. The gentleman from Washington [Mr. DICKS] is recognized for 5 minutes.

Mr. DICKS. Mr. Chairman, I just want to ask the gentleman a question here. If I read the gentleman's amendment correctly, there is a positive cost-benefit ratio, and if there is not an antitrust problem, can then the Secretary of Energy promulgate a new rule on fluorescent lamp ballasts? She has said here in her letter to us that she has withdrawn the original proposed rule because it was flawed, but

could she now do a new rule on this subject, or is that completely barred by your amendment?

Mr. OLVER. If the gentleman will yield, I thank the gentleman for the question. It is not always possible in the art of drafting legislation to take care of every contingency.

As a matter of fact, in the drafting whereby the Attorney General's determination under the law of anticompetitiveness, that would have in fact precluded the fluorescent light ballast standard from going into effect even without the provision that eliminates the ballasts from this year's considerations for rules.

But in fact the gentleman is correct that for this year, because of the controversy, in order to make absolutely certain that the controversy over fluorescent light ballasts was off the table for this year, there would not be, in my understanding, the opportunity for creating another——

Mr. DICKS. I would have to rise, then, in very strong opposition to this amendment.

What the Secretary of Energy is basically telling us in this: Here is the report to our committee. Fluorescent lamp ballasts, after reviewing the comments in the proposed rule, the Department determined the engineering analysis was flawed.

On January 31, 1995, the Department announced its intention to perform a new analysis and prepare a proposed rule based on the new analysis. Since the January notice, the Department has been meeting with the NEMA, individual manufacturers, and representatives of the American Council for an Energy-Efficient Economy, to develop a new engineering analysis. Once the analysis is completed, the Department intends to prepare a new proposed rule.

It seems to me that starting on the first of the fiscal year, we would then for the next 15 months be barring any opportunity to do a rule even if it was an appropriate rule that would save us energy.

Mr. OLVER. If the gentleman would yield further, the fiscal year is only 12 months, but that is a small point.

Mr. DICKS. We are still here, though.

Mr. OLVER. I would point out, if the amendment becomes law that had been offered previously, there would be no rulemaking of any kind anywhere across the area of energy standards, not only the ballast issue but all other issues. This amendment preserves the possibility of allowing the national standards in areas other than the ballast issue to go forward under the constraints of nonanticompetitiveness.

Mr. DICKS. Would the gentleman answer me this one question? If the Department has a good and appropriate rule, obviously the first rule was fatally flawed. If you were blocking the first rule from going into effect, I would have no problem with what the gentleman is attempting to do, but the gentleman has already won the battle. The Secretary of Energy withdrew that rule. She is now listening to all these people and trying to come up with a new rule. What you are doing here with this amendment is prohibiting for the next 15 months a rule to go into effect on that subject. I think that is wrong. I think the Secretary has already given you what you want, and this goes too far.

Mr. OLVER. If the gentleman would yield further, I would merely point out again that we can have standards with this amendment in all other areas of energy efficiency if they are not anticompetitive, and if there is a positive cost-benefit ratio. But without this amendment, we can have no standards in any of these areas, including the one that you are concerned about. Either way, you do not have within the next 12 months the standard issued in the fluorescent lamp ballast concern. But if we do not adopt this amendment, then we are not going to have any standards in any area.

Mr. DICKS. Is the gentleman opposed to this rule, even if it were a positive rule?

Mr. OLVER. Answering that question, in the two other provisions I would be happy to have a rule go into effect, if it were possible. It is not possible either by the previous amendment or by this amendment.

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

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

Mr. REGULA. Mr. Chairman, I just want to advise the Members that we will on our side accept the amendment. It is not inconsistent with Parker. It does not reach as far, but we are willing to accept it.

I hope the authorizing committee will then at the earliest possible moment address the entire situation. I can understand the difficulties both the gentleman from Massachusetts [Mr. OLVER] and the gentleman from Mississippi [Mr. PARKER] are having.

Mr. OLVER. Mr. Chairman, I yield 2 minutes to the gentleman from Massachusetts [Mr. MARKEY].

Mr. MARKEY. Mr. Chairman, I thank the gentleman from Massachusetts for yielding me the time.

Mr. Chairman, this deals with the very specific issue that the gentleman from Mississippi was interested in. It avoids the trap of having the broader repeal of all of the other energy efficiency laws that affect every other appliance. I think that the chairman of the committee is wise in accepting this amendment. It is in fact a very fair compromise that deals with a very specific issue that had been raised by the gentleman from Mississippi. I would hope that the amendment would be accepted.

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

The CHAIRMAN. The question is on the amendment offered by the gentleman from Massachusetts [Mr. OLVER].

The amendment was agreed to.

The CHAIRMAN. Are there other amendments to title III?

AMENDMENT NO. 48 OFFERED BY MR. ZIMMER

Mr. ZIMMER. Mr. Chairman, I offer an amendment.

The CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment No. 48 offered by Mr. ZIMMER: Page 94, after line 24, insert the following new section:

SEC. 318. None of the funds made available in this Act may be used (1) to demolish the bridge between Jersey City, New Jersey, and Ellis Island; or (2) to prevent pedestrian use of such bridge, when it is made known to the Federal official having authority to obligate or expend such funds that such pedestrian use is consistent with generally accepted safety standards.

The CHAIRMAN. Pursuant to the rule, the gentleman from New Jersey [Mr. ZIMMER] will be recognized for 5 minutes, and a Member opposed will be recognized for 5 minutes.

The Chair recognizes the gentleman from New Jersey [Mr. ZIMMER].

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

Mr. Chairman, 40 percent of Americans are descended from immigrants who came to this country by way of Ellis Island. Today Ellis Island is a magnificent museum and a national park. Unfortunately it is accessible to the general public only by ferry for a price of $7 per person. This price makes it prohibitive to many of the American citizens who in fact own Ellis Island.

During the last session, there was a pitched battle on the issue of whether to build a new $15 million bridge from Jersey City to Ellis Island for pedestrian access. That bridge for all practical purposes is dead. It was approved in the last Congress, but the appropriation is slated to be rescinded by this Congress.

My amendment provides a commonsense solution to the problem of access to Ellis Island by providing for the use of an existing bridge for public pedestrian access so long as it is consistent with generally accepted safety standards. I will repeat that.

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

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

Mr. REGULA. Mr. Chairman, for the benefit of all of us, how would the gentleman define "generally accepted safety standards"? I just want to be sure that I am comfortable with the fact that safety is of primary concern here.

Mr. ZIMMER. Mr. Chairman, I tried to draft the language as neutrally as possible. Generally accepted safety standards seems like an objective criterion that can be defined by published standards.

The initial definition would, of course, be made by the Park Service itself. Given that fact, the director of the Park Service, with the concurrence of the Secretary of the Interior, has told me that he does not oppose this amendment.

Mr. REGULA. If the gentleman would yield further, then it would be the responsibility of the Park Service to enforce safety standards, and whatever the Department would establish would become the standard that would control access to the structure. Is that correct?

Mr. ZIMMER. Reclaiming my time, Mr. Chairman, conceivably someone could litigate that decision, but the initial decision would of course belong to the Park Service.

Mr. Chairman, the bridge of which we speak is some 1,400 feet in length. It is sturdy. It has been in existence since 1986. It is used every day by Park Service personnel and by contractors who are working to renovate the buildings on Ellis Island, and it is being used by their vehicles as well. It has a pedestrian walkway. And the Park Service is planning to upgrade this bridge so it can be used for the several years remaining in the rehabilitation project that is ongoing at Ellis Island.

□ 1430

The Park Service is also planning to extend the permits that are scheduled to expire so this bridge can continue in use.

Safety concerns have been raised by the gentleman from Ohio [Mr. REGULA] and they have been raised by Roger Kennedy, the director of the Park Service, and that is why I have included the language that we discussed in the colloquy in this amendment.

Mr. Chairman, I personally believe the bridge is quite safe at this point and needs little or no upgrading to be suitable for the public. But if I am wrong, and the bridge is unsafe according to generally accepted safety standards, then this legislation would keep the public from using it until it is upgraded.

I do not believe that the Park Service would allow its own employees, on a daily basis, to use a bridge that is unsafe. But in any event, for purposes of this amendment, the issue is moot, because of the language of the legislation. That is why the Park Service and that is why the gentleman from Ohio [Mr. REGULA] have agreed that they would accept this amendment.

Mr. Chairman, I yield such time as he may consume to the gentleman from Ohio [Mr. REGULA], chairman of the committee.

Mr. REGULA. Mr. Chairman, on the basis of the representations of the Secretary of the Interior and the Director of the Park Service that they have no objection to this, we, therefore, would accept it. I do have a concern on the safety standards and I certainly would respond to any requests for additional funds to ensure that it is totally safe.

Mr. Chairman, I would ask the gentleman, it is limited to pedestrians; is that correct?

Mr. ZIMMER. Mr. Chairman, I would say to the gentleman, yes, my amendment would not open it to vehicular traffic, other than the traffic that already traverses it and the occasional vehicle or garbage truck that services the island.

Mr. REGULA. If the gentleman would continue to yield, the Superintendent of the Statue of Liberty has outlined some concerns and I think they will try to address these to ensure that it does meet all accepted safety standards. On that basis, on the Secretary of the Interior's representations, we have no objection.

Mr. YATES. Mr. Chairman, I rise in opposition to the amendment.

The CHAIRMAN. The gentleman from Illinois [Mr. YATES] is recognized for 5 minutes.

Mr. YATES. Mr. Chairman, I want the attention not only of the proponent of this amendment, but the gentleman from Ohio [Mr. REGULA], my chairman, as well. In conversations that I had with the gentleman from New Jersey [Mr. ZIMMER] before this amendment was offered, he showed me the letter from the Director of the Park Service saying that he no longer had any objection to it. I understand also that the Secretary of the Interior has no objection to it.

And I have some difficulty, concerned as I am, with possible safety questions that were raised by the chairman of the subcommittee. I have a letter here, a copy of a letter here, dated July 11, 1995, which gives me pause and makes me wonder why the Director of the Park Service and the Secretary of the Interior waived whatever objections they had.

This is a copy of a letter dated July 11, to the Director of the National Park Service from the Superintendent of the Statue of Liberty National Museum on Ellis Island. "Subject: Ellis Island Bridge—Unsafe for Public Pedestrian Use," and he gives the reasons under that:

Decking is perforated steel which is difficult to walk on and by Building Official Code and Administrative International definition is a tripping hazard.

Side rails are not in compliance with Building Official Code and Administrative International or ADA because of spacing of intermediate rails. Children would be particularly at risk of falling.

Ellis side of the bridge is currently a construction staging area and a site maintenance yard.

The bridge landing area will continue to be a construction staging area if rehabilitation of historic structures on Ellis Island continues.

Bridge does not meet New York and New Jersey building codes for public pedestrian bridge.

Surface material is designed for traction during ice and snow, therefore, if a person falls, they could receive serious cuts.

There is no protection to separate pedestrians from vehicles.

It is signed by M. Ann Belkov.

I know the gentleman has sought to condition the committee's approval with language, but it seems to me to be somewhat inadequate in view of the criticisms raised by Ms. Belkov. And so, Mr. Chairman, I know that I cannot accept the amendment and of course will do as the House wants to do.

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

Mr. YATES. I yield 1 minute to the gentlewoman from New York.

Mrs. LOWEY. Mr. Chairman, I rise in strong opposition to this amendment. There is no good reason for the expenditure of these funds, expecially at a time when we face the possibility of actually closing down national parks.

I want to remind my colleagues that there had been an ongoing effort over the past few years by New Jersey to build a permanent bridge between New Jersey and the island. I strongly oppose this amendment.

Mr. Chairman, as the gateway for more than 12 million immigrants between 1982 and 1954, Ellis Island holds a unique position in our Nation's history. While I certainly share the desire to promote visitor access in the Island, I rise in opposition to the amendment by the gentleman from New Jersey.

The temporary construction bridge that was erected in 1986 between Jersey City and Ellis Island was built for trucks—not pedestrians. It does not meet applicable safety codes for pedestrian use and, according to the National Park Service, it would cost at least $1 million to make the necessary structural safety improvements to the bridge.

But, Mr. Chairman, the problems don't stop there. If pedestrians were to be allowed on the bridge, the landings on both the island and the mainland—which are presently routed through service and maintenance yards—would have to be relocated. This would require the abatement of asbestos and fuel-soaked soils and extensive landscaping, at a cost of at least another million dollars.

There is no good reason for the expenditure of these funds, especially at a time when we face the possibility of actually closing down national parks.

Let me remind my colleagues that there has been an ongoing effort over the past few years by New Jersey to build a permanent bridge between New Jersey and the island. Earlier this year this body voted to stop funding for this project, which would cost as much as $25 million and which—in the words of a Park Service report—would have an unmitigateable, adverse impact on the island's historic and cultural resources.

The supporters of this amendment would like you to believe that pedestrian access is critically needed because the ferry is too expensive or inconvenient. The reality is that a family can spend the entire day at Ellis Island and the Statue of Liberty for less than the cost of going to a movie. Is it worth asking the taxpayers to spend millions of dollars to provide

another means of access, particularly when the vast majority of visitors to the island say they prefer to take the ferry anyway?

Every year, more than a million and a half visitors from around the world tour the island. Like their predecessors, visitors travel to the island by boat. Not surprisingly, most tourists to the island say they consider the ferry ride to Ellis Island an essential part of their visit.

The Park Service's use of scarce Federal dollars at Ellis Island would be better spent on the island's historic buildings that are in desperate need of repair. I urge my colleagues to vote against this amendment.

Mr. NADLER. Mr. Chairman, will the gentlewoman yield?

Mrs. LOWEY. I yield to the gentleman from New York.

Mr. NADLER. Mr. Chairman, I rise in opposition to this amendment which would prohibit us from tearing down this bridge which is half in my district. This bridge was constructed with the specific intent of being taken down. It is an Army-designed, temporary Bailey bridge.

The only reason it exists is to allow construction vehicles to travel to and from Ellis Island for an ongoing construction project. It is normally used by an advancing military. It is designed to be laid quickly and efficiently and is meant to be used only as a temporary crossing.

Mr. Chairman, an amendment to make it permanent, to prevent us from tearing it down, is an amendment to circumvent the will of this House which voted not to have a permanent bridge here.

Mr. Chairman, I rise in opposition to this amendment.

The bridge my colleague is asking to be turned into a pedestrian foot bridge is an Army-designed Bailey Bridge. This bridge was constructed with the specific intent of being taken down. The only reason it exists is to allow construction vehicles to travel to and from Ellis Island for an ongoing restoration project. This type of bridge is normally used by an advancing military and is designed to be laid quickly and efficiently and is meant to be used only as a temporary crossing. A Bailey Bridge is designed for vehicles and troops wearing combat boots. It is made of perforated metal, an extremely unsafe surface for normal pedestrian use.

In fact, the bridge is far from meeting basic safety standards for pedestrian use. The railings and curbs are inadequate. there is no way to separate vehicle from pedestrian traffic further endangering those that would use the bridge. To make this bridge a stable and long lasting structure would also require additional pilings and reinforcement of its frame. The estimated cost to add the railings, curbs, pilings and other safety features necessary for pedestrian traffic is $5 million. This amendment does not provide the funds for the construction of these safety standards, yet it will not allow the bridge to be taken down. So, when the restoration project is over it will sit, useless, nothing more than a potential navigational hazard to industrial and recreational ships alike. As such, in addition to being an unsafe crossing for families visiting Ellis Island, if the bridge is left in place beyond its useful life it could threaten vessels calling at port facilities in Port Newark—Elizabeth, the Military Ocean Terminal in Bayonne, the Howland Hook marine terminal, South Brooklyn Marine Terminal, Red Hook Container Terminal as well as other marine traffic in the Nations greatest port.

This bridge is not designed for heavy pedestrian use and is not designed to stand the test of time. It is a temporary bridge that will be nothing more then a disaster waiting to happen. I strongly urge my colleagues to defeat this amendment.

Mr. TORRICELLI. Mr. Chairman, I ask unanimous consent to address the committee for 2 minutes.

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

There was no objection.

Mr. TORRICELLI. Mr. Chairman, this amendment brings the art form in the Congress of looking to appear to do something, but in fact doing nothing, to a new height.

This amendment, as offered, would save a bridge which has already been determined to be unsafe and yet undermine previous efforts of the Congress to provide a new access to the island.

We are telling the American people that, in fact, we are going to avoid this problem of a $7 ferry ride. New access. Well, in the 103d Congress we just did that. We said we were going to build a new bridge and give new access.

And now, the gentleman from New Jersey [Mr. ZIMMER] comes to the floor offering to save a bridge which for safety reasons no one could walk across, and yet there is no appropriation to fix it or repair it.

There is perhaps no reason to oppose the amendment. It will not do any harm. But there is also no reason to vote for it. We have managed simply to convince people that it looked like we were doing something, while we did nothing.

Now, it may be the impression of some as well, because the gentleman from New Jersey [Mr. ZIMMER] has brought this amendment to the floor that, in fact, he represents this district. In fact, he does not. The gentleman from New York [Mr. NADLER] has jurisdiction over parts of the island and the gentleman from New Jersey [Mr. MENENDEZ] on the remainder.

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

Mr. TORRICELLI. I yield to the gentleman from New Jersey.

Mr. MENENDEZ. Mr. Chairman, let me briefly say I would have liked to have joined the gentleman from New Jersey [Mr. ZIMMER] in the ranks of those who have been fighting for a pedestrian bridge to give affordable access, but that time was when we had the rescissions vote. That vote, unfortunately, took away the possibility for a pedestrian bridge to go ahead and make sure that lower-income Americans do not have to pay Circle Line, with its exclusive opportunity to bring passengers to the island.

So, Mr. Chairman, this unfortunately, does not do the job that I hoped it would, but the National Park Service has said simply that it will not.

Mr. Chairman, I would like to welcome Mr. ZIMMER to the ranks of those fighting to establish a pedestrian bridge from Liberty State Park in Jersey City to Ellis Island.

I say that I'm welcoming him, because there have been precious few of us who have been out front about making access to one of our most important national historic treasures easy and affordable, and who have worked for legislation that would make that possible. In fact, aside from myself, Senators BRADLEY and LAUTENBERG, and Congressman FRELINGHUYSEN, nobody has really shown much interest at all in helping the millions of families who visit this historic landmark get there easily and safely. As the Representative of the district in which the bridge lies, I'm pleased Mr. ZIMMER has finally joined the effort. We have done all we can to get Governor Whitman to join us, but she still shows no interest in doing so.

This amendment would prevent funds in the bill from being used to demolish an existing bridge to Ellis Island, or being used to prevent pedestrians from using that bridge if it is deemed safe for such use. The bridge is currently used by construction and maintenance vehicles for access to the island.

When I saw Mr. ZIMMER was offering this amendment, I asked people at the Park Service what they thought about it. Their response was most interesting. They told me that they have no intention whatsoever of demolishing the bridge. In fact, they would like to keep the bridge permanently in use for their vehicles, since without it, the cost of transportation for Park Service employees, equipment, trash, and so forth would approach $700,000 annually. It clearly makes little sense to demolish the bridge, and therefore even less sense to bother amending an appropriations bill to prevent a demolition which no one seeks.

Because the Park Service intends to keep the bridge indefinitely for vehicular traffic, there is no hope of its being converted for pedestrian use. This renders the amendment almost entirely moot.

I say almost, because there is still some value to the amendment. Despite its glaring weaknesses, it is one of the best arguments I have seen yet for the construction of a new bridge, exclusively for pedestrian use, which I have been fighting for since my arrival here nearly 3 years ago. Originally, we had wanted to build a pedestrian bridge nearby, because families visiting the island currently must wait in line, sometimes for hours under the summer sun, and then buy tickets from the Circle Line ferry, which has a commercial monopoly on visitor access to the island. During their long wait in the ticket line, these families can all see clearly that there is a bridge linking the island to the shore. Still, they are forced to pay $7 apiece, $20 for a family with two children, for a ferry ride to an island less than a quarter mile off shore. For many of my constituents, who ironically live so close to Ellis Island, the price is a luxury they cannot afford. But, Mr.

Chairman, should visiting a treasure of our national heritage be considered a luxury? Certainly it should not.

Unfortunately, the Zimmer amendment provides no funding for the improvements necessary to make the bridge safe for pedestrians, nor for the construction of a new one. Without funds to upgrade the bridge, it will remain permanently unsafe. Permanently, because not only is there no money to improve it, but the amendment prevents us from demolishing it, too. So we are to be eternally stuck with an unusable bridge. That is one effect of the amendment.

The original purpose of the bridge, to provide access for construction vehicles involved in the restoration of the remaining historic buildings on the island, is further defeated by the bill itself. Language appearing on page 18 prohibits the use of Park Service funds to implement an agreement for the redevelopment of the southern end of Ellis Island. The adoption of this amendment and the passage of the bill would leave us with a construction bridge, but no construction. A bridge which we will then maintain for pedestrians, but which is unfit for pedestrian use. A bridge which some argue supposedly damages the historical integrity of an island, an island full of collapsing historic buildings, but which we can neither improve, replace, nor tear down.

There are funds available for the construction of a footbridge, but the project will be killed in the Republican rescissions bill, if it passes the Senate. In fact, if the new version of the bill isn't passed, I understand that it is the intention of Chairman WOLF to kill the project in the Transportation appropriations bill, even though the Park Service's draft environmental impact statement shows that a new bridge is the most preferable method of providing affordable access. The real battle to provide affordable access to Ellis Island was fought months ago. My colleague from New Jersey could have been much more effective if he had joined us in supporting the bridge during the rescissions process.

With the passage of this amendment and the Interior Appropriations bill, however, it will only be a matter of time before even the most casual observer will see plainly the absurdity of what we will have done here today, and be compelled to seek a real solution such as the one we have advocated for years, but which has been consistently frustrated by political gamesmanship.

Mr. ZIMMER. Mr. Chairman, I ask unanimous consent to proceed for 1 additional minute to respond.

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

There was no objection.

Mr. ZIMMER. Mr. Chairman, I would point out to the gentleman who represent the vicinity of the bridge that the mayor of Jersey City endorses this amendment. Jersey City is the New Jersey terminus of the bridge.

Mr. Chairman, I am interested in the statement that this bridge is unsafe for pedestrian use, because it is being used as we speak by pedestrians in the employ of the Park Service. We do not have to spend $15 million for a brand-new bridge. If it is necessary to upgrade this bridge, it would be at minimal cost; certainly far less than $15 million.

I believe we have the best of both worlds here. We can provide for public access without having to spend money which is in fact being rescinded by this Congress, and without giving the Circle Line a monopoly service at $7 a person for access to this national museum.

The CHAIRMAN. The question is on the amendment offered by the gentleman from New Jersey [Mr. ZIMMER].

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

RECORDED VOTE

Mr. ZIMMER. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 230, noes 196, not voting 8, as follows:

[Roll No. 520]

AYES—230

Allard
Andrews
Archer
Armey
Bachus
Baker (CA)
Baker (LA)
Ballenger
Barr
Barrett (WI)
Bartlett
Barton
Bass
Bateman
Bilbray
Bilirakis
Bliley
Boehner
Bonilla
Bono
Brownback
Bunn
Bunning
Burr
Burton
Buyer
Callahan
Calvert
Camp
Canady
Castle
Chabot
Chambliss
Chapman
Chenoweth
Christensen
Chrysler
Clinger
Coble
Coburn
Collins (GA)
Combest
Condit
Crapo
Cremeans
Cubin
Cunningham
Davis
Deal
DeFazio
DeLay
Diaz-Balart
Dickey
Dooley
Doolittle
Dornan
Dreier
Duncan
Dunn
Ehlers
Ehrlich
Emerson
English
Ensign
Everett
Fawell
Fields (TX)
Flanagan
Foley
Forbes
Fowler
Fox
Franks (CT)
Franks (NJ)
Frelinghuysen
Funderburk
Gallegly
Ganske
Geren
Gilchrest
Gillmor
Goodlatte
Goodling
Goss
Graham
Greenwood
Gunderson
Gutknecht
Hall (TX)
Hancock
Hansen
Harman
Hastert
Hastings (WA)
Hayes
Hayworth
Hefley
Heineman
Herger
Hilleary
Hobson
Hoke
Horn
Hostettler
Hunter
Hutchinson
Hyde
Inglis
Istook
Jacobs
Johnson (CT)
Johnson, Sam
Jones
Kaptur
Kasich
Kelly
Kim
Kingston
Kleczka
Klink
Klug
Knollenberg
Kolbe
LaHood
Largent
LaTourette
Laughlin
Leach
Lewis (CA)
Lewis (KY)
Lightfoot
Linder
LoBiondo
Longley
Luther
Manzullo
Martini
McCollum
McCrery
McDade
McHale
McInnis
McIntosh
McKeon
Menendez
Metcalf
Meyers
Mica
Miller (FL)
Minge
Molinari
Montgomery
Moorhead
Moran
Morella
Myers
Myrick
Nethercutt
Neumann
Ney
Norwood
Nussle
Orton
Oxley
Packard
Pallone
Parker
Paxon
Payne (NJ)
Payne (VA)
Peterson (MN)
Petri
Pickett
Pombo
Porter
Portman
Pryce
Radanovich
Ramstad
Regula
Roberts
Rogers
Rohrabacher
Ros-Lehtinen
Roth
Roukema
Royce
Salmon
Sanford
Saxton
Scarborough
Schaefer
Schiff
Seastrand
Sensenbrenner
Shadegg
Shaw
Shays
Shuster
Sisisky
Smith (NJ)
Smith (TX)
Solomon
Souder
Spence
Spratt
Stearns
Stockman
Stump
Talent
Tauzin
Taylor (MS)
Thomas
Thornberry
Tiahrt
Torkildsen
Upton
Vucanovich
Waldholtz
Ward
Weldon (FL)
Weldon (PA)
Weller
White
Whitfield
Wicker
Wolf
Young (FL)
Zeliff
Zimmer

NOES—196

Abercrombie
Ackerman
Baesler
Baldacci
Barcia
Barrett (NE)
Becerra
Beilenson
Bentsen
Bereuter
Berman
Bevill
Bishop
Blute
Boehlert
Bonior
Borski
Boucher
Brewster
Browder
Brown (CA)
Brown (FL)
Brown (OH)
Bryant (TN)
Bryant (TX)
Cardin
Clay
Clayton
Clement
Clyburn
Coleman
Collins (IL)
Conyers
Cooley
Costello
Coyne
Cramer
Danner
de la Garza
DeLauro
Dellums
Deutsch
Dicks
Dingell
Dixon
Doggett
Doyle
Durbin
Edwards
Engel
Eshoo
Evans
Ewing
Farr
Fattah
Fazio
Fields (LA)
Filner
Flake
Foglietta
Ford
Frank (MA)
Frisa
Frost
Furse
Gejdenson
Gekas
Gephardt
Gibbons
Gilman
Gonzalez
Gordon
Green
Gutierrez
Hall (OH)
Hamilton
Hastings (FL)
Hefner
Hilliard
Hinchey
Hoekstra
Holden
Houghton
Hoyer
Jackson-Lee
Jefferson
Johnson (SD)
Johnson, E. B.
Johnston
Kanjorski
Kennedy (MA)
Kennelly
Kildee
King
LaFalce
Lantos
Latham
Lazio
Levin
Lewis (GA)
Lincoln
Lipinski
Livingston
Lofgren
Lowey
Lucas
Maloney
Manton
Markey
Martinez
Mascara
Matsui
McCarthy
McDermott
McHugh
McKinney
McNulty
Meehan
Meek
Mfume
Miller (CA)
Mink
Mollohan
Murtha
Nadler
Neal
Oberstar
Obey
Olver
Ortiz
Owens
Pastor
Pelosi
Peterson (FL)
Pomeroy
Poshard
Quillen
Quinn
Rahall
Rangel
Reed
Riggs
Rivers
Roemer
Rose
Roybal-Allard
Rush
Sabo
Sanders
Sawyer
Schroeder
Schumer
Scott
Serrano
Skaggs
Skeen
Skelton
Slaughter
Smith (MI)
Smith (WA)
Stark
Stenholm
Stokes
Studds
Stupak
Tanner
Tate
Taylor (NC)
Tejeda
Thompson
Thornton
Thurman
Torres
Torricelli
Towns
Traficant
Tucker
Velazquez
Vento
Visclosky
Volkmer
Walker
Walsh
Wamp
Waters
Watt (NC)
Watts (OK)
Waxman
Williams
Wilson
Wise
Woolsey
Wyden
Wynn
Yates
Young (AK)

NOT VOTING—8

Collins (MI)
Cox
Crane
Kennedy (RI)
Mineta
Moakley
Reynolds
Richardson

□ 1502

Messrs. YOUNG of Alaska, WAMP, QUILLEN, QUINN, and MASCARA changed their vote from "aye" to "no."

Messrs. FORBES, THOMAS of California, CHAPMAN, and WHITE changed their vote from "no" to "aye."

So the amendment was agreed to.

The result of the vote was announced as above recorded.

The CHAIRMAN. Are there further amendments to title III?

AMENDMENT OFFERED BY MR. KLUG

Mr. KLUG. Mr. Chairman, I offer an amendment.

The CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment offered by Mr. KLUG: On page 44, after line 19, insert the following:

"SEC. 115. No funds appropriated or otherwise made available pursuant to this Act in fiscal year 1996 shall be obligated or expended to accept or process applications for a patent for any mining or mill site claim located under the general mining laws or to issue a patent for any such claim.".

The CHAIRMAN. Under the rule, the gentleman from Wisconsin [Mr. KLUG] and a Member opposed will each be recognized for 10 minutes.

Mr. KLUG. Mr. Chairman, I ask unanimous consent to yield 5 minutes of my time in support of my amendment to the gentleman from West Virginia [Mr. RAHALL], and that he be permitted to control that time.

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

There was no objection.

Mr. RAHALL. Mr. Chairman, I appreciate the gentleman from Wisconsin [Mr. KLUG] yielding me 5 minutes to join him in strong support of this amendment, and, before proceeding with my remarks, I yield 2 minutes to the gentleman from Hawaii [Mr. ABERCROMBIE]. I rise in strong support of the amendment.

Mr. ABERCROMBIE. Mr. Chairman, the House has supported a patent moratorium for several years now as an interim step to achieving comprehensive mining reform. And, the House, at least, has addressed the overriding need to reform the 1872 mining law by passing comprehensive legislation during the last Congress. Legislation which the House overwhelming supported on a 3 to 1 margin. Fundamental to any discussion of hardrock mining in this country is the need to end the archaic practice of patenting—or practically giving away—public mineral lands.

As you will recall, the old and outdated mining law of 1872, actually encourages the give-away of billions of dollars of gold, silver and other hard rock minerals that belong to the American taxpayer.

Under the 1872 law, which governs mining for precious metals, like gold, silver and platinum of Federal lands, miners who discover one of these minerals are entitled to a patent—or fee-simple title to the land. Since 1872, the United States has transferred over $231 billion worth of mineral assets to mining companies, charging minimal administrative cost for the land transfer and no royalty whatsoever.

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

We should move to block mining conglomerates from pirating valuable public minerals just because they are able to tie up reform in the Congress.

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

This patent moratorium would prevent the transfer of 133,000 acres of public land containing an estimated $15.5 billion worth of valuable minerals to international mining conglomerates for practically nothing. This is what we mean by the slogan: "They get the gold, we get the shaft".

That is why we need your vote to maintain the patenting moratorium in this bill.

Unless Congress acts now by enacting this patent moratorium, title to an additional $15.5 billion worth of mineral reserves—which rightfully belong to the American taxpayer—will be signed over to international mining conglomerates for the paltry sum of less than $1 million. These companies will win the golden ring simply by paying $5.00 an acre—and what do the taxpayers get in return? Nothing, an empty pocket.

I understand they dug up Jesse James yesterday. Robbing trains and holding up banks, was just a nickle and dime operation compared to mining public land. Jesse was in the wrong end of the stealing business.

The patent moratorium is not comprehensive mining reform: but it is a very important interim step that will save $15.5 billion worth of minerals from being given away to international corporations.

So, I urge a vote for the Klug-Rahall amendment. I urge an aye vote to put some hard dollar reality into the rhetoric on reducing the deficit. I urge an aye vote to give a break to the American taxpayer instead of a monster giveaway to marauding corporate interests.

Mr. RAHALL. Mr. Chairman, I yield such time as she may consume to the gentlewoman from California [Ms. HARMAN].

Ms. HARMAN. Mr. Chairman, I rise in opposition to some earlier amendments on the National Endowment for the Arts.

Mr. RAHALL. Mr. Chairman, I yield such time as he may consume to the gentleman from California [Mr. MILLER].

Mr. MILLER of California. Mr. Chairman, inclusion of the patent moratorium is more important this year than at any other time in the past. As Members will recall, the House voted by a 3 to 1 margin in 1993 to reform the mining law of 1872, a Civil War era law that encourages the giveaway of billions of dollars of gold, silver and other minerals that belong to the American taxpayer. With the support of Members like NEWT GINGRICH, we passed a good bill, a tough bill, but unfortunately the conference committee with the Senate was unable to produce a final bill. And now the Senate, under Republican leadership, is considering a weak bill that will make minor changes that leave the taxpayer and the environment the losers while the mining conglomerates make off with the gold. The Craig bill, if enacted, will result in no royalties, no environmental clean-up, and no reform, which is exactly how the industry lobbyists wrote it.

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

We should not give away permanent ownership of the public lands. We don't do that in oil and gas or coal leasing. The states don't do it in hard rock mining. I don't think that many private individuals do it.

Although the mining industry claims patenting is critical to its ability to function, no State gives private companies title to its resources, and yet the companies mine on State land. I know of no private citizens who give mining companies title to their land for mineral exploration and production, and yet they mine on private lands.

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

The mining industry spent a small fortune last year to prevent reform of the 123-year-old mining law of 1872. It was cheaper for them to pay the lobbyists and make the campaign contributions than to see real reform enacted to safeguard the taxpayers who own this gold. As a result, we can look forward to many more giveaways like the ones Secretary Babbitt signed earlier this year—trading a fortune in public gold for a pauper's ransom.

If we do not stop patenting, through mining reform or through a patenting moratorium pending achievement of mining reform, we will see more and more such cases in the years to come.

The House Appropriations Committee unwisely has not included a moratorium this year. In fact, the committee report includes language which foolishly advocates the rapid transfer of patents presumably to assuage the mining industry which would prefer to continue freeloading off the public lands. If the Department complies with the report language and

expedites approval of the 233 patent applications in the pipeline, we will in effect give away 15.5 billion dollars' worth of gold and silver to mining conglomerates. Talk about corporate welfare. I urge Secretary Babbitt to ignore the report language and to continue the careful and cautious route he has pursued in the past.

We cannot be party to the continued looting of the Treasury by foreign gold companies and others. So we should include a patent moratorium because as a practical matter, we should not leave the 1872 law, and particularly the patenting process, on the books should no action be taken on comprehensive reform. If we must again defer until next year—or the year after—comprehensive reform, we should hold the program in abeyance. For while we may not have agreed on the precise design of reform at the point, virtually everyone agrees drastic reform of the mining program is necessary.

So, I urge a vote for the amendment. If we cannot achieve real reform, we will at a minimum stop the giveaway of 15.5 billion dollars' worth of public resources until such time as we do achieve reform.

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

Mr. Chairman, how to get rich at the taxpayers' expense under the patent feature of the mining law of 1872; that is the question here today, and let me count for my colleagues the number of ways:

In Nevada a company that is 70 percent owned by the Anglo-American conglomerate, those wonderful folks from South Africa, is seeking title to Federal lands, Federal lands. All of our names are on the deed with an estimated 1.1 billion dollars' of gold. In return, the American taxpayers would receive a measly $5,080.

Meanwhile, in Montana mining claims have been staked on Federal lands with an estimated 3.4 billion dollars' worth of platinum minerals, and under the mining law of 1872 the Government will have to sell that land to this company for a mere $12,660.

Wow, wow, over 3 billion dollars' worth of valuable minerals owned by the Federal Government in exchange for just over $12,000.

And then, my colleagues, there is my all-time favorite, the amazing and true story of that little old mining claim that grew up into a huge Hilton Hotel. My colleagues, there is this man in Arizona that stakes a mining claim, 61 acres to be exact, and under the mining law he bought them from the Government for just $155. I say to my colleagues, Now, under the mining law, once you receive title to your mining claims, which is called a patent, there is nothing that says you have to actually, well, mine the land. Oh, no. Far from it. Instead, today these mining claims are the site of a huge Hilton Hotel overlooking Phoenix.

Mr. Chairman, for $190 a night guests stay in spacious two-room suites complete with fully stocked refrigerators and wet bars. They are invited to enjoy 18-hole golf courses, desert jeep tours, and sea-salt pedicures, but for their 61 acres, all the taxpayers received was $155, and for the $155 the so-called miner paid the Government for these claims, he estimates that his share of the Hilton Hotel is now worth about $6 billion.

Some of my colleagues may be wondering just how could this be? This is too incredible to be true. Well, it is true.

The bottom line, my colleagues, is that, if we do not pass this Klug-Rahall amendment, the United States may be forced to sell off 133,000 acres of Federal lands, lands owned by all of us as American taxpayers, containing approximately 15 billion dollars' worth of gold, silver, and other hardrock minerals, for either $2.50 or $5 an acre.

That is what is at risk today. That is what is in the patent application pipeline.

This patent moratorium was passed in the previous Congress as part of this same appropriation bill, and I urge my colleagues today to continue this patent moratorium in place until this Congress can enact comprehensive mining law reform. We came close in the last session of Congress. We were not able to finally deliver and see it into law, but this session of Congress I am hopeful we can move with comprehensive mining reform legislation, and, until we do, let us keep this patent moratorium in place.

Mrs. VUCANOVICH. Mr. Chairman, I rise in opposition to the amendment offered by the gentleman from Wisconsin [Mr. KLUG].

The CHAIRMAN. The gentlewoman from Nevada [Mrs. VUCANOVICH] is recognized for 10 minutes.

Mrs. VUCANOVICH. Mr. Chairman, I yield 2 minutes to the gentleman from Alaska [Mr. YOUNG], chairman of the Committee on Resources.

Mr. YOUNG of Alaska. Mr. Chairman, my colleagues, I have heard this argument over and over again about what a great giveaway. This amendment, very frankly, would drive the mining industry, as I have said again and again, off our shores. We would stop what little industry we have left today.

The one bright spot in this industry is the gold mining. Across the United States it employs people, it makes new jobs. This money is not going anywhere. The Federal Government does not make any money, and to say this is a ripoff is the same old litany I have heard time and time again written by the Sierra Club, written by the environmental community, trying to drive our industry off our shores, and all the other countries of the world today, they are trying to get the mining industries to come in, and they are doing it because they delete royalties, they encourage by tax incentives, they give the land away free to get the jobs on their shores.

The 1872 mining law has worked, and I may suggest to the gentleman who just spoke previously he ought to know about the condos, because he has spent many a time in those places.

May I suggest respectfully, if I can, that this amendment offered by the gentleman from Wisconsin and the gentleman from West Virginia was offered last year, was adopted by the majority of them on that side, opposed by our side, and to have our side offering this amendment is wrong. I say to my colleagues, If you want to keep our jobs on our shores, employing people not flipping hamburgers, but doing real jobs that develop a resource and resources on these lands, then you ought to take and turn down this amendment. It is a bad amendment on this legislation, but more than that it is, and sadly the Parliamentarian would not rule in my favor, it is legislation on an appropriation.

And now I remind my leadership we were not going to do that with our side. We are doing it by this amendment today. I do not agree with it. I think it is wrong, it is inappropriate. It is wrong for this Nation, it is wrong for this industry. We must continue to work for America.

Mrs. VUCANOVICH. Mr. Chairman, I yield 2 minutes to the gentleman from California [Mr. CALVERT], who is the chairman of the Subcommittee on Energy and Mineral Resources.

Mr. CALVERT. Mr. Chairman, I rise in strong opposition to this amendment which limits the use of funds for the acceptance and processing of mineral patent applications or the issuance of such patents by the Secretary of the Interior.

Mr. Chairman, I am the chairman of the authorizing subcommittee of jurisdiction over the mining law of 1872, as amended. I am also the lead cosponsor of H.R. 1580, the Mining Law Reform Act of 1995. If the amendment to the appropriations bill before us now is adopted, we will have repeated the mistake of the 103d Congress in its attempt to change the mining law.

The real objective of this amendment is to derail attempts to bring about reasonable changes to the 1872 act. The deadlocked end to the conference committee on mining law reform last September 28 followed just 2 days after Congress adopted the fiscal year 1995 conference report which included a mineral patent moratorium for the first time. Was this mere happenstance? Absolutely not.

H.R. 1580 retains the right to receive a patent, after demonstration that a valuable mineral deposit has been discovered, but only upon payment of the appraised fair market value of the land within the claim. The sponsors of this amendment would eliminate patenting altogether without substituting any other provision for making secure the opportunity to mine one's claims. If

you want a real solution, vote against this misguided amendment.

□ 1515

Mrs. VUCANOVICH. Mr. Chairman, I yield 2 minutes to the gentleman from Arizona [Mr. HAYWORTH], a member of the Committee on Resources.

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

Mr. Chairman, I rise in opposition to the amendment offered by the gentleman from Wisconsin to limit the use of funds for the acceptance and processing of mineral patent applications or the issuance of such patents by the Secretary of the Interior. The amendment before us does not merely continue the mineral patent moratorium in the fiscal year 1995, as we have been led to believe.

The U.S. Supreme Court has consistently opined that a valid mining claim is "private property in the highest sense of the word." The action of the Secretary to grant title to a mining claim which is supported by a discovery of a valuable mineral deposit and for which all other requirements of law have been met is not discretionary. Rather, it is ministerial. I oppose the present patent moratorium, but at least the present moratorium recognized the prevalent court rulings.

The amendment of the gentleman from Wisconsin [Mr. KLUG] is clearly an infringement on these private property rights. The amendment of my friend from Wisconsin invites a flood of takings litigation by those applicants recognized in last year's bill to have met last year's requirements and for which the Secretary was not barred from spending funds to process or issue mineral patents. The Department's records as of last fall indicated some 388 applications for mineral patents were so vested. This amendment could subject our Government to expensive litigation and a staggering takings liability.

The fact is, Mr. Chairman, this will have a chilling effect on mining companies and on folks who have claims and are filing for the patents. It in essence is a job killer. What we are doing here today is working to create jobs in the private sector, because these jobs are not Republican jobs or Democrat jobs or liberal jobs or conservatives jobs; they are jobs for the people of this country. I stand up and say yes to jobs, and no to the amendment.

Mr. KLUG. Mr. Chairman, I yield myself 3 minutes.

Mr. Chairman, I would like to make some points with my colleagues on the other side of this amendment fight and simply say this is not an amendment about whether or not there should be mining. The bottom line in all of this is the fiduciary responsibility of Members of Congress and whether or not we get the proper return for the mining claims that are before us.

Now, there I think, frankly, some problems in this amendment, and it is a creation of the rule which did not allow us to put in language grandfathering in some of the operations in place.

My colleague from Arizona raises a good point. Let me make it very clear that it is my intention that if this amendment passes, I would be willing to work with the gentleman from Ohio [Mr. REGULA] and other members of the Committee on Appropriations to put in language much similar to last year's amendment, which we again were prohibited from doing this time, which would say if mining reform legislation passes then this amendment falls by the wayside.

Second, this amendment, as it said last year, further provides that the Secretary of the Interior shall continue to process patent applications that were filed prior to the date of the enactment of this act if the applicant had fully complied with all the requirements under the general mining laws for such patent.

So I am willing to work with the Committee on Appropriations to get language in place that allows patents in the pipeline to move forward. But the bottom line in all of this, Mr. Chairman, is money. For example, the State of Arizona requires its mining companies to pay anywhere from 2 to 5 percent on current leases; California, 5 percent; Alaska, 3 percent.

If we can get comprehensive mining reform in place which allows the Federal Government to collect the royalties that are due it, I will be glad to work with the gentleman from California [Mr. CALVERT] on passing his legislation. But at the present time, if this moratorium expires on September of 1995, there are three applications pending in front of the Federal Government now worth $5.5 billion: One patent in Nevada on a gold mine worth $1.113 billion, and the taxpayers get from the patent price $5,080; another patent, the McCoy Cove Mine, pending in Nevada, worth $1.4 billion, and the taxpayers get $3,305; the Mount Edmonds Mine in Colorado, recoverable mine value $2.99 billion, and the patent price of $5 an acre, one thousand bucks. So more than $5.4 billion and the taxpayers get $10,000 out of this.

I would be glad to work with my colleagues on the other side of the aisle, because I do not think this is, in my case, whether or not there should be mining in the United States; the bottom line is whether or not we get a fair price for the mining that should and I hope will, take place in the future.

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

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

Mr. CALVERT. Mr. Chairman, if the gentleman would like to cosponsor my bill, as he knows, we resolve the issues of a fair royalty on Federal land. This is an improper way to amend this at this time. So I would think the gentleman would like to get on our bill and do it the right way.

Mr. KLUG. Mr. Chairman, reclaiming my time, the gentleman and I have had conversation about this, as he knows. It is not my intention to drive the U.S. mining industry out of the country, but it is my intention to get a fair price for this. I would be willing to work with the gentleman. I said that in the past, and I would be willing to work with him today to get that bill out in the near future or put an incentive in place today to get it done even faster, and that is my intention.

Mrs. VUCANOVICH. Mr. Chairman, I yield 1½ minutes to the gentleman from Washington [Mr. NETHERCUTT], a member of the committee.

Mr. NETHERCUTT. Mr. Chairman, I rise in opposition to this moratorium amendment.

Mr. Chairman, this amendment is a temporary solution that in my judgment is detrimental to the mining industry in America. We can agree that mining reform is overdue. We can agree with that. And as the gentleman from California [Mr. CALVERT] mentioned earlier, we have H.R. 1518 that is in the process of being prepared which will address the objections sought to be imposed by this amendment.

I believe this amendment will discourage mining in America. We can have all the anecdotal information or examples in the world of egregious overreaching, but in fact this mining law has worked over the years, and it is very important, I think, that we keep something in place to make sure that we do not discourage mining and send it to foreign shores.

I was one who opposed the elimination of the Bureau of Mines in my own subcommittee. We lost that battle, but we have cut back in mining throughout this country to the point where there is a disincentive, I think, to even get involved in the mining industry, to provide some jobs and assistance to America.

Interim steps have a way of becoming permanent, and I fear that this particular moratorium amendment will do just that. What we do not want to do is discourage mining in this country. We do not want to send mining operations overseas and be dependent on foreign companies for the production of minerals that we use in this country. This amendment will result in such foreign dependence, and it should be opposed and overridden.

Mr. KLUG. Mr. Chairman, I yield 30 seconds to the gentleman from West Virginia [Mr. RAHALL].

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

Mr. Chairman, one important fact that we should not overlook in this debate is that the ability to obtain a patent has nothing whatsoever to do with the ability to mine. Ever since we

started, since I started the effort to reform the Mining Law of 1872 in the mid 1980's, hundreds of thousands of applications have gone into the Bureau of Land Management, everybody trying to seek a patent. Yet the Bureau can only approve less than 10 a year. It takes 4 years now before you can have a patent go through the process, and yet mining still goes on these patent applications. So the ability to mine is not affected whatsoever by the ability to obtain a patent. The patent process is obsolete.

Mr. KLUG. Mr. Chairman, I yield myself 30 seconds.

Let me just again make four points, if I can. First of all, the General Accounting Office, a survey of 20 patents examined at random, found that the Government had been paid $4,500 for claims worth somewhere between $14 and $48 million. This is an amendment above and fundamentally about money.

Second, as I have already indicated to my colleagues on the other side, I would support language in the appropriations bill during conferences that would put a grandfather clause in for mining patents that are currently in the pipeline, and also firm language that says if mining reform law passes this amendment is null and void.

Finally, when this moves again in September, I will remind my colleagues, $5.4 billion at stake in three claims and we get 1 thousand bucks.

Mrs. VUCANOVICH. Mr. Chairman, I yield myself 3 minutes.

Mr. Chairman, I rise in opposition to the amendment. The issue of hardrock mining on Federal lands is one that is properly within the purview of the appropriate House and Senate authorizing committees. It is the role of those committees, working with the administration, to determine the parameters of mining on public lands.

Mr. Chairman, I want to emphasize that the amendment before us is not the same as last year's. This amendment would put a blanket moratorium on the processing of all mineral patent applications. In last year's bill, we exempted certain patents that had reached a certain point in the patenting process.

One reason for the exemption in last year's bill, Mr. Chairman, was because of a possible "takings" problem. The U.S. Supreme Court has held that mining claims that have reached a certain point in the patenting process are, in every sense of the phrase, private property. If we pass this amendment we could be looking at substantial liability from a "takings" perspective.

The National Association of Manufacturers and the U.S. Chamber of Commerce oppose this amendment. Likewise, I strongly oppose this amendment and urge my colleagues to do likewise.

I would like to point out, as this chart shows, that the Bureau of Land Management's own study of the true costs to miners for patenting of their claims shows the cost of proving discovery, surveying the claims, preparing the application and other legal requirements to be a minimum of $37,900 per 20-acre lode claim, not $5 an acre by any means. In many cases, millions of dollars have been spent on a property in order to achieve patent.

Mr. Chairman, we should ensure a fair return to taxpayers. Comprehensive mining law reform legislation offers the best chance for that. This amendment would derail such legislation while devastating the mining industry at the same time. I oppose the amendment and urge my colleagues to do likewise.

□ 1515

Mr. LUTHER. Mr. Chairman, I wish to support the amendment to extend the moratorium on mining claim patents. I am also a cosponsor of Congressman RAHALL'S legislation to reform the mining patent process because I believe it is time that Congress stop giving away public lands at a fraction of their value at an enormous expense to American taxpayers.

I understand that the patent process played an important role in developing the Western United States. In 1872, there was a legitimate role for the Federal Government to play in providing incentives for Americans to move west and develop that great region of our country.

But today, things have changed and Government policy must likewise change.

Today, we are nearly $4.9 trillion dollars in debt—it is time to establish priorities, identify critical roles for the Government and cut the rest. Whatever national interest our country may once have had in being a provider of cheap land, it is simply not a critical role for the Federal Government to play in 1995. Today American taxpayers do not want their resources turned over to private interests while their national debt continues to rise.

Last November the voters in Minnesota and across the country asked that we change the way Washington operates. When a program has lost its usefulness, we should eliminate it, no matter what the special interests might say. This moratorium amendment is an excellent opportunity for Congress to demonstrate that we can change how Washington operates.

I urge my colleagues to vote for an end to the giveaway of public lands—by voting for the Rahall-Klug amendment.

Mr. GEJDENSON. Mr. Chairman, I rise in strong support of the amendment offered by Mr. RAHALL and Mr. KLUG to restore the moratorium on the issuance of patents for mining claims. I want to thank the gentleman from West Virginia for his tireless efforts over the last several years to fundamentally reform the anachronistic 1872 mining law.

I can think of no reason why my colleagues would not support this commonsense amendment. Patenting, whereby miners get title to public land, is a thing of the past which should have been done away with long ago. In these times of fiscal crisis, the Federal Government can ill afford to continue to "give away" taxpayers' land for $2.50 or $5 an acre. It boggles my mind that we are still selling our resources for the price established in 1872. According to a 1993 General Accounting Office [GAO] study of other major mining nations, the United States is the only country which allows public lands to be sold to mining companies. The survey of South Africa, Canada, and Australia, the third, fourth, and fifth largest mining nations that year, found that these nations retained title to public lands and provided access to miners through leases. If mining continues to be robust in Canada and South Africa without patenting, why do we need to continue this practice here? The answer is we don't.

The examples of the costs of patenting are legendary. Last year, Secretary of the Interior Bruce Babbitt was forced to approve a patent which transferred 1,038 acres of public land containing minerals valued at $10 billion to the Barrick Gold Corp., a Canadian company, for $5,190. This occurred because the moratorium exempted hundreds of patent applications which had progressed to a certain point in the review process. This case demonstrates that even with the moratorium, the American taxpayers continue to get the "shaft."

In spite of the flaws in the moratorium, it is preferable to allowing all patent applications to move forward. Without the moratorium, the Department of the Interior will be forced to approve hundreds of applications to transfer billions worth of gold, silver, and other valuable minerals to private companies without fair compensation to the taxpayers. According to an analysis by the Mineral Policy Center, if the moratorium is not renewed, more than 230 patents involving nearly 140,000 acres of public lands will move through the system and likely be approved. These lands contain in excess of 15 billion dollars' worth of minerals. Without the moratorium, this acreage will be "sold" to mining companies for no more than $700,000. Moreover, because we impose no royalty on hard rock minerals, the American people stand to lose hundreds of millions in lost revenue by transferring these lands out of public ownership.

Mr. Chairman, I strongly support comprehensive mining reform. However, in the absence of that, we are forced to take a piecemeal approach to protect the interests of the American taxpayer. Patenting is a giveaway to private companies, which are often foreign owned. No other major mining nation in the world turns over public land to miners. Most importantly, patenting undermines the principle that the American people should get a fair return on the use of their resources. I urge my colleagues to support the Rahall-Klug amendment.

Miss COLLINS of Michigan. Mr. Chairman, I must wholeheartedly oppose the elimination of the current moratorium on "Patenting" Federal lands subject to hardrock mining claims, and challenge the Republicans to justify this absurd course of action. The General Mining Law of 1872, signed into law by President Ulysses S. Grant, govern the mining of hardrock mineral on about 270 million acres of Federal lands. It allows anyone to buy an acre of land for $5!

Put simply, Mr. Chairman, the Federal Government is selling taxpayer-owned land which contains over $15.5 billion worth of gold, silver and other minerals for $5 an acre!

This country has already let over $231 billion worth of mineral assets slip through the taxpayer's fingers by granting ownership rights to public lands to mining interests at little charge and with no royalty payment. Not only is this robbery, but this is corporate welfare, plain and simple, Mr. Chairman. The only question is, how can the Republicans justify this kind of corporate giveaway program to some of the already wealthiest interests in the United States?

How can they justify this while they continue to complain that we, as Democrats, want to feed starving American children, or educate inner-city youth, or improve the water supply for millions of native Americans? I am appalled, Mr. Chairman. Mostly, I am appalled because I know that Republicans would rather spend crucial tax dollars for their wealthy business friends, like the powerful mining interests that are responsible for the elimination of this moratorium. I am appalled, Mr. Chairman, on behalf of the millions of Americans who still may not realize the extent to which they are being robbed!

The CHAIRMAN. The question is on the amendment offered by the gentleman from Wisconsin [Mr. KLUG].

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

RECORDED VOTE

Mr. RAHALL. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 271, noes 153, not voting 10, as follows:

[Roll No. 521]

AYES—271

Abercrombie
Ackerman
Andrews
Baesler
Baldacci
Barcia
Barrett (WI)
Bartlett
Barton
Bass
Becerra
Beilenson
Bentsen
Bereuter
Berman
Bevill
Bilirakis
Bliley
Blute
Boehlert
Bonior
Borski
Boucher
Browder
Brown (CA)
Brown (FL)
Brown (OH)
Bryant (TX)
Canady
Cardin
Castle
Chabot
Chapman
Chrysler
Clay
Clayton
Clement
Clyburn
Coble
Coleman
Collins (IL)
Conyers
Costello
Coyne
Cramer
Danner
Davis
Deal
DeFazio
DeLauro
Dellums
Deutsch
Diaz-Balart
Dicks
Dingell
Dixon
Doggett
Doyle
Edwards
Ehlers
Engel
Eshoo
Evans
Farr
Fattah
Fawell
Fazio
Fields (LA)
Filner
Flake
Foglietta
Forbes
Ford
Fowler
Fox
Frank (MA)
Franks (CT)
Franks (NJ)
Frelinghuysen
Frisa
Frost
Funderburk
Furse
Ganske
Gejdenson
Gephardt
Gibbons
Gilchrest
Gilman
Gonzalez
Goodlatte
Goodling
Gordon
Goss
Graham
Green
Greenwood
Gunderson
Gutierrez
Gutknecht
Hall (OH)
Hamilton
Harman
Hastings (FL)
Hefner
Hilliard
Hinchey
Hoekstra
Holden
Horn
Houghton
Hoyer
Inglis
Jackson-Lee
Jacobs
Johnson (CT)
Johnson (SD)
Johnson, E. B.
Johnson, Sam
Johnston
Kanjorski
Kaptur
Kasich
Kelly
Kennedy (MA)
Kennelly
Kildee
Kim
King
Kingston
Kleczka
Klink
Klug
LaFalce
Lantos
LaTourette
Lazio
Leach
Levin
Lewis (GA)
Lincoln
Linder
Lipinski
LoBiondo
Lofgren
Longley
Lowey
Luther
Maloney
Manton
Markey
Martini
Mascara
Matsui
McCarthy
McCollum
McDade
McDermott
McHale
McHugh
McKinney
McNulty
Meehan
Meek
Menendez
Meyers
Mfume
Mica
Miller (CA)
Miller (FL)
Mineta
Minge
Mink
Molinari
Moran
Morella
Murtha
Myrick
Nadler
Neal
Neumann
Nussle
Oberstar
Obey
Olver
Owens
Oxley
Pallone
Payne (NJ)
Payne (VA)
Pelosi
Peterson (FL)
Peterson (MN)
Pickett
Pomeroy
Porter
Portman
Poshard
Pryce
Quinn
Rahall
Ramstad
Rangel
Reed
Regula
Rivers
Roemer
Rohrabacher
Ros-Lehtinen
Rose
Roth
Roybal-Allard
Rush
Sabo
Sanders
Sanford
Sawyer
Scarborough
Schroeder
Schumer
Scott
Sensenbrenner
Serrano
Shaw
Shays
Sisisky
Skaggs
Skelton
Slaughter
Smith (MI)
Smith (NJ)
Solomon
Souder
Spratt
Stockman
Stokes
Studds
Stupak
Tanner
Taylor (MS)
Tejeda
Thompson
Thornton
Thurman
Torkildsen
Torres
Torricelli
Towns
Traficant
Tucker
Upton
Velazquez
Vento
Visclosky
Volkmer
Walker
Ward
Waters
Watt (NC)
Waxman
Weldon (PA)
Whitfield
Wise
Wolf
Woolsey
Wyden
Wynn
Yates
Young (FL)
Zeliff
Zimmer

NOES—153

Allard
Archer
Armey
Bachus
Baker (CA)
Baker (LA)
Ballenger
Barr
Barrett (NE)
Bateman
Bilbray
Bishop
Boehner
Bonilla
Bono
Brewster
Brownback
Bryant (TN)
Bunn
Bunning
Burr
Burton
Buyer
Callahan
Calvert
Camp
Chambliss
Chenoweth
Christensen
Clinger
Coburn
Collins (GA)
Combest
Condit
Cooley
Cox
Crapo
Cremeans
Cubin
Cunningham
de la Garza
DeLay
Dickey
Dooley
Doolittle
Dornan
Dreier
Duncan
Dunn
Ehrlich
Emerson
English
Ensign
Everett
Ewing
Fields (TX)
Flanagan
Foley
Gallegly
Gekas
Gillmor
Hall (TX)
Hancock
Hansen
Hastert
Hastings (WA)
Hayes
Hayworth
Hefley
Heineman
Herger
Hilleary
Hobson
Hoke
Hostettler
Hunter
Hutchinson
Hyde
Istook
Jefferson
Jones
Knollenberg
Kolbe
LaHood
Largent
Latham
Laughlin
Lewis (CA)
Lewis (KY)
Lightfoot
Livingston
Lucas
Manzullo
Martinez
McCrery
McInnis
McIntosh
McKeon
Metcalf
Mollohan
Montgomery
Moorhead
Myers
Nethercutt
Ney
Norwood
Ortiz
Orton
Packard
Parker
Pastor
Paxon
Petri
Pombo
Quillen
Radanovich
Riggs
Roberts
Rogers
Roukema
Royce
Salmon
Saxton
Schaefer
Schiff
Seastrand
Shadegg
Shuster
Skeen
Smith (TX)
Smith (WA)
Spence
Stenholm
Stump
Talent
Tate
Tauzin
Taylor (NC)
Thomas
Thornberry
Tiahrt
Vucanovich
Waldholtz
Walsh
Wamp
Watts (OK)
Weldon (FL)
Weller
White
Wicker
Williams
Wilson
Young (AK)

NOT VOTING—10

Collins (MI)
Crane
Durbin
Geren
Kennedy (RI)
Moakley
Reynolds
Richardson
Stark
Stearns

□ 1548

Mrs. ROUKEMA and Messrs. MOORHEAD, BISHOP, EHRLICH, WELLER, CAMP, CLINGER, and Mrs. SEASTRAND changed their vote from "aye" to "no".

Messrs. GOODLATTE, CASTLE, QUINN, KIM, WHITFIELD, GRAHAM, and Ms. MOLINARI changed their vote to "no" to "aye."

So the amendment was agreed to.

The result of the vote was announced as above recorded.

Mr. VOLKMER. Mr. Chairman, I move to strike the last word.

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

There was no objection.

Mr. VOLKMER. Mr. Chairman, earlier today the House voted by a voice vote on an amendment offered by the gentleman from Minnesota [Mr. GUTKNECHT] which would have and did, because it was adopted on a voice vote in the House, remove the funds available for the Mississippi River Corridor Heritage Commission. Had I been here, and I was not able to be here because of, believe it or not, a very good reason, but had I been here, I would have strongly opposed that amendment and explained the good that that Commission is trying to do. I was not able to be here, and if I had, again, I would have asked for a rollcall vote on it. That has been passed.

I do think the House should hear the other side of this story. This Commission was set up by this Congress in law enacted in 1990. The Commission was to study the corridor of the Mississippi River, which is so dear to many of us from the Midwest, to try not only to bring together the 10 States that border along that Mississippi River, but also the communities and the agencies within those States together to have a better partnership within that corridor, basically, to bring about more strength and economic development along that corridor.

Mr. Speaker, the proponents of the amendment said the law provided that they were supposed to have this study done within the 3 years, and I agree with that, that it was to be done within the 3 years, but the law also provided that they were to hold Commission hearings within each State of those 10 States, and they were to be funded at an amount of $500,000 a year in order to do so.

The problem is, Mr. Chairman, and I think many of the public today questions the wisdom of many of us in Congress, the problem was that the Congress did not fund it adequately to hold those hearings in the first 2 years. Thereafter, the funding started and they had the hearings. They now have a draft report that is being prepared, it is available if Members would like to read it, and I think it is very worthwhile. With the money that was provided in the bill, they would have been able to finish up and make their recommendations working with the Park Service.

By the vote of the House, they are not able to do so. What I find very ironic, though, about his whole thing is the Congress first asks citizens of this great country of ours to participate in the governmental process through this type of a commission. These people that are on this Commission are volunteering their time in order to perform this function of Government. Yet it is the same Congress, maybe a later one, but the same institution that says "We are not going to give you any money to do it, folks. If you want to participate in the governmental process, you are good tax-paying citizens, if you want to make recommendations to make the Midwest a better place to live for everybody, we do not want to give you $142,000."

Mr. Chairman, I wonder sometimes about some of the things that we do up here in Congress. I do not wonder, however, about why many of the general public does not think very much of the Congress. In the first place, if Members do not think the Commission should do the study or anything, then repeal the law that set it up. What we have now done is defunded it. The Commission is still out there, still required by law to make the study, to make the recommendations, and we have not given them any money to do it with.

If you were a private citizen out there, as the one from Missouri who is a good friend of mine, who is a very conscientious person, who believes in this Government of ours and likes to participate, and I have talked to him about this amendment, it makes you wonder why a person would ever accept this type of responsibility when this Congress or the next Congress may decide we are not going to let you do it, we do not want you to participate in this system of government of ours.

At first I had thought that we would have possibly a revote when we get in the House. I know the House has taken a lot of time on this bill.

The CHAIRMAN. The time of the gentleman from Missouri [Mr. VOLKMER] has expired.

(By unanimous consent, Mr. VOLKMER was allowed to proceed for 1 additional minute.)

Mr. VOLKMER. Mr. Chairman, the gentleman from Ohio has been so gracious as to permit me to take this time in order to explain the position of how I would have strongly objected to the amendment, and therefore, when we get into the House, I will not ask for a revote on the amendment. Mr. Chairman, I thank the Chairman of the Committee for giving me this time, and I thank the House for being patient with me.

AMENDMENT OFFERED BY MR. CREMEANS

Mr. CREMEANS. Mr. Chairman, I offer an amendment.

The CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment offered by Mr. CREMEANS: Page 94, after line 24, add the following:

SEC. 318. None of the funds appropriated or otherwise made available by this Act may be used for the purposes of acquiring land in the counties of Lawrence, Monroe, or Washington, Ohio, for the Wayne National Forest.

The CHAIRMAN. Pursuant to the rule, the gentleman from Ohio [Mr. CREMEANS] and a Member opposed will each be recognized for 5 minutes.

The Chain recognizes the gentleman from Ohio [Mr. CREMEANS].

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

Mr. Chairman, I offer an amendment to save school districts, fire departments, and small businesses in southern Ohio.

Let me first say, this amendment only effects two districts, both of which are in southern Ohio. We are asking that money from this appropriation not be spent in these two districts. I know it is rare to see a Member of this body ask that money not be spent in his or her district, but the Federal Government has bought enough land in my district. Let the Forest Service go buy land somewhere else or spend it on the schools and the communities effected by the Federal forests. They need the money a heck of a lot more than we need more Government owned trees in Southern Ohio.

Mr. Chairman, the Wayne National Forest has been buying up land in my district for years. The Wayne owns nearly 40 percent of one school district, the Frontier Local School District.

The Federal Government has not met its obligation in PILT payments on the land they already own—let alone what they would like to buy. The Federal Government pays Washington County, OH, about 27 cents an acre each year. The average property tax is about $3.34 an acre in Washington County. How in the world is a school system or a fire department supposed to operate when the Federal Government owns half the land but pays less than 10 percent of its share of the tax duplicate?

These schools are going under and I want to send a message to them that the Federal Government is not going to buy up any more land or steal any more tax dollars from them. This amendment is a commitment to them and does not affect anyone outside southern Ohio. I hope that everyone would join with me and let the people of southern Ohio know that we are listening and the Federal Government is going to leave them alone—which is all they ask.

Thank you, Mr. Chairman, for the opportunity to offer this amendment. The students of the Frontier Local School District appreciate your help.

Mr. Chairman, I yield 1 minute to the gentleman from Ohio [Mr. NEY].

Mr. NEY. Mr. Chairman, I want to applaud my colleague, whose congressional district borders mine, on this very important issue. Members also have to understand that when we look at the Appalachian region, this potential forest goes all the way down from the area of the gentleman from Ohio [Mr. CREMEANS], all the way up through my area in Monroe County, OH, and it would be like a 4-hour drive. If we looked at a map of it, it looks like somebody took a shotgun and just shot the map, because it is just pieces of property bought here and there, small parcels.

I encouraged the Wayne National Forest to have a contiguous area, but really, what they have done in the area of Mr. CREMEANS and in this area, for which I want to thank the gentlemen from Ohio, Mr. REGULA and Mr. CREMEANS, it is really going to help us quite a lot. It is also going to protect Monroe County. Additionally, Senator Monroe, and also representative Metzger and many others are worried about development. The area has been hard hit in Monroe County, so we need some help. I really applaud the gentleman's amendment, and thank him for including this.

Mr. REGULA. Mr. Chairman, I ask unanimous consent to strike the last word.

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

There was no objection.

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

We are going to accept this amendment. This bill has a moratorium on land acquisition. We have no money in the bill to acquire lands in the three counties in question. Therefore, there is no problem whatsoever in accepting the amendment. I understand the gentleman's concern, and we are pleased to put it in as part of the bill.

The CHAIRMAN. All time has expired. The question is on the amendment offered by the gentleman from Ohio [Mr. CREMEANS].

The amendment was agreed to.

AMENDMENT OFFERED BY MR. SKAGGS

Mr. SKAGGS. Mr. Chairman, I offer an amendment.

The CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment offered by Mr. SKAGGS: At the end of the bill, add a new section, as follows:

SEC. . None of the funds appropriated to implement the Act of October 20, 1976, as amended (31 U.S.C. 6901–07) shall be used for payments with respect to entitlement lands (as defined in such Act) regarding which it has been made known to the officer or official responsible for such payments that a state or political subdivision of a state has by formal action asserted a claim of ownership.

□ 1600

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

Mr. Chairman, let me explain what is involved in this amendment. Under the PILT program, which is an acronym standing for "payment in lieu of taxes," the Federal Government makes cash payments to counties to help cover services like fire protection, law enforcement and so forth that these counties provide on Federal land. We do this because the counties obviously do not get tax revenue from these lands but are expected to provide some services.

Recently some of these counties are claiming that these lands are not Federal lands, after all, even though they all became part of the United States through Federal purchase or acquisition and have never been transferred.

Mr. Chairman, get this: Even though these counties assert that these are not Federal lands for ultimate purposes of title or control, these same counties would still like the U.S. Federal taxpayers to make PILT payments to them as if the lands were Federal lands. If there were ever a case of trying to have it both ways, this is it.

It is all the more offensive because some of these counties are effectively using Federal taxpayer moneys to pay their officials and lawyers to try to perfect their legal claim to the very lands on which they are basing their entitlement to PILT payments.

Give me a break. Or, as our colleague, the gentleman from Ohio [Mr. TRAFICANT] might say, "Beam me up."

My amendment simply calls a halt to this absurd practice. If these counties want to claim Federal lands as their own, fine, go ahead, pursue them if you think you have any legal theory to stand on. But do not at the same time be so brash as to claim PILT payments to boot on the very same Federal lands at the very same time.

Let us not permit these jurisdictions to insult our intelligence at the same time that they are tapping the Treasury, especially in these difficult budget times.

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

Mr. REGULA. Mr. Chairman, I rise in opposition to the amendment.

The CHAIRMAN. The gentleman from Ohio [Mr. REGULA] is recognized for 5 minutes.

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

Mr. Chairman, I understand why the gentleman might propose this, but this changes the PILT formula. This is a situation that the authorizing committee should address. We have an obligation to make the PILT payments under the law.

Of course these issues are in the courts. The courts need to make a decision. But in the meantime, States have a right to pursue their legitimate claims, but they also have a right to their PILT payments. Their obligations to schools, to the local government, will not stop just because they file a suit in the court.

Let the courts work their will, but in the meantime I think the U.S. Government should honor its obligation as provided in the law. There is nothing in the law that says if there is a lawsuit filed, they do not get the PILT payments. Therefore, we should not interfere with the action by the courts.

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

Mr. REGULA. I yield to the gentleman from Colorado.

Mr. SKAGGS. Mr. Chairman, I respect the gentleman's point of view on this, but does he really stand for the proposition that these counties, who are pursuing a legal theory that has been repudiated by the Supreme Court, should nonetheless continue to get Federal money even though it can be used to pay for asserting these specious claims?

Mr. REGULA. Reclaiming my time, the gentleman is making an assumption as to how they use their PILT money. I am assuming they use it for their schools. If they use their general budget to pursue their legitimate claims in court, that is perfectly their right. But in the meantime, under the law, we have an obligation to make the PILT payments.

Mr. Chairman, I yield 1 minute to the gentlewoman from Nevada [Mrs. VUCANOVICH], a member of the subcommittee.

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

Mr. Chairman, I rise in opposition to the amendment. Counties depend on payment in lieu of taxes, or PILT, to make them whole. In a State such as my own, Nevada, where 87 percent of the land is federally managed, making up for the loss of taxes due to Federal management of the land is only fair.

This amendment is directly aimed at Nye County, NV. Currently Nye County is involved in a Department of Justice-filed lawsuit about who owns the land. If the gentleman would work with me to see the Federal Government relinquish control of the land in question, then I think the county would willingly forgo PILT payments. But until the court renders its decision, the county continues to lose tax revenue. This amendment is an unfunded mandate, and I oppose it.

Mr. REGULA. Mr. Chairman, I yield 1 minute to the gentleman from Utah [Mr. HANSEN], chairman of the Subcommittee on National Parks, Forests and Lands of the Committee on Resources.

Mr. HANSEN. I thank the gentleman for yielding me the time.

Mr. Chairman, I hope the people in this Chamber realize this is really a very tough amendment on people. These little counties are out there, 93 percent, some of them, owned by the Federal Government. People from the East come in, they cause fires, we have to put them out. They get hurt, we have to take care of them. They put debris all over, we have to clean it up.

There are 1,500 of these counties out there in the West and over half of them have a claim against the Federal Government.

If we are going to take these 750 counties and say, "Fine, guys, you're out of business," why are we doing this? You look at the situation of people who have 2,477 roads, half of them in my State have claims against the Federal Government on 2,477 roads. Mineral royalties they have claims against, timber royalties, grazing fees, questions over title.

I think it is an outrageous amendment that would gut the whole program and is designed to hurt some people who are trying to maintain what they think is right and courageous.

Remember years ago we had the sagebrush rebellion. I am glad to see that is gone. Now we are seeing the war on the West. This is the kind of amendment that is devastating to the people in the West. I urge that we oppose this amendment.

Mr. REGULA. Mr. Chairman, I yield 1 minute to the gentleman from California [Mr. DOOLITTLE].

Mr. DOOLITTLE. Mr. Chairman, I strongly oppose this amendment.

I think it is outrageous to do this to our counties in view of all that is happening throughout the States. We have got whole communities that have been devastated by the various restrictions on the spotted owl and other so-called surrogate species. About the only major activity that can go on is related to public lands.

These communities have substantial expenses in building roads, in providing schools, in providing the services the gentleman from Utah mentioned. Then to put forth an amendment like this that basically will cut off this money that these communities are entitled to receive because of the services they are providing to the Government.

We do not cut off anybody else's money for any reason because they are pursuing a legitimate claim against some branch of the Federal Government. Only here are we seeking to do

that. I think that is wrong. I think it comes at a horrible time when our counties are under so much pressure economically right now. I strongly urge Members to defeat this amendment.

The CHAIRMAN. The gentleman from Ohio [Mr. REGULA] has 30 seconds remaining, and he has the right to close.

Mr. REGULA. Mr. Chairman, I yield 15 seconds to the gentleman from Oregon [Mr. COOLEY].

Mr. COOLEY. Mr. Chairman, I rise in strong opposition to the Skaggs amendment. This would be a punitive action against countless rural communities in the West and would devastate their already fragile economies.

Stopping PILT payments would close roads and schools, stop public services, and cut hundreds of rural counties off at the knees. This will be a reality unless we defeat this amendment.

It is understandable that some of my colleagues don't understand what PILT payments are or how they came to be, for our situation in the rural West is very unique. When the Federal Government owns anywhere from 50 to 80 percent of the land like it does in the West, these areas don't have a tax base source like everywhere else in the country. The fact that the Government owns all of this land in the West is historical circumstance, and as a result the Bureau of Land Management makes payments to these counties for lost revenues that would otherwise result if the land were able to derive operational tax revenues like everywhere else in the country.

Stopping these PILT payments would be counterproductive for the Federal Government, and would deliver a harsh blow to many districts like mine. I urge a "no" vote on the amendment.

Mr. REGULA. Mr. Chairman, I yield myself the balance of my time.

Mr. Chairman, I urge all of my colleagues to vote against this amendment. It is simply not fair. Every county has the right, or State, to pursue their claim in court without being penalized. This would be an unfair thing to put a penalty on them for exercising their legitimate rights in the courts.

Mr. SKAGGS. Mr. Chairman, I yield myself the balance of my time.

The CHAIRMAN. The gentleman from Colorado is recognized for 2½ minutes.

Mr. SKAGGS. Mr. Chairman, let me just respond to some of the characteristics that have been offered up in the comments in opposition to this amendment.

There is nothing punitive about it. It merely puts counties to the choice whether they want to assert that they own land outright that they are also claiming is Federal lands for purposes of PILT payments. You cannot have it both ways.

The punishment, if there is any, is to the Federal taxpayers who are being expected to pay for something twice. I do not believe that that is fair. This has nothing to do with RS–2477 claims or legitimate boundary disputes or rights of way. Any of those sorts of things are really de minimis, since the effect of this amendment would be to have impact on a prorated basis, not ruling out, not invalidating any PILT payment for a county that may have a 2477 right-of-way issue pending.

The final point is that we are not talking about legitimate claims. That is the whole point. The Supreme Court has ruled on this whole question of the county supremacy movement. It has invalidated the legal underpinnings of the movement. These are not valid claims, and we should not be taken to the cleaners for PILT payments at the same time we are having to incur legal expenses to establish continued Federal title to these lands.

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

Mr. SKAGGS. I yield to the gentleman from Utah.

Mr. HANSEN. I appreciate the gentleman yielding.

I am reading from the gentleman's amendment here. It says asserting a claim. That seems to be the pivotal point of this amendment, a county asserting a claim.

I could name a lot of counties that are asserting a claim on RS–2477 roads. It that not a claim, debating whether or not it belongs to the county or whether it belongs to the Federal Government?

Mr. SKAGGS. The amendment speaks in terms of a formal action, meaning a county ordinance or other action of the political subdivision. Again, in most of these situations, if I can reclaim my time, the acreage involved, and these RS–2477 issues compared to the total acreage on which PILT payment is based, is really de minimis.

This is not the problem. The problem is the broadside assertions of county title over all Forest Service lands, over all BLM lands, over all Fish and Wildlife lands, that some 58 counties in our part of the country have asserted. I am just saying they cannot have it both ways. You cannot both get a PILT payment and say, "But it is my land, anyway."

Mr. HANSEN. If the gentleman will yield further, between Alaska and Utah there are over 1,000 of these counties asserting a claim on RS–2477, regardless of size.

Mr. SKAGGS. As I say, those are really de minimis in the context of what this amendment would accomplish.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Colorado [Mr. SKAGGS].

The amendment was rejected.

The CHAIRMAN. Are there further amendments to title III?

AMENDMENT OFFERED BY MR. KENNEDY OF MASSACHUSETTS

Mr. KENNEDY of Massachusetts. Mr. Chairman, I offer an amendment.

The CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment No. 56 offered by Mr. KENNEDY of Massachusetts: Page 94, after line 24, insert the following new section:

Sec. 318. None of the funds made available to the Forest Service by this Act may be used for the construction of roads, nor the preparation of timber sales, in roadless areas of 3,000 or more acres in size.

POINT OF ORDER

Mr. HANSEN. Mr. Chairman, I make a point of order that the amendment of the gentleman from Massachusetts [Mr. KENNEDY] violates clause 2 of rule XXI of the rules of the House by requiring substantial new duties on the part of the Secretary of Agriculture to determine roadless areas on national forest lands; therefore creating legislation on an appropriations bill.

The CHAIRMAN. Does the gentleman from Massachusetts [Mr. KENNEDY] care to respond to the point of order?

Mr. KENNEDY of Massachusetts. Yes, I do, Mr. Chairman.

Mr. Chairman, this amendment is simply a limitations amendment that states that none of the funds made available to the Forest Service may be used for timber roads construction or timber sales preparation in roadless areas. It seeks to reduce the taxpayers' liability only in roadless areas, the most high-cost areas and most likely to result in below-cost timber sales.

The amendment was filed in accordance with the rules and preprinted in the CONGRESSIONAL RECORD and reviewed by the parliamentarian's office. The parliamentarian and I have been in discussions for many, many hours, until late last night and throughout the day today over this issue. I have some extensive remarks that I would like to make with regard to the objections that have been raised.

First the National Forest Management Act of 1976 directs the Forest Service to inventory all lands and resources that they manage. The Forest Service must devise forest plans that include specific land use designations.

According to the National Forest Management Act, title XVI, the Renewable Resource Assessment, the Secretary of Agriculture shall prepare a Renewable Resource Assessment, analyze the present anticipated uses, create an inventory based on the information developed by the Forest Service and other Federal agencies, provide a description of the Federal service program, and provide for a discussion of important policy considerations.

The statute also requires the land management plans to comply with the National Environmental Policy Act, or NEPA, which means that everything in the forest must be inventoried for an environmental assessment or possible full-blown environmental impact statement.

□ 1615

I would make the Chair aware of the National Forest Management Act, which specifies procedures to ensure that land management plans are prepared in accordance with the National Environmental Policy Act of 1969.

They second specify guidelines which require the identification and suitability of lands for resource management, provide for the obtaining of inventory data on the various renewable resources in soil and water, including the pertinent maps, graphic material, and explanatory aids. On and on it goes.

Second, according to the Forest Service regulations, to implement Congress' laws they must conduct an inventory of all roadless land in each of the national forests and I would like to cite for the RECORD section 219.17, the evaluation of roadless areas.

"Unless otherwise provided by law, the roadless areas within the National Forest System shall be evaluated and considered for recommendation as potential roadless areas, including those previously inventoried must be taken into consideration; areas contiguous to existing wilderness, primitive areas, or administratively proposed wildernesses; areas that are contiguous to roadless and undeveloped areas; and areas designated by the Congress for wilderness study, administrative proposals pending before the Congress," and on and on she goes.

Further, the Forest Service Management Act regulations require that all timber sales must be in compliance with the forest plan, including the requirements of 36 CFR, section 219-14, which require detailed analysis of timber volumes, costs, and other matters.

If I would cite that particular code, that directs the Forest Service to conduct benefit analysis as expressed through gross receipts of the Government. Such receipts shall be based on the expected stumpage prices, the payments in kind from timber harvest, considering the future supply and demand. It takes into account the costs, including the anticipated investments maintenance and operating management and planning costs.

In addition, it takes into account the long-term yield. You do not have to just count the acreage; you have to count the trees to do this. So, the notion that somehow this amendment is out of order because we call for an indication of 3,000 acres, versus 5,000 acres, is ridiculous.

The fact of the matter is that the 5,000-acre designation is for wilderness areas. In order to comply with this, you have got to get down to the actual number of trees that are counted in the specific area.

Most importantly, continuing on the regulations in section 223.83, specifically requires that timber sales prospectus to include data on acreage, road standards for specified roads to be constructed, and the estimated construction costs.

I would cite in that law, a timber sale prospectus shall specify at a minimum, and it goes through a number of different points, but the location and the area of sale, including harvest acreage. A timber sale prospectus shall also include the road standards and the roads to be constructed, the estimated road construction costs and the purchaser credit limit.

The fact of the matter is that the amendment simply limits the Forest Service discretion to build roads or conduct timber sales in roadless areas which they have already identified as part of their inventory and which are 3,000 acres or greater in size.

Fourth, to show that this information is currently available, the Forest Service produced an analysis of the roads that the Forest Service planned to build into roadless areas in last year's Interior appropriations bill.

Those of you who argue that the Forest Service does not already know its roadless areas ignore the mandate placed upon the Forest Service by this committee. As you can see, the current laws provide substantial evidence that the Forest Service is already mandated to know the extent and character of roadless areas in their forests. If they do not know, they just simply have not followed the law.

I would cite again for the RECORD the 1995 Interior appropriations that required the Forest Service to include in its 1996 budget a specific breakdown of all roadless areas planned for entry in the 1996 program with the justification for each planned entry.

Mr. Chairman, in conclusion, this amendment does not require a new duty on the Forest Service. It simply requires them to carry out the current law and to continue to fulfill the requirements placed upon the Appropriations Committee.

I urge the consideration of the amendment.

Mr. HANSEN. Mr. Chairman, in defense of my point of order, let me point out the issue that we have raised to the point of order, and not to the amendment, goes to this: In fact, are we asking the Forest Service to create a new duty? Are we asking them to do something? If so, that should come from the authorizing committee, which I maintain is what we are talking about here.

The Forest Service has no duty to collect infinite amounts of information. They already have collected information on roadless areas more than 5,000 acres, not on areas of more than 3,000 acres.

The Forest Service was asked by the Appropriations Committee to respond to this. Here is what they said. "We do not have a good estimate of how many ongoing or planned projects involve roadless areas of 3,000 acres or more. There has not been a need to collect this information."

"This amendment," the Kennedy amendment, "would require the Forest Service to make a determination of the size of every area for which timber sale or a road construction project is planned to assure that it is not an unroaded area of 3,000 acres or more. We do not have the information necessary to make a reasonable estimate of the cost of this requirement."

Now, if that is not asking for a new duty, I do not know what is and new duties come out of the authorizing committee, not out of the appropriation committee and I would urge that the Chair rule accordingly.

The CHAIRMAN. Does the gentleman from California wish to be heard on the point of order?

Mr. MILLER of California. Mr. Chairman, I rise to speak against the point of order. In my view, the Kennedy amendment is an appropriate limitation and does not violate clause 2 of rule XXI which prohibits legislation on a general appropriation bill.

As set forth in book 8 of Deschler's Precedents, a limitation amendment is in order if it restricts criteria which are within the range of choices given to an official by the authorizing law. To quote, "A limitation may, in fact, amount to a change of policy, but if the limitation is merely a negative restriction on the use of funds, it normally will be allowed."

The Kennedy amendment restricts the discretion that Forest Service officials have in the exercise of their duties to conduct road building and hold timber sales in roadless areas of 3,000 acres or greater in the national forests.

The Kennedy amendment does not impose any new or additional data-gathering duty on the Forest Service beyond existing law.

As a general matter, the Forest Service is obligated to develop land and resource management plans for the National Forest System as required by the Forest and Rangeland Renewable Planning Act of 1974, as amended by the National Forest Management Act, 16 U.S.C. section 160, et. seq.

Purusant to the authorizing act, forest plans determine the availability and suitability of forestlands for resource management. While forest plans are normally revised on 10- to 15-year cycles, section 219.12(D) of the Code of Federal Regulations provides that "[E]ach forest supervisor shall obtain and keep current inventory data appropriate for managing the resources under his or her administrative jurisdiction * * * Data shall be stored for ready retrieval." The forest plans are used as the benchmark for further review and planning of each of the individual sales in compliance with the National Environmental Policy Act.

As a specific matter, CFR section 219.17 directs the Forest Service to

evaluate and consider roadless areas as part of their land planning process. The inventory and the evaluation of these roadless areas is to be developed with public participation. The definition of roadless areas are lands which "remain essentially roadless and undeveloped, and which have not yet been designated as wilderness or for nonwilderness uses by law."

It is important to note, as the gentleman from Massachusetts [Mr. KENNEDY] has, that there is no acreage limitation in the CFR section on roadless areas as there is with wilderness.

Mr. Chairman, the Forest Service has a sophisticated land planning system which now includes the use of GIS technology for mapping. No duties to gather information are required by the Kennedy amendment beyond the existing law. The notion that they are unaware and incapable of determining where 3,000 acre or more blocks of roadless areas exist is an insult to the agency. I would point out to my colleagues that 3,000 acres is 5 square miles of land.

The Forest Service is capable of producing this data on a ready basis for roadless areas on a national scale. For example, in response to the directive for the fiscal year 1995 House Interior appropriations report, they submitted data in their 1996 budget request which itemizes 94.9 miles of construction planned for roadless areas, including 70 miles in the National Forest of Alaska.

The fact that they have not presented data to the Congress on the amount of roadless lands in excess of 3,000 acres is simply off the mark. What is relevant to the amendment is that the Forest Service has the existing capability of providing such data and does so on a regular and current basis on a national scale.

What is even more important is that they have the data which can be applied to the individual timber sales in compliance with the Kennedy amendment.

Finally, Mr. Chairman, let me submit on behalf of the argument against the point of order that this data is readily available and this is nothing more than a ministerial act, and that is 36 CFR, chapter 2, which deals with the contents of the advertisement and the contents of the prospective of the sales.

There are some 35, almost 40, requirements that go into this, which include the location and the estimated qualities of timber and the forest products offered for sale. For each sale outside the State of Alaska, which includes a provision the purchaser the credit for construction of permanent roads with total estimated construction costs exceeding $20,000, a timber sale shall include: One, the total estimated construction costs of all permanent roads. When submitting the bids, they have to say exactly how much it is going to cost to have the Forest Service construct those roads.

Under the contents of the prospective, the Forest Service must provide the location and area of sale, including the harvest acreage; the estimated volumes, including the quality of the volume, the size of the trees, the age of the trees, and the class of the trees. Very specific, on-the-ground determinations they must make now on an ongoing basis.

They must include the road standards for specified roads to be constructed; the estimated road construction costs and the purchaser credit limit. If small businesses are involved, the road standards applicable to the construction of the permanent roads and the reference of source of such information; the date of final completion of all permanent roads, where they will go, and when they will be finished; a statement explaining how the Forest Service intends to plan for road construction by forest account or contract and whether or not the higher bidder shall make that determination.

What, in fact, we have is a very detailed process of counting the trees and taking the inventory. What we have is the overlay of a number of Federal laws that require this inventory, require that the inventory be kept current, that the land base be kept current, that the timber base be kept current so that they can, in fact, comply on an annual and regular basis with the National Environmental Policy Act as they let lands for sale for timber sales.

Mr. Chairman, all of this is done on an ongoing basis. The Kennedy amendment is simply a limitation on those functions and tracts of land of 3,000 acres or more.

What we have here is a simple ministerial task to be carried out by the Forest Service; a task and function which is no additional burden to them because it is part of their ongoing requirements under existing authorization and legislation by the Congress and I think the point of order should be overruled.

The CHAIRMAN. Does the gentleman from Washington [Mr. DICKS] wish to be heard on the point of order?

Mr. DICKS. Yes, Mr. Chairman, I wish to be heard on the point of order.

Mr. Chairman, it seems to me that this is a lot more straightforward than we are trying to make it with these long orations about the technicalities. But let us get to the bottom line. We are changing, and the Forest Service has already said in their letter here, that they have been operating on a 5,000 acre basis. We are now going to restrict that to 3,000 acres. That is going to be a major new responsibility, ministerial duty, on the Department of Agriculture and the Forest Service.

They apparently do not have these areas at that small a size. Therefore, it is going to be an additional burden. I think, therefore, it is legislation and is subject to a point of order.

Mr. MILLER of California. Mr. Chairman, in responding to the gentleman's point on the point of order, I would point out the fact is what we have shown, and the gentleman from Washington [Mr. DICKS] may not like the long recitations, but they happen to be the law of the land, is that the Forest Service has this information for every acre of land; for every parcel of land; for every sale they promote.

So to suggest that they do not have it for 3,000 acres, when in fact they have it for every acre, is simply ludicrous on its face.

□ 1630

Mr. TAYLOR of North Carolina. Mr. Chairman, I rise to speak in favor of the point of order offered by the gentleman from Utah.

It is not as simple as the gentleman from California would present it. We are trying to open a broad road here to run through a herd of buffalo instead of just some technical amendment. First of all, under the Wilderness Act, the Secretary of Agriculture has surveyed National Forest lands of at least 5,000 acres which are roadless and meet certain other wilderness criteria, such as first, affected primarily by the forces of nature; second, has outstanding opportunities for solitude or a primitive and unconfined type of recreation; and third, contains ecological, geological, or other features of scenic, or historic value.

If a forest area of any size is roadless but does not meet these other criteria, the Secretary can harvest timber, build roads, or engage in other types of multiple use activities.

The Secretary of Agriculture may not have made determinations of roadlessness in nonwilderness forest lands because the lands did not meet other wilderness criteria. This would be a new test.

For forest areas between 3,000 and 5,000 acres, the Secretary has never been required to make a determination of roadlessness. This is a new requirement imposed on the Secretary by the Kennedy amendment.

Determinations of roadlessness cannot be made solely from maps but requires on-site inspections. The Secretary must also conduct legal and historical research to determine if States and counties have pre-existing RS 2477 rights of way for the construction of highways, which by operation of law can be converted into roads and therefore not subject to the prohibition on road construction and timber sales in the Kennedy amendment.

The last time the Secretary of Agriculture had to survey forest lands for road determinations under RARE II, it took 10 years. And in the 10 years since RARE II, more roads have no doubt been built, requiring new surveys to see if these lands are subject to the Kennedy amendment ban.

The Kennedy amendment cannot execute without substantial new determinations of facts based on physical surveys of 191 million acres of National Forest lands, plus legal and historical research conducted by the Secretary of Agriculture.

The Kennedy amendment creates a new class of de facto wilderness by barring timber sales and road construction without meeting all of the Wilderness Act requirements.

The Kennedy amendment creates a new 3,000-acre wilderness requirement in contradiction of the wilderness release language—language which says that multiple use activities are allowed on nonwilderness designated areas—contained in each State's wilderness bill that passed the Congress.

And the Kennedy road amendment deals with timber primarily and does not consider the fact that many of the roads in the national forest are multiple-use roads.

The CHAIRMAN. The Chair is prepared to rule.

Mr. MILLER of California. Can we be heard on the point raised by the gentleman from North Carolina?

The CHAIRMAN. The Chair is prepared to rule on this.

Mr. MILLER of California. I know you are. I want to make sure you have all the evidence.

The CHAIRMAN. The Chair has heard enough evidence.

Mr. MILLER of California. The Chair sounds like Judge Ito.

The CHAIRMAN. The Chair appreciates the gentleman's sense of humor.

The gentleman from Utah makes a point of order that the amendment offered by the gentleman from Massachusetts [Mr. KENNEDY] is not in order as a violation of clause 2 of rule XXI because it imposes new duties not required by law. The amendment limits Forest Service funds in the bill for the construction of roads or for the preparation of timber sales in roadless areas of 3,000 or more acres in size. The Chair notes that, as shown in volume 8 of "Deschler's Precedents," chapter 26, section 22.26, the proponent of an amendment has the burden of showing that the amendment does not change existing law. Under law codified in section 1603 of title 16, United States Code, the Secretary of Agriculture, acting through the Chief of the Forest Service, is required to "develop and maintain on a continuing basis a comprehensive and appropriately detailed inventory of all National Forest System land and renewable resources." The same law, at section 1602 of title 16, requires the Secretary to prepare a recommended renewable resource program providing in appropriate detail for protection, management, and development of the National Forest System including forest development roads and trails. Regulations require the Forest Service to make determinations for the suitability of timber resources to a level of detail that includes direct benefits based on expected stumpage prices to payments in kind from timber harvest considering future supply to vegetation management practices chosen for each type of vegetation. For example, in relation to the timber sale portion of the amendment, the minimum specification for a timber sale prospectus under title 36, Code of Federal Regulations, part 223.83 requires an announcement of harvest acreage for each sale as well as road standards specified for roads to be constructed. Given this level of detail already required of the Secretary, the Chair believes that determinations as to an area's roadlessness by a particular number of acres does not impose new duties on the executive branch. The Chair cites volume 8, section 66.6 of "Deschler's Precedents," where an exception from a limitation that did not prohibit the use of funds for designated Federal activities which were already required by law in more general terms was held in order. In that case the law required a continuing evaluation of the matter as does the law in the case at hand. Therefore the Chair finds the amendment does not legislate and overrules the point of order.

The gentleman from Massachusetts [Mr. KENNEDY] and a Member opposed will each be recognized for 5 minutes.

The Chair recognizes the gentleman from Massachusetts [Mr. KENNEDY].

Mr. KENNEDY of Massachusetts. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I just want to say that I admire the Chair's logic and his brilliance, and I certainly did not agree with my friend from California who suggested that you were anything like Judge Ito. If that be the case, it would be a good day for O.J. Simpson.

In any event, Mr. Chairman, I rise in order to offer this amendment, No. 56, with my colleagues, the gentleman from New York [Mr. BOEHLERT], the gentleman from Wisconsin [Mr. KLUG], the gentleman from Minnesota [Mr. VENTO], the gentleman from Illinois [Mr. PORTER], and the gentleman from California [Mr. MILLER].

Mr. Chairman, this amendment makes a targeted limitation on the prohibiting of the Forest Service from conducting the most egregious sales, building roads in our so-called roadless areas of this country.

Mr. Chairman, even this amendment provides for a very small reduction of just $18 million to stop building roads into the highest mountain areas and into the areas of our country that provide the greatest wilderness, that provide the greatest opportunities for backpacking, which do the greatest amount of environmental damage and provide the highest cost per board foot of any lumber in this country. Those costs end up being paid for by the American people.

It is an egregious form of the kind of corporate welfare that all of the people in this Chamber have vowed to fight against. We do not need taxpayers writing checks to the lumber companies for excessive cost to build roads to areas that they would never on their own consider building themselves. The only reason why these trees get cut down is because the American taxpayer is willing to foot the bill. If we put this bill on a cost-analysis basis, the lumber companies will not cut these trees down, and we will preserve the finest and most beautiful parts of our land and stop the kind of environmental havoc that is taking place as a result of this egregious program.

I yield 1 minute to my good friend, the gentleman from New York [Mr. BOEHLERT].

Mr. BOEHLERT. Mr. Chairman, I proudly identify with this amendment. I think it makes an awful lot of sense.

The Federal Government has lost $5.6 billion on its timber program, due to timber sales that bring in less than the Forest Service's initial investment and because of subsidies issued for the construction of logging roads.

In fact, timber subsidies are currently several times the Forest Service's annual timber returns.

We are always told that we should operate Government more like a business, and let me tell you, in the private sector this would spell disaster. It would be bankruptcy. They would not do it.

And the problem gets worse when the Government offers subsidies for timber road construction in roadless areas. These areas are usually remote and wild. They are made up of rocky, unmanageable terrain, and the difficulty and cost of building roads in these unmanageable roads and lands is great and nearly impossible for the Forest Service to recoup expenses.

I wish I had a lot of time, but our time is severely limited. I am cooperating as fully as I can, trying to move this along. I proudly identify with this amendment. Let us pass it.

Mr. REGULA. Mr. Chairman, I rise in opposition to the amendment.

The CHAIRMAN. The gentleman from Ohio [Mr. REGULA] is recognized for 5 minutes.

Mr. REGULA. Mr. Chairman, I yield 1 minute to the gentleman from North Carolina [Mr. TAYLOR], a member of the subcommittee.

Mr. TAYLOR of North Carolina. Mr. Chairman, let us see what is going on here. What we have done to our natural resource policy in this country is like the cat eating the grindstone, just a little bit at a time. We take a few acres here, a few acres there.

What have we done to 191 million acres of U.S. forestlands that were heretofore reserved for timber, one of the prime, part of the multiple-use purpose? We have reduced that to about 25

percent. We already have 100 million acres of that 191 million acres in roadless or wilderness areas—25 percent, less than 50 million acres, of the 191 can even be considered for harvest.

This amendment will cost us another 45,000 jobs. It will cost the taxpayer millions of dollars. It will cost the local taxpayer who gets this money—primarily for education—millions of dollars, and these gentlemen know this.

This is another way of saying we do not want any trees cut in the U.S. forests, and we know that is certainly not the policy of the great portion of the people. We voted almost two-thirds in this House to have a timber salvage bill in order to see that we could start saving tens of thousands of jobs we are losing all over this country.

Mr. REGULA. Mr. Chairman, I yield 1 minute to the gentleman from Washington [Mr. DICKS].

Mr. DICKS. The point I want to make is we are now reinventing government. What that means is the Forest Service has been reduced in personnel by 3,000 people. Timber sales have come down dramatically.

If we change the standard from 5,000 acres to 3,000 acres, they are going to have to redo all of their forest plans throughout this country. That will be a disaster that will mean less timber harvesting.

Timber harvesting nationally has come down by 60 percent. So I have supported wildernesses. I voted for my wilderness bill in my State.

But to come in now after this dramatic reduction in timber harvesting and to come in now and say we have got to reduce this standard and change it, is a mistake.

By the way, this is the Clinton administration. There is Jim Lyons and ALBERT GORE and Jack Ward Thomas. They are not going to go out and tear apart the roadless areas in this country, and I think it is an affront. I think it is an affront to this administration to change this standard after what they have done for ecosystem management and improving our environment, and I am shocked the gentleman from Massachusetts would do such a thing.

Mr. KENNEDY of Massachusetts. Mr. Chairman, I yield myself 15 seconds.

Last week I saw the gentleman from Washington throw a yellow flag on the gentleman from Oklahoma because he used a technicality. Another fine football player. I cannot believe the gentleman from Washington State would dare to try to use a technicality to rule us out of order today.

Mr. Chairman, I yield 1 minute to the gentleman from Minnesota [Mr. VENTO].

Mr. VENTO. Mr. Chairman, I rise in strong support of the Kennedy amendment in terms of the Clinton administration's programs in terms of timber. The fact is that the question is do you want to spend this money on harvesting trees or building roads? That is what this is all about.

Time and again there is no reduction in terms of the money in terms of this bill in terms of timber harvest or preparation. The thing is, where are we going to do it? Time and again our colleagues have assured us when they had the salvage sales up here and all their discussion about forest health, that they were not going to go into these roadless areas, all of a sudden when you have an amendment on the floor dealing with areas that are roadless, all of a sudden we are going to go in there and we are going to have to construct roads.

So this really belies the type of representations that were made on the floor here with regard to forest health. This bill has less money in it for forest health than the administration asked. This bill has more money for road building.

The fact is you do not produce jobs by building roads unless you are in the roadbuilding business because they cost money. They cost money in terms of credit, which is not represented in this bill, and they cost money in terms of reconstruction. That means closing roads once they are there so the soil is not moving into the streams and destroying the salmon fisheries across the Pacific Northwest and across this country.

Support the Kennedy amendment.

Mr. REGULA. Mr. Chairman, I yield 1 minute to the gentleman from Washington [Mr. NETHERCUTT].

Mr. NETHERCUTT. Mr. Chairman, I rise tonight in strong opposition to the amendment offered by the gentleman from Massachusetts. In addition to preserving the health of our forests, the timber sale program at the Forest Service is a net revenue generator for the Federal Government and our local communities.

Last year, the agency produced net revenues of $214 million and returned over $280 million to the local counties where our national forests are located. This occurred while funding levels for timber sales have fallen almost 30 percent over the past 5 years.

Similarly, road construction funding has been cut by 38 percent over the last 5 years. The condition of Forest Service roads have severely declined over the last decade. Reduced funding has and will continue to allow roads to deteriorate beyond what can be repaired by routine maintenance. Major reconstruction is the only way to restore these roads to safe conditions. The Forest Service currently has a $440 million backlog in road construction needs. The funds appropriated by the subcommittee are essential for allowing the agency to meet watershed protection and analysis requirements. For the sake of our economy and our rural communities, the time has come to reverse the trend of reduced funding for roads and timber sales.

□ 1645

Mr. REGULA. Mr. Chairman, I yield 1 minute to the gentleman from Alaska [Mr. YOUNG], the chairman of the Committee on Resources.

Mr. YOUNG of Alaska. Mr. Chairman, I rise in strong opposition to the Kennedy amendment. I say to the gentleman, "Shame on you, Mr. KENNEDY."

Mr. Chairman, this would cause a loss of $250 million of receipts to the Treasury, and these figures are the Treasury figures, a loss of $60 million in revenue for sharing of counties and schools around these areas, a loss of 15 jobs for every 1 million board feet not harvested, and, if we reduce it by 1 billion board feet, think how many jobs will be lost there, 25-percent reduction to the timber program which is already four times slower than it was 5 years ago.

Let us not kid ourselves. My friends, this amendment is to stop the total timber industry in the United States, especially in the States of Alaska, Washington, Oregon, and California. This is what this is about.

I ask, "Where else do you have 3,000 acres that don't have roads in it already?" This is an attempt to stop all logging so we no longer have the opportunity to reduce a renewable resource.

That is why I say, "Shame on you." This is a renewable source. This is not something that will not grow back. This is something that has to be done, and managed, and should be, and we are not cutting the timber we were 5 years ago, so I suggest respectfully this is a bad amendment, and I urge a "no" vote.

Mr. KENNEDY of Massachusetts. Mr. Chairman, I yield 40 seconds to the gentleman from California [Mr. MILLER], our cleanup hitter.

Mr. MILLER of California. Mr. Chairman, the gentleman from Washington [Mr. NETHERCUTT] made the point that there is a huge backlog in road construction in the Forest Service. This is about new roads. This is about continuing a program that lost the taxpayers $330 million in fiscal year 1994. This is about the taxpayer, and this is about staying out of the roadless areas because those are the most expensive sales. That is where the litigation is.

Mr. Chairman, we are cutting back on visitor centers, we are cutting back on recreation in this bill. We ought to take that money, and use it, and put it where the people can enjoy it, prosper from it, and the local communities can do the same. We should not be engaging in building new roads and to roadless areas. This amendment itself will save about $18 to $20 million off the current program. That is a huge whopper of a loss. What the Forest Service seeks to do is like if McDonald's said they wanted to build a hamburger stand on the Moon, and they

had to use a space shuttle to get its customers there.

This is outrageous. Private enterprise ought to be building these roads, they should not be coming. It is $300 million subsidies. They have been against subsidies all the time.

Mr. Chairman, I rise in support of the Kennedy amendment to preclude the Forest Service budget from building roads and conducting timber sales in roadless areas of our national forests.

Mr. Chairman, many popular Forest Service programs take significant hits in the bill before us. The budget for land acquisition drops from $65.3 million in fiscal year 1995 to $14.6 million, a 78-percent reduction. The budget for construction of recreational roads, trails, and visitor facilities is $72 million less than the administration's request. Construction of Forest Service visitor facilities is down 63 percent and trail construction is cut by 85 percent from the current fiscal year.

But in the midst of these draconian cuts, the committee has somehow found it desirable to pile on taxpayer subsidies to provide corporate welfare for some of their friends in the timber business. The bill provides $57 million in direct subsidies for construction of timber roads and $50 million more in indirect subsidies through the purchaser credit program where we trade national forest trees for roads to the clearcuts.

The bill also provides $189 million for timber sales management which is about $31 million or 20 percent more than the administration's budget request.

Simply put, Mr. Chairman, this bill devastates the budget for campgrounds, visitor facilities, and trails for people to enjoy and use our national forests. Instead, what the people get is what they don't want—more clearcuts and bigger subsidies for those in the timber industry who become dependent upon taxpayer handouts.

As the Congressional Budget Office has explained, in seven of the nine National Forest System regions, annual cash receipts from Federal timber sales have consistently failed to cover the Forest Service's annual cash expenditures. In other words, the Forest Service Timber Program is below-cost, which means that the Forest Service spends more money annually for roads and administrative expenditures than the Treasury receives in revenues. No private business could stay in business managing its assets in such a cavalier manner.

Why should Members care? According to CBO, we should care because below-cost timber sales lead to an increase in the Federal deficit, wasteful depletion of Federal resources through uneconomic harvest, unwarranted destruction of roadless forests valued by many recreational visitors, and Government interference with private timber markets.

Mr. Chairman, the Kennedy amendment reduces, but does not entirely eliminate, below-cost sales. It is a modest amendment intended to put the brakes on the most expensive, money losing sales by preventing new roads and timber sales in major roadless areas.

Mr. Chairman, in a bill where the majority is demanding significant sacrifice in the name of deficit reduction, it is indefensible to heap more money than even the Forest Service says is necessary on taxpayer subsidies for timber sales and road building. To increase environmentally destructive corporate welfare at the same time the bill is cutting the budget for people to use and enjoy our national forests should be a serious embarrassment to the majority.

I urge Members to vote for the Kennedy amendment that will save the taxpayers money and preserve the increasingly rare roadless areas in our National Forest System.

Mr. REGULA. Mr. Chairman, I yield 30 seconds to the gentleman from Oregon [Mr. BUNN].

Mr. BUNN of Oregon. Mr. Chairman, what is outrageous is that we have an amendment on the floor that proposes locking up 60.2 million acres. That is more than the State of Massachusetts and most of the six States surrounding. It is outrageous that we have had mill closure after mill closure, 10 mills in the State of Oregon, 800 jobs lost last year; since 1989, 111 mills, 16,700 jobs. And then we are told that this is a losing proposition.

We made a net; that is net, not gross, net, $213 million last year when we were told we lost 330 million. We made 800 million a few years ago, but we are barely surviving.

I say to my colleagues, "Don't shut us down."

Mr. REGULA. Mr. Chairman, I yield myself the balance of my time.

Mr. Chairman, I urge all of my colleagues to vote "no" on this amendment. The roads provide access to harvest the timber crop so that young people can build homes at a reasonable cost. This timber goes into the homes of America, but also it opens up these beautiful forests so the millions of our fellow citizens have an opportunity to fish, to hunt, to camp, to enjoy the forests. We forget that twice the visitor days of the Park Service are in the Forest Service, and these roads provide the necessary access. These forests belong to all Americans, and the people, therefore, should have the right to use them, to use the products of the forest and to enjoy the beauties of the forest for recreational purposes.

I strongly urge a "no" vote on this amendment.

Mr. LUTHER. Mr. Chairman, I support the amendment to prevent the use of funds for timber roads and timber sale preparation in roadless areas. I support it because it makes sound economic sense and will save tax payer over $18 million.

Given the fact that our national debt is approaching $5 trillion, I believe the Federal Government should not bear the responsibility for timber companies to construct logging roads in areas currently without roads. While there may be a case for a logging program, this is an example of where the return to the taxpayer does not justify the cost.

The U.S. Forest Service has already constructed 360,000 miles of logging roads, or 8 times the total number of miles in our interstate highway system. Even with this existing infrastructure, the Forest Service loses money on many timber sales, in part, because of the cost of constructing new roads. And the most, expensive roads to construct are those in roadless areas.

By prohibiting the construction of these roads, we can increase the return on taxpayers' investment in the U.S. Forest Service timber program. This is an example of the type of common sense that voters in Minnesota and across the country are looking for in their elected leaders. It is fiscally responsible.

I urge my colleagues to vote for this common sense amendment.

Mr. PORTER. Mr. Chairman, I rise in support of the Kennedy-Boehlert-Vento amendment to stop the construction of new Forest Service roads in roadless areas.

There is a good reason why these areas have remained roadless in the past. It is costly and environmentally unsound to harvest timber from these areas. Most of the roadless areas are extremely remote, mountainous, and generally not well-suited to timber harvesting. The cost of harvesting and removing timber from these areas is tremendous, and because of the difficulty of constructing good roads on steep slopes, timber sales in roadless areas almost always lose money.

Last year, the Wilderness Society reports that 109 of the 120 National Forests lost money. This is $337 million of the taxpayers money which could be used for more productive programs.

Logging and road building in these areas carries enormous environmental costs as well. Roads contribute to soil erosion and sedimentation of rivers that harm fish and other aquatic organisms.

Mr. Chairman, the Forest Service has claimed that it is moving toward "ecosystem management." If this is true—and we certainly take them at their word—it should not be building roads on remote and untouched tracts of forest lands.

Mr. Chairman, why would we knowingly build roads and harvest timber in areas where it is uneconomical and environmentally damaging to do so? The forests belong to the American people, and I believe that they want to put an end to below-cost timber sales. The first sales to be eliminated ought to be those that have the greatest financial and environmental costs—timber in previously roadless areas.

Mr. Chairman, I urge my colleagues to support the Kennedy amendment and protect our wilderness areas and the taxpayers dollars.

Mr. STUPAK. Mr. Chairman, I rise today to express my opposition to the amendment by Mr. KENNEDY to the Interior appropriations bill. This amendment is designed to reduce funds to the Forest Service for the construction of roads for the preparation of timber sales, in roadless areas. The amendment is also designed to reduce funds to the Forest Service for timber sales in roadless areas.

If enacted, this amendment would shrink the amount of timber acreage suitable for harvesting by roughly one-third. One-third. The Kennedy amendment would have the effect of taking more than 60 million acres and essentially designating them as "wilderness" areas. Sixty million acres, an area nearly the size of New England.

The proposed road construction budget for fiscal year 1996 will provide a total of less than 100 miles of roads in our forests, 100 miles for a total area of nearly two-thirds of a million acres. This averages out to roughly one mile of road for every 1,000 square miles, an area almost the size of the State of Rhode Island, or one-half the size of Delaware.

Most of all, the Kennedy amendment will have a definite impact on small communities, rural communities already hit hard by the decline in funding of roughly one-third in the Federal timber sales program over the past 5 years. Federal timber sales have declined by 60 percent during this same period, a decline that has brought about closures of hundreds of mills and the unemployment of tens of thousands of Americans. This has been the unfortunate reality for many of my constituents, and I believe my colleague from Massachusetts would agree with this Member from Michigan that the last thing we need in America are more jobless, more closed businesses, and more communities struggling to survive.

I ask my colleagues to help these workers, to help these companies, and to help the many communities that will be impacted by this amendment. I ask my colleagues to oppose the Kennedy amendment.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Massachusetts [Mr. KENNEDY].

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

RECORDED VOTE

Mr. KENNEDY. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 166, noes 255, not voting 13, as follows:

[Roll No. 522]

AYES—166

Abercrombie
Ackerman
Baldacci
Barrett (WI)
Becerra
Beilenson
Bentsen
Berman
Bilirakis
Boehlert
Bonior
Borski
Boucher
Brown (CA)
Brown (FL)
Brown (OH)
Bryant (TX)
Cardin
Castle
Clay
Clayton
Clyburn
Collins (IL)
Condit
Conyers
Costello
Coyne
DeLauro
Dellums
Deutsch
Dingell
Dixon
Doggett
Durbin
Edwards
Engel
Eshoo
Evans
Farr
Fattah
Fawell
Filner
Flake
Foglietta
Forbes
Ford
Fox
Frank (MA)
Franks (NJ)
Furse
Gejdenson
Gephardt
Geren
Gibbons
Green
Gutierrez
Gutknecht
Hall (OH)
Harman
Hastings (FL)
Hinchey
Horn
Hoyer
Jackson-Lee
Johnson (CT)
Johnson, E. B.
Johnston
Kanjorski
Kelly
Kennedy (MA)
Kennelly
Kildee
Kleczka
Klug
LaFalce
Lantos
LaTourette
Lazio
Leach
Levin
Lewis (GA)
LoBiondo
Lofgren
Lowey
Luther
Maloney
Manton
Markey
Martinez
Martini
Mascara
Matsui
McCarthy
McDermott
McHale
McKinney
McNulty
Meehan
Meek
Menendez
Meyers
Mfume
Miller (CA)
Miller (FL)
Mineta
Minge
Mink
Moran
Morella
Nadler
Neal
Olver
Owens
Pallone
Pastor
Payne (NJ)
Payne (VA)
Pelosi
Petri
Porter
Poshard
Ramstad
Rangel
Reed
Rivers
Rohrabacher
Rose
Roybal-Allard
Rush
Sabo
Sanders
Sanford
Sawyer
Saxton
Schroeder
Schumer
Scott
Sensenbrenner
Serrano
Shaw
Shays
Skaggs
Slaughter
Souder
Spratt
Stokes
Studds
Thompson
Torkildsen
Torres
Torricelli
Towns
Tucker
Velazquez
Vento
Visclosky
Volkmer
Waters
Watt (NC)
Waxman
Weldon (PA)
Williams
Woolsey
Wynn
Yates
Zimmer

NOES—255

Allard
Andrews
Archer
Armey
Bachus
Baesler
Baker (CA)
Baker (LA)
Ballenger
Barcia
Barr
Barrett (NE)
Bartlett
Barton
Bass
Bateman
Bereuter
Bevill
Bilbray
Bishop
Bliley
Blute
Boehner
Bonilla
Bono
Brewster
Browder
Brownback
Bryant (TN)
Bunn
Bunning
Burr
Burton
Buyer
Callahan
Calvert
Camp
Canady
Chabot
Chambliss
Chapman
Chenoweth
Christensen
Chrysler
Clement
Clinger
Coble
Coleman
Collins (GA)
Combest
Cooley
Cox
Cramer
Crapo
Cremeans
Cubin
Cunningham
Danner
Davis
de la Garza
Deal
DeFazio
DeLay
Diaz-Balart
Dickey
Dicks
Dooley
Doolittle
Dornan
Doyle
Dreier
Duncan
Dunn
Ehlers
Ehrlich
Emerson
English
Ensign
Everett
Ewing
Fazio
Fields (LA)
Fields (TX)
Flanagan
Foley
Fowler
Franks (CT)
Frelinghuysen
Frisa
Frost
Funderburk
Gallegly
Ganske
Gekas
Gilchrest
Gillmor
Gilman
Gonzalez
Goodlatte
Gordon
Goss
Graham
Greenwood
Gunderson
Hall (TX)
Hamilton
Hancock
Hansen
Hastert
Hastings (WA)
Hayes
Hayworth
Hefley
Hefner
Heineman
Herger
Hilleary
Hilliard
Hobson
Hoekstra
Hoke
Holden
Hostettler
Houghton
Hunter
Hutchinson
Hyde
Inglis
Jacobs
Jefferson
Johnson (SD)
Johnson, Sam
Jones
Kaptur
Kasich
Kim
King
Kingston
Klink
Knollenberg
Kolbe
LaHood
Largent
Latham
Laughlin
Lewis (CA)
Lewis (KY)
Lightfoot
Lincoln
Linder
Lipinski
Livingston
Longley
Lucas
Manzullo
McCollum
McCrery
McDade
McHugh
McInnis
McIntosh
McKeon
Metcalf
Mica
Molinari
Mollohan
Montgomery
Moorhead
Murtha
Myers
Myrick
Nethercutt
Neumann
Ney
Norwood
Nussle
Oberstar
Obey
Ortiz
Orton
Oxley
Packard
Parker
Paxon
Peterson (FL)
Peterson (MN)
Pickett
Pombo
Pomeroy
Portman
Pryce
Quillen
Quinn
Radanovich
Rahall
Regula
Riggs
Roberts
Roemer
Rogers
Ros-Lehtinen
Roth
Roukema
Royce
Salmon
Scarborough
Schaefer
Schiff
Seastrand
Shadegg
Shuster
Skeen
Skelton
Smith (MI)
Smith (NJ)
Smith (TX)
Smith (WA)
Solomon
Spence
Stenholm
Stump
Stupak
Talent
Tanner
Tate
Tauzin
Taylor (MS)
Taylor (NC)
Tejeda
Thomas
Thornberry
Thornton
Thurman
Tiahrt
Traficant
Upton
Vucanovich
Waldholtz
Walker
Walsh
Wamp
Ward
Watts (OK)
Weldon (FL)
Weller
White
Whitfield
Wicker
Wilson
Wise
Wolf
Wyden
Young (AK)
Young (FL)
Zeliff

NOT VOTING—13

Coburn
Collins (MI)
Crane
Goodling
Istook
Kennedy (RI)
Moakley
Reynolds
Richardson
Sisisky
Stark
Stearns
Stockman

□ 1711

The Clerk announced the following pair:

On this vote:

Mr. Richardson for, with Mr. Stearns against.

Mr. GILCHREST and Mr. KASICH changed their vote from "aye" to "no."

Mr. BALDACCI, Ms. HARMAN, and Mr. FOX of Pennsylvania changed their vote from "no" to "aye."

So the amendment was rejected.

The result of the vote was announced as above recorded.

Mrs. CHENOWETH. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I wish to enter into a colloquy with the chairman of the subcommittee, the gentleman from Ohio [Mr. REGULA].

Mr. Chairman, I am concerned with reports about high ranking Forest Service officials telling my constituents and Forest Service employees that direction from the Congress provided in bill language on eco-region management would not really matter. I am alarmed that the Forest Service still wants to go forward with implementation of so-called ecosystem management and eco-region studies.

I do not believe that eecosystem activities have ever been authorized by the Congress, and I was glad to learn that the Nethercutt amendment on this subject would also prevent ecosystem studies in Idaho. I was also glad to learn that the committee report accompanying this bill requires that the Forest Service report by December 1, 1996, on the purposes, the scope, and benefits, as well as the costs associated with ecosystem planning.

I would like to see the report sooner, so that the Committee on Appropriations and the authorizing committees can fully act on and authorize and fund this expensive ecosystem project now under way.

I ask the subcommittee chairman if there is any way to get these reports any sooner?

Mr. REGULA. Mr. Chairman, will the gentlewoman yield?

Mrs. CHENOWETH. I yield to the gentleman from Ohio.

Mr. REGULA. Mr. Chairman, we will make every attempt to get the ecosystem report before the next appropriations cycle. If the reports that the

gentlewoman heard are true, then we can raise the ecosystem issue with the Senate and address the problem in conference. I do, however, think that the authorizing committee should be involved.

Mrs. CHENOWETH. Mr. Chairman, I thank the gentleman. As a member of both authorizing committees, I am working closely with the Committee on Appropriations, and I intend to follow up in our next set of hearings on the reports that the Forest Service plans to proceed with ecosystem assessments. Although your bill recommended $130 million for ecosystem planning, I am troubled by what I heard, and I hope that the subcommittee helps us address this and requests an explanation.

□ 1715

What I heard was reported from three congressional districts in the northwest, and I look forward to addressing this issue in the conference with the Senate.

Mr. Chairman, I will work on making sure that the authorizing committees deal with these issues.

Mrs. MALONEY. Mr. Chairman, I rise to emphasize how important I think it is for the greatest country in the world to support the arts.

I believe very strongly that there should be a Federal role in arts funding.

Civilizations are remembered for their great battles and their cultural contributions.

The United States spends more on defense than any other country in the world—and next year we're giving the Pentagon $8 billion more than they have requested.

Yet, this Congress wants to slash the Arts and Humanities Endowments with funding set to end entirely in 2 years.

What does this say about our Nation's priorities?

We invest in that which destroys and destroy that which creates.

All developed countries in the world support their visual artists, musicians, performing artists, and cultural institutions.

The amount the United States gives to the three Federal arts agencies, the NEA, the NEH and the IMS, is minuscule compared to what Britain, Canada, The Netherlands, France, Germany and Sweden allocate to the arts.

This year in Germany, Berlin alone will devote 1.1 billion marks, or 730 million dollars, to art and culture.

This amounts to $225 per citizen of Berlin.

In comparison, our National Endowments for the Arts and Humanities will each spend less than a quarter of that amount for the entire United States, or a mere 64 cents per U.S. citizen, the cost of 2 postage stamps.

We should be celebrating the contributions of the arts endowments to our country today, rather than trying to destroy them.

Let me remind my friends on the other side that the agencies on the chopping block today were created by President Richard Nixon and defended by President Ronald Reagan.

These Republicans believed in the importance of a vibrant American culture that could be passed on to future generations.

Yes we need to reduce the size of the Federal Government.

Yes we must cut the budget and reduce the deficit.

But we must also keep our priorities straight.

The leading countries of the world support the arts, often ten times as much as we do.

Why should the wealthiest nation in the world choose to slash and destroy its arts and humanities endowments rather than nurture and encourage them?

Assuring a rich American heritage should be one of the primary responsibilities of this and every Congress.

Public arts and humanities funding, along with public education, is an obligation a government has to its people and to history.

Ms. HARMAN. Mr. Chairman, I would like to express my strong opposition to the amendment offered cutting funds for the National Endowment for the Arts.

At home over this weekend, numerous constituents expressed to me their views that cuts for arts programs in public schools and cultural displays at numerous museums and community facilities will deny our kids the chance to develop creativity and to learn about their cultural heritage.

For example, the city of Venice has hosted numerous performing arts events, art displays, and multi-media activities that have been enormously popular. A terrific display of one museum's collection of Navajo and Pueblo textiles was funded with an NEA grant. Several travelling performing arts and theater groups have staged programs for the benefit of the citizens of Redondo Beach and Manhattan Beach. The cities of San Pedro, Venice, Torrance, Playa del Ray, Hermosa Beach, Redondo Beach and Manhattan Beach have enjoyed special education operatic performances. And students attending the elementary, middle and high schools of many of these same cities have participated in improvisational theater sponsored by a touring performing arts and musical company.

Mr. Chairman, private funds will not take up the slack to continue these activities if the Congress cuts the National Endowment for the Arts. While fair revisions may be appropriate in times of budgetary streamlining, wiping out NEA is not reform.

In fact, cutting funding for NEA is shortsighted. NEA is the Federal Government's vehicle for funnelling funds to local and State arts and humanities councils and organizations. Cutting, if not eliminating, NEA is tantamount to cutting locally-controlled resources. Such an action will have long-term repercussions that could lead to the destruction of community-based arts activities and programs. If this amendment had been successful, the greatest losers would have been our children and grandchildren—those for whom arts education is most important.

While I was unavoidably absent last night during consideration of the Stearns amendment that sought to reduce NEA funding, had I been present, I would have voted "no". But my vote against the Interior Appropriations bill on final passage is based, in part, on my concern over the level of funding for NEA and the majority's intention to eliminate all of its funding over the next several years.

Mr. JOHNSON of South Dakota. Mr. Chairman, I rise today to express my strong opposition to an amendment offered by Representative CRANE which would eliminate funding for the National Endowment for the Arts. As presented, the Interior appropriations bill cuts the NEA budget nearly in half; a cut which I believe will devastate many existing educational arts programs nationwide. As the only voice for South Dakota in the House of Representatives, I must speak out against the outright elimination of programs which bring the benefit of theater, music, dance, and visual art to the people of my rural State.

While many opponents of Federal funding for the arts expound on the monopoly on arts funding that more urban States supposedly enjoy, the invaluable benefits that NEA funding brings to rural States like South Dakota continually go unnoticed. Almost 50 percent of the grant applications to the NEA from South Dakota are approved and funded by the NEA, compared to roughly 20 percent of applications from New York and California. NEA programs exemplify the type of public-private partnerships that have traditionally fostered a collective dedication to arts education and cultural enrichment. The NEA gives State and local arts councils the necessary freedoms to meet local arts and educational needs.

In fiscal year 1994, the NEA provided organizations like the South Dakota Arts Council and American Indian Services, Inc. with $779,500 dollars to develop theater, dance, and other visual arts programs. With these funds, children's theater companies from Minneapolis, MN and Richmond, VA toured several of South Dakota's smaller cities. While larger urban areas have the benefit of multiple theaters and art museums, many South Dakotan's only exposure to theater and dance is through touring groups funded by NEA grants.

In addition to fulfilling its mission of expanding the cultural and artistic horizon for every American, the NEA serves as an impetus for local economies and contributes to the Nation's fiscal well being. The nonprofit arts industry alone contributes $36.8 billion to the U.S. economy and provides over 1.3 million jobs to Americans nationwide. Business, tourism, restaurants, and hotels thrive on the arts. Nonprofit theaters serve annually an audience that has grown from 5 million in 1965 to over 20 million in 1992. In South Dakota alone the economic impact of the arts can be seen both locally and statewide. In Aberdeen, a town of 27,000, the arts provide an average of $8,867 in local revenues annually. Additionally, 18 full time jobs were supported by the nonprofit arts industries in Aberdeen between 1990 and 1992.

As belts are tightened at the Federal, State, and local levels, we cannot stand by and allow the complete elimination of the seed money for programs vital to cultural enrichment and education funded through the National Endowment for the Arts.

Ms. WOOLSEY. Mr. Chairman, I rise to oppose this amendment which would devastate the arts in this country.

You know, the average taxpayer invests about 68 cents a year in the NEA; 68 cents.

For that 68 cents, they get a lot back in return.

For 68 cents, their local arts groups are supported.

For 68 cents, their schools and communities are enriched.

For 68 cents, jobs are created in their towns and cities.

That is why, for the life of me, I can not understand why some Members want to bring the curtain down on our threatres and symphonies, especially when these same Members refuse to even look at cutting Pentagon pork.

Mr. Chairman, investing in the arts reaps longterm benefits for our communities and our Nation.

I urge my colleagues to vote against this shortsighted amendment.

Mr. CASTLE. Mr. Chairman, I believe the humanities agencies are important to the cultural life and diversity of our country—to people of all ages, to people in our inner cities, in our suburbs, and in our rural communities.

There are many, many positive effects of these dollars and what they help fund—for example:

In Delaware, we are fortunate to have tremendously well-run and highly effective division of the arts, State Arts Council, and Delaware Humanities Forum. These organizations, which receive a combined total of about 75 percent of their funds from the national organizations, help fund such diverse exhibitions and events as:

The Delaware Symphony Orchestra, that provides concerts in all three of our counties.

Operadelaware which provides musical education programs statewide;

The visiting scholars program, that brings University of Delaware professors into 137 Delaware classrooms to talk to 60,000 school children about American Presidents, and many other topics;

The beautiful and historic Winterthur Museum and Gardens;

Exhibitions, lectures, films about World War II and its impact on Delaware, which are offered throughout the State;

The Georgetown Possum Point Players, a local theatre group;

The Mid-Atlantic Chamber Music Society;

The Nanticoke Powwow in Millsboro, DE;

Second Street Players, a community theatre group in Milford;

The Dover Art League; and,

The Southern Delaware Chorale.

This is only a sampling of the many positive, quality programs or exhibits these organizations, fostered by the NEA and the NEH, help provide throughout the State of Delaware.

I support a Federal role in funding the arts and humanities, but I do not believe that in a time of tremendous budget deficits and an enormous Federal debt, that virtually any program should be spared from budget cuts or restructuring.

Having said that, the arts and humanities have not been spared. In fact, they have felt the edge of a heavy axe.

Consequently, I urge my colleagues to support the Appropriations Committee actions by voting against any efforts to eliminate or cut further these organizations. They have fared far enough.

Mrs. LOWEY, Mr. Chairman, I rise in strong opposition to the amendment. Cutting the budget of the National Endowment for the Humanities by 40 percent next year is bad enough. This amendment, however, defies all sense of reasonableness. In a nation of such wealth and cultural diversity, this amendment is a tragic commentary on our priorities.

The total budget for the NEH costs each American less than the price of a can of soda, and it leverages funds many times over that in private dollars.

At a time when we are funding B–2 bombers that we don't even need, why must we slash one of the most modest and cost-effective investments that our Government makes in society?

The National Endowment for the Humanities provides funding for student essay contests, teacher seminars, museum exhibitions, documentary films, research grants, public conferences and speakers, and library-based reading and discussions programs. Throughout all of these programs, the NEH helps to provide a greater understanding of our Nation's history and culture.

Before you cast your vote, I urge my colleagues to heed the words of Ken Burns, producer of the highly acclaimed Civil War and Baseball series on PBS. Testifying before the Interior Appropriations Subcommittee earlier this year, Ken Burns declared emphatically that his Civil War series would not have been possible without the Endowment's support. I dare say the majority of my constituents would be willing to sacrifice the price of a can of Pepsi every year to pay for programs like the Civil War, not to mention all the other programs the NEH supports.

Mr. Chairman, this amendment will harm our Nation's schools and damage our cultural heritage. It must be defeated.

Mrs. COLLINS of Illinois. Mr. Chairman, I rise in opposition to H.R. 1977, the Interior appropriations bill for fiscal year 1996. This short-sighted and extreme bill makes drastic cuts in some of America's most successful and important Federal programs. We have heard a lot of Members these past days talking about how responsible this bill is and how important these cuts are to the future of our country. If only this were true!

In reality, the Gingrich Republicans have promised major tax cuts to those that least need it, have hiked up spending for the military and are now looking to cut hundreds of Federal programs for needy people to pay for their skewed priorities. Moreover, the Gingrich Republicans are so entirely committed to protecting their wealthy friends that they are only targeting certain programs for cuts, not the ones that benefit wealthy mining companies, and so forth. This is neither responsible nor in the best interest of this country's future.

Let's look at some of the programs that will be eliminated to give tax cuts for the financially privileged and more money for the peace-time military and compare them to what is protected in this bill. The Department of Energy's Low-Income Weatherization [WAP] Program is cut by 50 percent in H.R. 1977. Fifty percent! Since 1977, WAP has served over 4 million low- and fixed-income households in the Nation. It protects Americans throughout the country, especially in districts like mine where the winter season is long and bitterly cold, from having to choose between feeding themselves and their families or heating their homes.

At the same time, this bill lifts the moratorium on mining claim patents, which allows mining companies to extract mineral wealth from taxpayer-owned Federal land for as little as $5 an acre. Last year, these big mining companies made $1.2 billion from the minerals they extracted from taxpayer-owned land and paid almost nothing back into the U.S. Treasury. Why should these rich corporations receive corporate welfare while the GOP is slashing the programs that help weatherize the homes of senior citizens and poor Americans and lower their winter heating bills? It is unconscionable and irresponsible.

H.R. 1977 also cuts the National Endowment for the Arts [NEA] and the National Endowment for the Humanities [NEH] by 40 percent this year and will completely eliminate them within 3 years. When you compare how much the NEA and NEH cost taxpayers each year to how much they provide, the argument that eliminating these programs is necessary just does not hold up. Since the NEA was created in 1965, the number of professional theaters, orchestras, dance and opera companies have multiplied greatly at a cost of less than a dollar a year per taxpayer.

In my congressional district in Illinois, recent NEA and NEH grants have enabled the Black Ensemble Theatre Corp. to support their theater season and the People's Music School to continue its professional music training program for inner city youth and adults. Other NEA grants have given students from Maywood, Bellwood, Westchester, Oak Park, Berkeley, and River Forest the opportunity to attend special Chicago Symphony Orchestra concerts and gave the director, Roger Quinn, the chance to make the moving and highly acclaimed movie Hoop Dreams. I strongly oppose these cuts and urge my colleagues to oppose any amendments that reduce spending even more radically for these important programs.

H.R. 1977 also eliminates the Advisory Council on Historic Preservation which advises the President and Congress on relevant issues and terminates all funding for the Department of Interior's pre-listing and listing activities of the Endangered Species Act [ESA] until this law is reauthorized. More specifically, it eliminates $4.5 million from the Fish and Wildlife Services budget for prelisting activities. This is exactly the type of short-sighted and extreme provisions that are rampant in H.R. 1977. The ESA's prelisting activities are designed to stabilize and protect species that would otherwise likely end up on the ESA's protection list. This saves funding and resources down the road before bald eagles, and so forth become dangerously close to extinction and extraordinary measures must be taken to ensure their preservation.

Mr. Chairman, this bill is clearly just another move by the Gingrich Republicans to cut programs that Americans care about and depend on so that they can give billion dollar bonuses and give aways to the rich. I am voting against this skewed bill and urge my colleagues to do the same.

Mr. MILLER of California. Mr. Chairman, the fiscal year 1996 Interior appropriations bill does a great disservice to the American Indian and Alaska Native tribes of our country. While we were able to restore funding for the education of Indian children in public schools, the

bill still eliminates funding under the Elementary and Secondary Education Act for adult Indian education, services to children with disabilities, remedial instruction, gifted and talented student grants, and scholarships for Indian students.

Under this bill, the Bureau of Indian Affairs' budget is $101 million below the President's request and the Indian Health Service's budget is $96 million below the President's budget. The IHS budget does not take into account any growth in population or cover inflationary costs. The BIA budget significantly restricts funding for Self-Governance and Self-Determination contracts, water rights negotiations and settlements, new school and hospital facilities, tribal courts, and community and economic development.

In addition, the report accompanying the bill penalizes tribal self-determination and economic growth by directing the Secretary of the Interior to prepare a means-testing report for Indian tribes with gaming revenues. Further, the report directs the Secretary to ignore the law and halt the distribution to Self-Governance tribes of their rightful share of administrative funding.

These actions demonstrate the attitude of the new Republican-controlled Congress toward Indian country—that it's all right to forget the fact that our Nation signed treaties with Indian tribes promising the delivery of these very services; that it's all right to ignore the fact that our Nation has a legal trust responsibility to protect the well-being of the Indian tribes. We should never forget that these tribes have already borne more than their fair share of budget cuts in the past 200 years and we owe more to them than this bill provides.

Mr. CLINGER. Mr. Chairman, I first want to commend Chairman REGULA and his staff for putting this bill together under difficult circumstances. Not only did the chairman have to deal with a tight 602(b) allocation, but—between NBS, the timber program, NEA, NEH, and other programs included in this bill—it has attracted more than its fair share of controversy. I appreciate the chairman's efforts, patience, and perseverance.

The fiscal year 1996 Interior appropriations bill is consistent with the balanced budget resolution Congress recently adopted. It is nearly $1.6 billion below the fiscal year 1995 appropriations—that's a real cut of 11.5 percent.

Nevertheless, I'm confident that the bill responsibly protects and enhances our Nation's priceless natural resources. And as the Member whose district includes the Allegheny National Forest, this is extremely important to me and my constituents.

The bill, I believe, also upholds the multiple-use philosophy of the National Forest System by reversing a 5-year decline in the timber sale budget. Since the late 1980's timber harvest levels on national forests have plummeted over 60 percent. This year's timber sale management appropriation of $188 million represents a modest increase above last year's funding and will allow for a nationwide timber harvest of roughly 4.3 billion board feet.

Some of my colleagues—who supported the piecemeal dismantling of the timber sale program—oppose this funding because, I believe, they want to prevent any timber harvesting on Federal lands. However, I want to point out several points to my colleagues: First, the U.S. Forest Service, by statute, is governed by multiple-use policies. Second, one of the missions of the Forest Service is to help provide the Nation with an adequate supply of timber. And third, timber harvesting is a legitimate and vital forest management tool.

National forests are not national parks, wilderness areas, or wildlife refuges and their management plans must and do reflect this fact.

Having said that, I am proud to say that the Allegheny National Forest is one of the Nation's most environmentally and fiscally well-managed forests. It is a model of how multiple-use policies can work as it balances—with relatively little conflict—the interests of 12 million annual recreational users, the owners of gas and oil rights beneath the forest, and timber harvesters.

Its timber program is above-cost—returning millions of dollars in net receipts to the U.S. Treasury—and, to a large degree, sustains the Allegheny region's economy. In fact, one study from the University of Pittsburgh at Bradford estimated that 42 percent of the jobs in the region, to some extent, rely on harvesting timber in the ANF.

So again, I thank the committee for rejecting the President's inadequate timber program request and for pulling the program back from the brink of extinction and urge my colleagues to defeat any amendment cutting funding from the timber sale program.

Mr. BARRETT of Nebraska. Mr. Chairman, I rise in support for the Appropriations Committee's actions on the National Endowment for the Arts and the Endowment for the Humanities.

As a member of the authorizing committee for the arts and humanities, I'm pleased that the Appropriations Committee has followed our lead. H.R. 1977 represents the first installment on the gradual phase out of federal support for the arts and humanities programs—which is consistent with legislation (H.R. 1557) approved by the Opportunities Committee.

In the past, I've given my support to maintaining federal funding for the arts and humanities because the state councils have provided my rural constituents with access to enriching art and cultural programs. Without these programs, I doubt that my constituents and communities would ever experience the types of programs that our urban neighbors can enjoy daily. But, we have to change our mind set and stop expecting the Federal Government to fund all that we find useful.

And its also time that we recognize that the private sector, which gave $9.6 billion in 1993 for the arts, is already providing the heavy lifting for the arts. Private contributions represented 98 percent of all funds that were spent in 1993 on the arts.

So, if we are ever to get a handle on the deficit and balance our budget, painful but necessary priorities need to be established. And, when I look at the billions being generated by the private sector for the arts, and our own pressing budget problems, then perhaps it is now time for us to cycleout federal funding.

This will not be an easy transition period for our state councils. Many I'm sure will have difficulties in raising the funds from state or private sources to maintain or develop new programs. But I'm ready to lend my private and public support for the state councils. When the House passes H.R. 1557, I'll be giving a donation to Nebraska's arts and humanities councils, and I'll actively encourage my colleagues to also donate funds to their state councils.

Mr. Chairman, H.R. 1997 represents a reasoned and prudent policy that will end immediately the endowments' national grant programs, which have been the subject of so much controversy, and for ending federal support for state arts and humanities councils. The bill cuts arts funding by 39 percent, or $63 million, and cuts humanities funding by 42 percent, or $73 million, from that spend during this past fiscal year. These are sizable cuts and necessary if we are to achieve a balanced budget by 2002.

I encourage my colleague to support the Committee's position and oppose amendments that would either eliminate all funding for the arts and humanities immediately or add monies back to these programs.

Mrs. COLLINS of Illinois. Mr. Chairman, during this past weekend while I was back in my Congressional District, the heat rose to record high temperatures. Tragically, 179 residents of Cook County, and perhaps as many as 300, died from the heat. I wish to take this opportunity to extend my condolences to the families and friends of these victims and to urge residents across the Chicago Metropolitan Area to check on their elderly neighbors and family members to help ensure that the heat does not claim any more victims.

I also want to urge my colleagues to accommodate any requests by Mayor Richard Daley and Governor Jim Edgar for Federal disaster aid to quickly address this tragic situation.

More than 440,000 Americans over the age of 60 live in the City of Chicago. Many of them live in my Congressional District in Chicago and its western suburbs. Extreme temperatures can have a terrifying impact on these seniors and we need to make sure that every step possible is taken to protect them from severe heat and cold. Programs like the Department of Energy's low-income weatherization program and the Low-Income Housing Energy Assistance program (LIHEAP) are specifically designed to prevent such tragedies from occurring. In fact, for many low-income seniors, these programs can literally mean the difference between life or death.

The Department of Energy's low-income weatherization program provides funding for states to make improvements to the homes of poor Americans so that they are better prepared for extreme weather conditions and to lower their heating and cooling bills. Specifically, this program enables states to install ceiling fans, attic fans, and awnings and to tune-up or replace air conditioners. Why do the Republicans want to cut fifty percent of the funds for this program, knowing that lives are at risk? I am waiting for an answer to this question, Mr. Chairman.

Rest assured that I am not in any way suggesting that the Republicans are responsible for the deaths in Chicago. What I am suggesting, Mr. Chairman, is that it is sadly ironic that this week, before the heat wave has even moved from the Midwest, we are debating and voting on H.R. 1977, the FY96 Interior Appropriations Act, which cuts the low-income

weatherization program by fifty percent. It is important that we remember that these are not vague, anti-big government cuts that the Republicans are making. Instead, they are devastating reductions to critically important programs that provide life-or-death services to many of our constituents.

Mr. CUNNINGHAM. Mr. Chairman, today I rise in opposition to any effort to alter the longstanding ban on offshore oil drilling on the California coast.

As I am sure that you are well aware, the House Appropriations Committee voted on June 27, 1995, by a 33 to 20 margin, to continue a ban on oil and gas drilling operations on the Outer Continental Shelf. The vote reversed an earlier vote by the Appropriations Interior Subcommittee to remove the moratorium, which has been maintained for the last several years as part of the annual Interior Department appropriations bill.

I have been closely following this issue for many years. I have written to Chairman LIVINGSTON, Appropriations, Chairman REGULA, Subcommittee on the Interior, and to Chairman YOUNG, Resources, to maintain the ban. I have tried to encourage members of Appropriations, and whoever would listen to my pleas, to include the ban in their appropriations bill.

I believe that the Congress must operate in accordance with California's interests in this regard. Governor Wilson has made it clear that Californians are in favor of the moratorium. In fact, the State of California recently enacted a permanent ban on all new offshore oil development in State coastal waters. Californians agree that the environmental sensitivities along the entire California coastline make the region an inappropriate place to drill for oil using current technology. The 1989 National Academy of Sciences [NAS] study confirmed that one exploration and drilling on existing leases and on undeveloped leases in the same area would be detrimental to the environment.

The findings of the NAS study encouraged me to introduce legislation on the opening day of this Congress to address the offshore oil drilling issue for California. My bill, H.R. 219, would prohibit the sale of new offshore leases in the southern, central, and northern California planning areas through the year 2005. In other words, H.R. 219 will ensure that there is no drilling or exploration along the California coast unless the most knowledgeable scientists inform us that it is absolutely safe to do so.

Unfortunately, the moratorium, as included in the Interior appropriations bill, is only extended through October 1996. Therefore, I am hopeful that my legislation will allow for the moratorium to be extended on a longer-term basis until environmental and economic concerns can be addressed.

For all these reasons, I commend the committee for including the moratorium and will oppose any effort that would allow for oil and gas drilling on our U.S. shoreline.

The CHAIRMAN. If there are no further amendments, under the rule, the Committee rises.

Accordingly the Committee rose; and the Speaker pro tempore (Mr. HEFLEY) having assumed the chair, Mr. BURTON of Indiana, Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill (H.R. 1977) making appropriations for the Department of the Interior and related agencies for the fiscal year ending September 30, 1996, and for other purposes, pursuant to House Resolution 187, he reported the bill back to the House with sundry amendments adopted by the Committee of the Whole.

The SPEAKER pro tempore. Under the rule, the previous question is ordered.

Is a separate vote demanded on any amendment? If not, the Chair will put them en gros.

The amendments were agreed to.

The SPEAKER pro tempore. The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed and read a third time, and was read the third time.

MOTION TO RECOMMIT OFFERED BY MR. YATES

Mr. YATES. Mr. Speaker, I offer a motion to recommit.

The SPEAKER pro tempore. Is the gentleman opposed to the bill?

Mr. YATES. In its present form, I am, Mr. Speaker.

The SPEAKER pro tempore. The Clerk will report the motion to recommit.

The Clerk read as follows:

Mr. YATES moves to recommit the bill, H.R. 1977, to the Committee on Appropriations.

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 motion to recommit was rejected.

The question is on the passage of the bill.

Pursuant to clause 7 of rule XV, the yeas and nays are ordered.

The vote was taken by electronic device, and there were—yeas 244, nays 181, not voting 9, as follows:

[Roll No. 523]

YEAS—244

Allard
Andrews
Archer
Armey
Bachus
Baker (CA)
Baker (LA)
Ballenger
Barcia
Barr
Barrett (NE)
Bartlett
Barton
Bass
Bateman
Bevill
Bilbray
Bilirakis
Bishop
Bliley
Blute
Boehlert
Boehner
Bonilla
Bono
Boucher
Brewster
Brownback
Bryant (TN)
Bunn
Bunning
Burr
Burton
Buyer
Callahan
Calvert
Camp
Canady
Castle
Chabot
Chambliss
Chapman
Chenoweth
Christensen
Chrysler
Clinger
Coble
Coburn
Collins (GA)
Combest
Cox
Cramer
Crapo
Cremeans
Cubin
Cunningham
Davis
Deal
DeLay
Diaz-Balart
Dickey
Dicks
Dooley
Doolittle
Dornan
Doyle
Dreier
Duncan
Dunn
Edwards
Ehlers
Ehrlich
Emerson
English
Ensign
Everett
Ewing
Fawell
Fields (TX)
Flanagan
Foley
Forbes
Fowler
Fox
Franks (CT)
Franks (NJ)
Frelinghuysen
Frisa
Funderburk
Gallegly
Ganske
Gekas
Geren
Gilchrest
Gillmor
Gilman
Goodlatte
Goodling
Gordon
Goss
Graham
Greenwood
Gunderson
Gutknecht
Hall (TX)
Hansen
Hastert
Hastings (WA)
Heineman
Herger
Hilleary
Hobson
Hoekstra
Hoke
Holden
Horn
Houghton
Hunter
Hutchinson
Hyde
Inglis
Istook
Johnson (CT)
Johnson, Sam
Jones
Kasich
Kelly
Kim
King
Kingston
Klug
Knollenberg
Kolbe
LaHood
Largent
Latham
LaTourette
Laughlin
Lazio
Lewis (CA)
Lewis (KY)
Lightfoot
Lincoln
Linder
Lipinski
Livingston
LoBiondo
Longley
Lucas
Martini
Mascara
McCollum
McCrery
McDade
McHugh
McInnis
McIntosh
McNulty
Metcalf
Meyers
Mica
Miller (FL)
Molinari
Montgomery
Moorhead
Morella
Murtha
Myrick
Nethercutt
Neumann
Ney
Norwood
Nussle
Orton
Oxley
Packard
Parker
Paxon
Pombo
Porter
Portman
Pryce
Quillen
Quinn
Radanovich
Ramstad
Reed
Regula
Riggs
Roberts
Rogers
Rohrabacher
Ros-Lehtinen
Roth
Roukema
Royce
Sanford
Saxton
Schaefer
Schiff
Seastrand
Shadegg
Shaw
Shays
Shuster
Sisisky
Skeen
Smith (MI)
Smith (NJ)
Smith (TX)
Smith (WA)
Solomon
Souder
Spence
Spratt
Stenholm
Stump
Talent
Tate
Taylor (NC)
Thomas
Thornberry
Thornton
Torkildsen
Traficant
Upton
Vucanovich
Waldholtz
Walker
Walsh
Wamp
Watts (OK)
Weldon (FL)
Weldon (PA)
Weller
White
Whitfield
Wicker
Wilson
Wolf
Young (AK)
Young (FL)
Zeliff
Zimmer

NAYS—181

Abercrombie
Ackerman
Baesler
Baldacci
Barrett (WI)
Becerra
Beilenson
Bentsen
Bereuter
Berman
Bonior
Borski
Browder
Brown (CA)
Brown (FL)
Brown (OH)
Bryant (TX)
Cardin
Clay
Clayton
Clement
Clyburn
Coleman
Collins (IL)
Condit
Conyers
Cooley
Costello
Coyne
Danner
de la Garza
DeFazio
DeLauro
Dellums
Deutsch
Dingell
Dixon
Doggett
Durbin
Engel
Eshoo
Evans
Farr
Fattah
Fazio
Fields (LA)
Filner
Flake
Foglietta
Ford
Frank (MA)
Frost
Furse
Gejdenson
Gephardt
Gibbons
Gonzalez
Green
Gutierrez
Hall (OH)
Hamilton
Hancock
Harman
Hastings (FL)
Hayes
Hayworth
Hefley
Hefner
Hilliard
Hinchey
Hostettler
Hoyer
Jackson-Lee
Jacobs
Jefferson
Johnson (SD)
Johnson, E. B.
Johnston
Kanjorski
Kaptur
Kennedy (MA)
Kennelly
Kildee
Kleczka
Klink
LaFalce
Lantos
Leach
Levin
Lewis (GA)
Lofgren
Lowey
Luther
Maloney
Manton
Manzullo
Markey
Martinez
Matsui
McCarthy
McDermott
McHale
McKinney
Meehan
Meek
Menendez
Mfume
Miller (CA)
Mineta
Minge
Mink
Mollohan
Moran
Nadler
Neal
Oberstar
Obey
Olver
Ortiz
Owens
Pallone
Pastor
Payne (NJ)

Payne (VA)
Pelosi
Peterson (FL)
Peterson (MN)
Petri
Pickett
Pomeroy
Poshard
Rahall
Rangel
Rivers
Roemer
Rose
Roybal-Allard
Rush
Sabo
Salmon
Sanders
Sawyer
Scarborough
Schroeder
Schumer
Scott
Sensenbrenner
Serrano
Skaggs
Skelton
Slaughter
Stark
Stockman
Stokes
Studds
Stupak
Tanner
Tauzin
Taylor (MS)
Tejeda
Thompson
Thurman
Tiahrt
Torres
Torricelli
Towns
Tucker
Velazquez
Vento
Visclosky
Volkmer
Ward
Waters
Watt (NC)
Waxman
Williams
Wise
Woolsey
Wyden
Wynn
Yates

NOT VOTING—9

Collins (MI)
Crane
Kennedy (RI)
McKeon
Moakley
Myers
Reynolds
Richardson
Stearns

□ 1736

The Clerk announced the following pairs:

On this vote:

Mr. Stearns for, with Mr. Richardson against.

Mr. Myers of Indiana for, with Mr. Moakley against.

Ms. MCCARTHY and Mr. SALMON changed their vote from "yea" to "nay."

So the bill was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

PERSONAL EXPLANATION

Mr. GENE GREEN of Texas. Mr. Speaker, on Monday, July 17, and Tuesday, July 18, I was in my district and had townhall meetings originally scheduled, and missed rollcall votes 500 through 516. These events were planned prior to the change in the calendar. I missed these votes. I would like to put in the RECORD my intentions for voting and also my votes, as follows:

Intended votes of Gene Green—104th Congress

Rollcall	Vote
500	Yes
501	No
502	No
503	No
504	No
505	Yes
506	Yes
507	Yes
508	Yes
509	Yes
510	No
511	Yes
512	No
513	Yes
514	No
515	No
516	No

PROVIDING FOR THE CONSIDERATION OF H.R. 1976, AGRICULTURE, RURAL DEVELOPMENT, FOOD AND DRUG ADMINISTRATION, AND RELATED AGENCIES APPROPRIATIONS ACT, 1996

The SPEAKER pro tempore (Mr. HEFLEY). The unfinished business is the vote on ordering the previous question on House Resolution 188 on which the yeas and nays are ordered.

The Clerk read the title of the resolution.

The CHAIRMAN. The question is on ordering the previous question.

The Chair will reduce to 5 minutes the time for a recorded vote, if ordered, on the question of passage.

The vote was taken by electronic device, and there were—yeas 242, nays 185, not voting 7, as follows:

[Roll No. 524]

YEAS—242

Allard
Archer
Armey
Bachus
Baker (CA)
Baker (LA)
Ballenger
Barr
Barrett (NE)
Bartlett
Barton
Bass
Bateman
Bereuter
Bilbray
Bilirakis
Bliley
Blute
Boehlert
Boehner
Bonilla
Bono
Brownback
Bryant (TN)
Bunn
Bunning
Burr
Burton
Buyer
Callahan
Calvert
Camp
Canady
Castle
Chabot
Chambliss
Chenoweth
Christensen
Chrysler
Clinger
Coble
Coburn
Collins (GA)
Combest
Condit
Cooley
Cox
Crapo
Cremeans
Cubin
Cunningham
Davis
de la Garza
Deal
DeLay
Diaz-Balart
Dickey
Doolittle
Dornan
Dreier
Duncan
Dunn
Ehlers
Ehrlich
Emerson
English
Ensign
Everett
Ewing
Fawell
Fields (TX)
Flanagan
Foley
Forbes
Fowler
Fox
Franks (CT)
Franks (NJ)
Frelinghuysen
Frisa
Funderburk
Gallegly
Ganske
Gekas
Gilchrest
Gillmor
Gilman
Goodlatte
Goodling
Gordon
Goss
Graham
Greenwood
Gunderson
Gutknecht
Hall (TX)
Hancock
Hansen
Hastert
Hastings (WA)
Hayworth
Hefley
Heineman
Herger
Hilleary
Hobson
Hoekstra
Hoke
Horn
Hostettler
Houghton
Hunter
Hutchinson
Hyde
Inglis
Istook
Johnson (CT)
Johnson, Sam
Jones
Kasich
Kelly
Kim
King
Kingston
Klug
Knollenberg
Kolbe
LaHood
Largent
Latham
LaTourette
Laughlin
Lazio
Leach
Lewis (CA)
Lewis (KY)
Lightfoot
Linder
Livingston
LoBiondo
Longley
Lucas
Manzullo
Martini
McCollum
McCrery
McDade
McHugh
McInnis
McIntosh
McKeon
Metcalf
Meyers
Mica
Miller (FL)
Molinari
Montgomery
Moorhead
Morella
Myers
Myrick
Nethercutt
Neumann
Ney
Norwood
Nussle
Oxley
Packard
Parker
Paxon
Petri
Pombo
Pomeroy
Porter
Portman
Pryce
Quillen
Quinn
Radanovich
Ramstad
Regula
Riggs
Roberts
Rogers
Rohrabacher
Ros-Lehtinen
Roth
Roukema
Royce
Salmon
Sanford
Saxton
Scarborough
Schaefer
Schiff
Seastrand
Sensenbrenner
Shadegg
Shaw
Shays
Shuster
Skeen
Skelton
Smith (MI)
Smith (NJ)
Smith (TX)
Smith (WA)
Solomon
Souder
Spence
Stearns
Stenholm
Stockman
Stump
Talent
Tate
Tauzin
Taylor (NC)
Thomas
Thornberry
Thornton
Tiahrt
Torkildsen
Traficant
Upton
Vucanovich
Waldholtz
Walker
Walsh
Wamp
Watts (OK)
Weldon (FL)
Weldon (PA)
Weller
White
Whitfield
Wicker
Wolf
Young (AK)
Young (FL)
Zeliff
Zimmer

NAYS—185

Abercrombie
Ackerman
Baesler
Baldacci
Barcia
Barrett (WI)
Becerra
Bellenson
Bentsen
Berman
Bevill
Bishop
Bonior
Borski
Boucher
Brewster
Browder
Brown (CA)
Brown (FL)
Brown (OH)
Bryant (TX)
Cardin
Chapman
Clay
Clayton
Clement
Clyburn
Coleman
Collins (IL)
Conyers
Costello
Coyne
Cramer
Danner
DeFazio
DeLauro
Dellums
Deutsch
Dicks
Dingell
Dixon
Doggett
Dooley
Doyle
Durbin
Edwards
Engel
Eshoo
Evans
Farr
Fattah
Fazio
Fields (LA)
Filner
Flake
Foglietta
Ford
Frank (MA)
Frost
Furse
Gejdenson
Gephardt
Geren
Gibbons
Gonzalez
Green
Gutierrez
Hall (OH)
Hamilton
Harman
Hastings (FL)
Hayes
Hefner
Hilliard
Hinchey
Holden
Hoyer
Jackson-Lee
Jacobs
Jefferson
Johnson (SD)
Johnson, E. B.
Johnston
Kanjorski
Kaptur
Kennedy (MA)
Kennelly
Kildee
Kleczka
Klink
LaFalce
Lantos
Levin
Lewis (GA)
Lincoln
Lipinski
Lofgren
Lowey
Luther
Maloney
Manton
Markey
Martinez
Mascara
Matsui
McCarthy
McDermott
McHale
McKinney
McNulty
Meehan
Meek
Menendez
Mfume
Miller (CA)
Mineta
Minge
Mink
Mollohan
Moran
Murtha
Nadler
Neal
Oberstar
Obey
Olver
Ortiz
Orton
Owens
Pallone
Pastor
Payne (NJ)
Payne (VA)
Pelosi
Peterson (FL)
Peterson (MN)
Pickett
Poshard
Rahall
Rangel
Reed
Richardson
Rivers
Roemer
Rose
Roybal-Allard
Rush
Sabo
Sanders
Sawyer
Schroeder
Schumer
Scott
Serrano
Sisisky
Skaggs
Slaughter
Spratt
Stark
Stokes
Studds
Stupak
Tanner
Taylor (MS)
Tejeda
Thompson
Thurman
Torres
Torricelli
Towns
Tucker
Velazquez
Vento
Visclosky
Volkmer
Ward
Waters
Watt (NC)
Williams
Wilson
Wise
Woolsey
Wyden
Wynn
Yates

NOT VOTING—7

Andrews
Collins (MI)
Crane
Kennedy (RI)
Moakley
Reynolds
Waxman

□ 1756

Mr. DORNAN changed his vote from "nay" to "yea."

So the previous question was ordered.

The result of the vote was announced as above recorded.

The SPEAKER pro tempore (Mr. HEFLEY). The question is on the resolution.

The resolution was agreed to.

A motion to reconsider was laid on the table.

TREASURY, POSTAL SERVICE, AND GENERAL GOVERNMENT APPROPRIATIONS ACT, 1996

The SPEAKER pro tempore (Mr. HEFLEY). Pursuant to House Resolution 190 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. 2020.

□ 1757

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. 2020) making appropriations for the Treasury Department, the U.S. Postal Service, the Executive Office of the President, and certain independent agencies, for the fiscal year ending September 30, 1996, and for other purposes, with Mr. DREIER in the chair.

The Clerk read the title of the bill.

The CHAIRMAN. When the Committee of the Whole rose earlier today, all time for general debate had expired.

Pursuant to the rule, the bill shall be considered under the 5-minute rule by titles and each title shall be considered read.

During consideration of the bill for amendment, the Chairman of the Committee of the Whole may accord priority in recognition to a Member who has caused an amendment to be printed in the designated place in the CONGRESSIONAL RECORD. Those amendments will be considered read.

The Clerk will designate title I.

The text of title I is as follows:

H.R. 2020

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the following sums are appropriated, out of any money in the Treasury not otherwise appropriated, for the Treasury Department, the United States Postal Service, the Executive Office of the President, and certain Independent Agencies, for the fiscal year ending September 30, 1996, and for other purposes, namely:

TITLE I—DEPARTMENT OF THE TREASURY

DEPARTMENTAL OFFICES

SALARIES AND EXPENSES

For necessary expenses of the Departmental Offices including operation and maintenance of the Treasury Building and Annex; hire of passenger motor vehicles; maintenance, repairs, and improvements of, and purchase of commercial insurance policies for, real properties leased or owned overseas, when necessary for the performance of official business; not to exceed $2,900,000 for official travel expenses; not to exceed $2,950,000 to remain available until September 30, 1998, shall be available for information technology modernization requirements; not to exceed $150,000 for official reception and representation expenses; not to exceed $258,000 for unforeseen emergencies of a confidential nature, to be allocated and expended under the direction of the Secretary of the Treasury and to be accounted for solely on his certificate; $104,000,500.

OFFICE OF INSPECTOR GENERAL

SALARIES AND EXPENSES

For necessary expenses of the Office of Inspector General in carrying out the provisions of the Inspector General Act of 1978, as amended, hire of passenger motor vehicles; not to exceed $2,000,000 for official travel expenses; not to exceed $100,000 for unforeseen emergencies of a confidential nature, to be allocated and expended under the direction of the Inspector General of the Treasury; $29,319,000.

FINANCIAL CRIMES ENFORCEMENT NETWORK

SALARIES AND EXPENSES

For necessary expenses of the Financial Crimes Enforcement Network, including hire of passenger motor vehicles; travel expenses of non-Federal personnel to attend meetings concerned with financial intelligence activities, law enforcement, and financial regulation; not to exceed $14,000 for official reception and representation expenses; $20,273,000: *Provided*, That notwithstanding any other provision of law, the Director of the Financial Crimes Enforcement Network may procure up to $500,000 in specialized, unique or novel automatic data processing equipment, ancillary equipment, software, services, and related resources from commercial vendors without regard to otherwise applicable procurement laws and regulations and without full and open competition, utilizing procedures best suited under the circumstances of the procurement to efficiently fulfill the agency's requirements: *Provided further*, That funds appropriated in this account may be used to procure personal services contracts.

FEDERAL LAW ENFORCEMENT TRAINING CENTER

SALARIES AND EXPENSES

For necessary expenses of the Federal Law Enforcement Training Center, as a bureau of the Department of the Treasury, including materials and support costs of Federal law enforcement basic training; purchase (not to exceed fifty-two for police-type use) and hire of passenger motor vehicles; for expenses for student athletic and related activities; uniforms without regard to the general purchase price limitation for the current fiscal year; the conducting of and participating in firearms matches and presentation of awards; for public awareness and enhancing community support of law enforcement training; not to exceed $7,000 for official reception and representation expenses; room and board for student interns; and services as authorized by 5 U.S.C. 3109: *Provided*, That the Center is authorized to accept and use gifts of property, both real and personal, and to accept services, for authorized purposes, including funding of a gift of intrinsic value which shall be awarded annually by the Director of the Center to the outstanding student who graduated from a basic training program at the Center during the previous fiscal year, which shall be funded only by gifts received through the Center's gift authority; *Provided further*, That notwithstanding any other provision of law, students attending training at any Federal Law Enforcement Training Center site shall reside in on-Center or Center-provided housing, insofar as available and in accordance with Center policy: *Provided further*, That funds appropriated in this account shall be available for training United States Postal Service law enforcement personnel and Postal police officers, at the discretion of the Director; State and local government law enforcement training on a space-available basis; training of foreign law enforcement officials on a space-available basis with reimbursement of actual costs to this appropriation (except that the Director may waive reimbursement and may pay travel expenses, not to exceed 75 percent of the total training and travel cost, when the Director determines that it is in the public interest to do so); training of private sector security officials on a space-available basis with reimbursement of actual costs to this appropriation; travel expenses of non-Federal personnel to attend State and local course development meetings at the Center: *Provided further*, That the Center is authorized to obligate funds in anticipation of reimbursements from agencies receiving training at the Federal Law Enforcement Training Center, except that total obligations at the end of the fiscal year shall not exceed total budgetary resources available at the end of the fiscal year: *Provided further*, That the Center is authorized to obligate funds to provide for site security and expansion of antiterrorism training facilities: *Provided further*, That the Federal Law Enforcement Training Center is authorized to provide short term medical services for students undergoing training at the Center; $36,070,000, of which $8,666,000 for materials and support costs of Federal law enforcement basic training shall remain available until September 30, 1998.

ACQUISITION, CONSTRUCTION, IMPROVEMENTS, AND RELATED EXPENSES

For expansion of the Federal Law Enforcement Training Center, for acquisition of necessary additional real property and facilities, and for ongoing maintenance, facility improvements, and related expenses, $8,163,000, to remain available until expended.

FINANCIAL MANAGEMENT SERVICE

SALARIES AND EXPENSES

For necessary expenses of the Financial Management Service, $181,837,000, of which not to exceed $14,277,000 shall remain available until September 30, 1988 for systems modernization initiatives. In addition, $90,000, to be derived from the Oil Spill Liability Trust Fund, to reimburse the Service for administrative and personnel expenses for financial management of the Fund, as authorized by section 1012 of Public Law 101–380.

BUREAU OF ALCOHOL, TOBACCO AND FIREARMS

SALARIES AND EXPENSES

For necessary expenses of the Bureau of Alcohol, Tobacco and Firearms, including purchase of not to exceed six hundred and fifty vehicles for police-type use for replacement only and hire of passenger motor vehicles; hire of aircraft; and services of expert witnesses at such rates as may be determined by the Director; for payment of per diem and/or subsistence allowances to employees where an assignment to the National Response Team during the investigation of a bombing or arson incident requires an employee to work 16 hours or more per day or to remain overnight at his or her post of duty; not to exceed $10,000 for official reception and representation expenses; for training of State and local law enforcement agencies with or without reimbursement; provision of laboratory assistance to State and

local agencies, with or without reimbursement; $391,035,000, of which not to exceed $1,000,000 shall be available for the payment of attorneys' fees as provided by 18 U.S.C. 924(d)(2); and of which $1,000,000 shall be available for the equipping of any vessel, vehicle, equipment, or aircraft available for official use by a State or local law enforcement agency if the conveyance will be used in drug-related joint law enforcement operations with the Bureau of Alcohol, Tobacco and Firearms and for the payment of overtime salaries, travel, fuel, training, equipment, and other similar costs of State and local law enforcement officers that are incurred in joint operations with the Bureau of Alcohol, Tobacco and Firearms: *Provided*, That no funds made available by this or any other Act may be used to implement any reorganization of the Bureau of Alcohol, Tobacco and Firearms or transfer of the Bureau's functions, missions, or activities to other agencies or Departments in the fiscal year ending on September 30, 1996: *Provided further*, That no funds appropriated herein shall be available for salaries or administrative expenses in connection with consolidating or centralizing, within the Department of the Treasury, the records, or any portion thereof, of acquisition and disposition of firearms maintained by Federal firearms licensees: *Provided further*, That no funds appropriated herein shall be used to pay administrative expenses or the compensation of any officer or employee of the United States to implement an amendment or amendments to 27 CFR 178.118 or to change the definition of "Curios or relics" in 27 CFR 178.11 or remove any item from ATF Publication 5300.11 as it existed on January 1, 1994 without publishing prior notice in the Federal Register and allowing for public comment: *Provided further*, That none of the funds appropriated herein shall be available to investigate or act upon applications for relief from Federal firearms disabilities under 18 U.S.C. 925(c): *Provided further*, That such funds shall be available to investigate and act upon applications filed by corporations for relief from Federal firearms disabilities under 18 U.S.C. section 925(c).

UNITED STATES CUSTOMS SERVICE

SALARIES AND EXPENSES

For necessary expenses of the United States Customs Service, including purchase of up to 1,000 motor vehicles of which 960 are for replacement only, including 990 for police-type use and commercial operations; hire of motor vehicles; not to exceed $20,000 for official reception and representation expenses; and awards of compensation to informers, as authorized by any Act enforced by the United States Customs Service; $1,389,829,000, of which such sums as become available in the Customs User Fee Account, except sums subject to section 13031(f)(3) of the Consolidated Omnibus Reconciliation Act of 1985, as amended (19 U.S.C. 58c(f)(3)), shall be derived from that Account; of the total, not to exceed $150,000 shall be available for payment for rental space in connection with preclearance operations, and not to exceed $4,000,000 shall be available until expended for research: *Provided*, That uniforms may be purchased without regard to the general purchase price limitation for the current fiscal year: *Provided further*, That the Commissioner of the Customs Service designate a single individual to be port director of all United States Government activities at two ports of entry, one on the southern border and one on the northern border.

HARBOR MAINTENANCE FEE COLLECTION

For administrative expenses related to the collection of the Harbor Maintenance Fee, pursuant to Public Law 103-182, $3,000,000, to be derived from the Harbor Maintenance Trust Fund and to be transferred to and merged with the Customs "Salaries and Expenses" account for such purposes.

OPERATION AND MAINTENANCE, AIR AND MARINE INTERDICTION PROGRAMS

For expenses, not otherwise provided for, necessary for the operation and maintenance of marine vessels, aircraft, and other related equipment of the Air and Marine Programs, including operational training and mission-related travel, and rental payments for facilities occupied by the air or marine interdiction or demand reduction programs, the operations of which include: the interdiction of narcotics and other goods; the provision of support to Customs and other Federal, State, and local agencies in the enforcement or administration of laws enforced by the Customs Service; and, at the discretion of the Commissioner of Customs, the provision of assistance to Federal, State, and local agencies in other law enforcement and emergency humanitarian efforts; $60,993,000 of which $5,644,000 shall remain available until expended; in addition, $19,733,000 shall be transferred from the Customs Air and Marine Interdiction Programs, Procurement Account to remain available until expended: *Provided*, That no aircraft or other related equipment, with the exception of aircraft which is one of a kind and has been identified as excess to Customs requirements, and aircraft which has been damaged beyond repair, shall be transferred to any other Federal agency, Department, or office outside of the Department of the Treasury, during fiscal year 1996, without the prior approval of the House and Senate Committees on Appropriations.

CUSTOMS SERVICES AT SMALL AIRPORTS

(TO BE DERIVED FROM FEES COLLECTED)

Such sums as may be necessary, not to exceed $1,406,000, for expenses for the provision of Customs services at certain small airports or other facilities when authorized by law and designated by the Secretary of the Treasury, including expenditures for the salary and expenses of individuals employed to provide such services, to be derived from fees collected by the Secretary of the Treasury pursuant to section 236 of Public Law 98-573 for each of these airports or other facilities when authorized by law and designated by the Secretary of the Treasury, and to remain available until expended.

BUREAU OF THE PUBLIC DEBT

ADMINISTERING THE PUBLIC DEBT

For necessary expenses connected with any public-debt issues of the United States; $180,065,000: *Provided*, That the sum appropriated herein from the General Fund for fiscal year 1996 shall be reduced by not more than $600,000 as definitive security issue fees are collected and not more than $9,465,000 as Treasury Direct Investor Account Maintenance fees are collected, so as to result in a final fiscal year 1996 appropriation from the General Fund estimated at $170,000,000.

INTERNAL REVENUE SERVICE

PROCESSING, ASSISTANCE, AND MANAGEMENT

For necessary expenses of the Internal Revenue Service, not otherwise provided for; including processing tax returns; revenue accounting; providing assistance to taxpayers, management services, and inspection; including purchase (not to exceed 150 for replacement only, for police-type use) and hire of passenger motor vehicles (31 U.S.C. 1343(b)); and services as authorized by 5 U.S.C. 3109, at such rates as may be determined by the Commissioner: $1,682,742,000, of which $3,700,000 shall be for the Tax Counseling for the Elderly Program, no amount of which shall be available for IRS administrative costs, and of which not to exceed $25,000 shall be for official reception and representation expenses.

TAX LAW ENFORCEMENT

For necessary expenses of the Internal Revenue Service for determining and establishing tax liabilities; tax and enforcement litigation; technical rulings; examining employee plans and exempt organizations; investigation and enforcement activities; securing unfiled tax returns; collecting unpaid accounts; statistics of income and compliance research; the purchase (for police-type use, not to exceed 850), and hire of passenger motor vehicles (31 U.S.C. 1343(b)); and services as authorized by 5 U.S.C. 3109, at such rates as may be determined by the Commissioner $4,254,476,000, of which not to exceed $1,000,000 shall remain available until September 30, 1998 for research: *Provided*, That $13,000,000 shall be used to initiate a program to utilize private sector debt collection agencies in the collection activities of the Internal Revenue Service in compliance with section 104 of this Act.

INFORMATION SYSTEMS

For necessary expenses for data processing and telecommunications support for Internal Revenue Service activities, including: tax systems modernization (modernized developmental systems), modernized operational systems, services and compliance, and support systems; and for the hire of passenger motor vehicles (31 U.S.C. 1343(b)); and services as authorized by 5 U.S.C. 3109, at such rates as may be determined by the Commissioner; $1,575,216,000, of which up to $185,000,000 for tax and information systems development projects shall remain available until September 30, 1998: *Provided*, That of the funds appropriated for tax systems modernization, $70,000,000 may not be obligated until the Commissioner of the Internal Revenue Service reports to the Committees on Appropriations of the House and Senate on the implementation of Tax Systems Modernization.

ADMINISTRATIVE PROVISIONS—INTERNAL REVENUE SERVICE

SECTION 1. Not to exceed 2 per centum of any appropriation made available to the Internal Revenue Service for the current fiscal year by this Act may be transferred to any other Internal Revenue Service appropriation upon the advance approval of the House and Senate Committees on Appropriations: *Provided*, That notwithstanding any other provision of this Act, the Internal Revenue Service is authorized to transfer such sums as may be necessary between appropriations with advance approval of the House and Senate Appropriations Committees: *Provided further*, That no funds shall be transferred from the "Tax Law Enforcement" account during fiscal year 1996.

SEC. 2. The Internal Revenue Service shall institute and maintain a training program to insure that Internal Revenue Service employees are trained in taxpayers' rights, in dealing courteously with the taxpayers, and in cross-cultural relations.

UNITED STATES SECRET SERVICE

SALARIES AND EXPENSES

For necessary expenses of the United States Secret Service, including purchase (not to exceed 665 vehicles for police-type use for replacement only) and hire of passenger motor vehicles; hire of aircraft; training and

assistance requested by State and local governments, which may be provided without reimbursement; services of expert witnesses at such rates as may be determined by the Director; rental of buildings in the District of Columbia, and fencing, lighting, guard booths, and other facilities on private or other property not in Government ownership or control, as may be necessary to perform protective functions; for payment of per diem and/or subsistence allowances to employees where a protective assignment during the actual day or days of the visit of a protectee require an employee to work 16 hours per day or to remain overnight at his or her post of duty; the conducting of and participating in firearms matches; presentation of awards; and for travel of Secret Service employees on protective missions without regard to the limitations on such expenditures in this or any other Act: *Provided*, That approval is obtained in advance from the House and Senate Committees on Appropriations; for repairs, alterations, and minor construction at the James J. Rowley Secret Service Training Center; for research and development; for making grants to conduct behavioral research in support of protective research and operations; not to exceed $12,500 for official reception and representation expenses; not to exceed $50,000 to provide technical assistance and equipment to foreign law enforcement organizations in counterfeit investigations; for payment in advance for commercial accommodations as may be necessary to perform protective functions; and for uniforms without regard to the general purchase price limitation for the current fiscal year; $542,461,000.

VIOLENT CRIME REDUCTION PROGRAMS

For activities authorized by Public Law 103-322, to remain available until expended, which shall be derived from the Violent Crime Reduction Trust Fund, as follows:

(a) As authorized by section 190001(e), $51,686,000, of which: $33,865,000 shall be available to the United States Customs Service for expenses associated with "Operation Hardline"; $2,221,000 to the Financial Crimes Enforcement Network; $3,100,000 to the Bureau of Alcohol, Tobacco and Firearms for the development and dissemination of ballistic technologies as part of the "Ceasefire" program; $10,000,000 to the United States Secret Service; and $2,500,000 to the Federal Law Enforcement Training Center in Glynco, Georgia; and

(b) As authorized by section 32401, $12,200,000, for disbursement through grants, cooperative agreements or contracts, to local governments for Gang Resistance Education and Training: *Provided*, That notwithstanding sections 32401 and 310001, such funds shall be allocated only to the affected State and local law enforcement and prevention organizations participating in such projects.

GENERAL PROVISIONS—DEPARTMENT OF THE TREASURY

SECTION 101. Any obligation or expenditure by the Secretary in connection with law enforcement activities of a Federal agency or a Department of the Treasury law enforcement organization in accordance with 31 U.S.C. 9703(g)(4)(B) from unobligated balances remaining in the Fund on September 30, 1996, shall be made in compliance with the reprogramming guidelines contained in the House and Senate reports accompanying this Act.

SEC. 102. Appropriations to the Treasury Department in this Act shall be available for uniforms or allowances therefor, as authorized by law (5 U.S.C. 5901), including maintenance, repairs, and cleaning; purchase of insurance for official motor vehicles operated in foreign countries; purchase of motor vehicles without regard to the general purchase price limitation for vehicles purchased and used overseas for the current fiscal year; entering into contracts with the Department of State for the furnishing of health and medical services to employees and their dependents serving in foreign countries; and services authorized by 5 U.S.C. 3109.

SEC. 103. Not to exceed 2 per centum of any appropriations in this Act for the Department of the Treasury may be transferred between such appropriations. Notwithstanding any authority to transfer funds between appropriations contained in this or any other Act, no transfer may increase or decrease any appropriation in this Act by more than 2 per centum and any such proposed transfers shall be approved in advance by the Committees on Appropriations of the House and Senate.

SEC. 104. None of the funds appropriated by this title shall be used in connection with the collection of any underpayment of any tax imposed by the Internal Revenue Code of 1986 unless the conduct of officers and employees of the Internal Revenue Service in connection with such collection, including any private sector employees under contract to the Internal Revenue Service, complies with subsection (a) of section 805 (relating to communications in connection with debt collection), and section 806 (relating to harassment or abuse), of the Fair Debt Collection Practices Act (15 U.S.C. 1692).

SEC. 105. The Internal Revenue Service shall institute policies and procedures which will safeguard the confidentiality of taxpayer information.

SEC. 106. The funds provided to the Bureau of Alcohol, Tobacco and Firearms for fiscal year 1996 in this Act for the enforcement of the Federal Alcohol Administration Act shall be expended in a manner so as not to diminish enforcement efforts with respect to section 105 of the Federal Alcohol Administration Act.

This title may be cited as the "Treasury Department Appropriations Act, 1996".

□ 1800

The CHAIRMAN (Mr. DREIER). Are there any amendments to title I?

AMENDMENT OFFERED BY MRS. KELLY

Mrs. KELLY. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mrs. KELLY: Page 9, line 20, strike "$1,389,829,000" and insert "$1,392,429,000".

Page 14, line 10, strike "$1,575,216,000" and insert "$1,571,616,000".

Mrs. KELLY. Mr. Chairman, this amendment is very simple and straightforward. It reduces the appropriated amount for Internal Revenue Service by $3.6 million and transfers this amount to the salaries and expenses account for the Customs Service.

Passage of my amendment will mean that the total appropriation for the IRS will be equal with that of the 1995 level, while assisting the Customs Service with the important work that it does on a daily basis.

Mr. Chairman, my amendment is simple but it sends a strong and direct message to the American people. We are all making tough discussions across the board to reduce spending and live within our means and I see no reason why we should not expect the IRS to do the same.

These moneys can be better spent by the Customs Service, and I urge my colleagues to support this proposal.

Mr. FRISA. Mr. Chairman, will the gentlewoman yield?

Mrs. KELLY. I yield to the gentleman from New York.

Mr. FRISA. Mr. Chairman, I rise in support of the Kelly-Frisa amendment to equalize funding for the Internal Revenue Service to the same amount appropriated under the 1995 fiscal year.

At a time when we are asking other agencies and programs to be more efficient, to use dollars more wisely, in some cases do with less but still maintain the same level of services, and in other cases where we are appropriating smaller increases for programs to still be able to balance our budget, I think it is essential that we provide no more funding for the Internal Revenue Service for the 1996 fiscal year than we have for the past year.

Mr. Chairman, I urge all of my colleagues to support this amendment.

Mr. LIGHTFOOT. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I have had an opportunity to review the amendment proposed by the gentlewoman from New York [Mrs. KELLY]. I simply want to state that we have no objection to the amendment and urge its adoption.

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

Mr. Chairman, I have had the opportunity to discuss this matter with the gentleman from Iowa [Mr. LIGHTFOOT]. It is my own view that neither IRS nor Customs have sufficient funds, but I understand the thrust of the amendment and we will not oppose it on this side.

The CHAIRMAN. The question is on the amendment offered by the gentlewoman from New York [Mrs. KELLY].

The amendment was agreed to.

The CHAIRMAN. Are there further amendments to title I?

If not, the Clerk will designate title II.

The text of title II is as follows:

TITLE II—POSTAL SERVICE

PAYMENTS TO THE POSTAL SERVICE

PAYMENT TO THE POSTAL SERVICE FUND

For payment to the Postal Service Fund for revenue forgone on free and reduced rate mail, pursuant to subsections (c) and (d) of section 2401 of title 39, United States Code; $85,080,000: *Provided*, That mail for overseas voting and mail for the blind shall continue to be free: *Provided further*, That six-day delivery and rural delivery of mail shall continue at not less than the 1983 level: *Provided further*, That none of the funds made available to the Postal Service by this Act shall be used to implement any rule, regulation, or policy of charging any officer or employee of any State or local child support enforcement agency, or any individual participating

in a State or local program of child support enforcement, a fee for information requested or provided concerning an address of a postal customer: *Provided further*, That none of the funds provided in this Act shall be used to consolidate or close small rural and other small post offices in the fiscal year ending on September 30, 1996.

PAYMENT TO THE POSTAL SERVICE FUND FOR NONFUNDED LIABILITIES

For payment to the Postal Service Fund for meeting the liabilities of the former Post Office Department to the Employees' Compensation Fund pursuant to 39 U.S.C. 2004, $36,828,000.

This title may be cited as the "Postal Service Appropriations Act, 1996".

The CHAIRMAN. Are there amendments to title II?

If not, the Clerk will designate title III.

The text of title III is as follows:

TITLE III—EXECUTIVE OFFICE OF THE PRESIDENT AND FUNDS APPROPRIATED TO THE PRESIDENT

COMPENSATION OF THE PRESIDENT

For compensation of the President, including an expense allowance at the rate of $50,000 per annum as authorized by 3 U.S.C. 102; $250,000: *Provided*, That none of the funds made available for official expenses shall be expended for any other purpose and any unused amount shall revert to the Treasury pursuant to section 1552 of title 31 of the United States Code: *Provided further*, That none of the funds made available for official expenses shall be considered as taxable to the President.

THE WHITE HOUSE OFFICE

SALARIES AND EXPENSES

For necessary expenses for the White House as authorized by law, including not to exceed $3,850,000 for services as authorized by 5 U.S.C. 3109 and 3 U.S.C. 105; including subsistence expenses as authorized by 3 U.S.C. 105, which shall be expended and accounted for as provided in that section; hire of passenger motor vehicles, newspapers, periodicals, teletype news service, and travel (not to exceed $100,000 to be expended and accounted for as provided by 3 U.S.C. 103); not to exceed $19,000 for official entertainment expenses, to be available for allocation within the Executive Office of the President; $39,459,000.

EXECUTIVE RESIDENCE AT THE WHITE HOUSE

OPERATING EXPENSES

For the care, maintenance, repair and alteration, refurnishing, improvement, heating and lighting, including electric power and fixtures, of the Executive Residence at the White House and official entertainment expenses of the President; $7,522,000, to be expended and accounted for as provided by 3 U.S.C. 105, 109–110, 112–114.

OFFICIAL RESIDENCE OF THE VICE PRESIDENT

OPERATING EXPENSES

For the care, operation, refurnishing, improvement, heating and lighting, including electric power and fixtures, of the official residence of the Vice President, the hire of passenger motor vehicles, and not to exceed $90,000 for official entertainment expenses of the Vice President, to be accounted for solely on his certificate; $324,000: *Provided*, That advances or repayments or transfers from this appropriation may be made to any department or agency for expenses of carrying out such activities.

SPECIAL ASSISTANCE TO THE PRESIDENT

SALARIES AND EXPENSES

For necessary expenses to enable the Vice President to provide assistance to the President in connection with specially assigned functions, services as authorized by 5 U.S.C. 3109 and 3 U.S.C. 106, including subsistence expenses as authorized by 3 U.S.C. 106, which shall be expended and accounted for as provided in that section; and hire of passenger motor vehicles; $3,175,000.

OFFICE OF POLICY DEVELOPMENT

SALARIES AND EXPENSES

For necessary expenses of the Office of Policy Development, including services as authorized by 5 U.S.C. 3109, and 3 U.S.C. 107; $3,867,000.

NATIONAL SECURITY COUNCIL

SALARIES AND EXPENSES

For necessary expenses of the National Security Council, including services as authorized by 5 U.S.C. 3109; $6,459,000.

OFFICE OF ADMINISTRATION

SALARIES AND EXPENSES

For necessary expenses of the Office of Administration; $25,736,000, including services as authorized by 5 U.S.C. 3109 and 3 U.S.C. 107, and hire of passenger motor vehicles.

OFFICE OF MANAGEMENT AND BUDGET

SALARIES AND EXPENSES

For necessary expenses of the Office of Management and Budget, including hire of passenger motor vehicles, services as authorized by 5 U.S.C. 3109; $55,426,000, of which no more than $6,631,000 shall be available for the Office of National Security and International Affairs, no more than $6,699,000 shall be available for the Office of General Government and Finance, no more than $7,368,000 shall be available for the Office of Natural Resources, Energy and Science, no more than $4,085,000 shall be available for the Office of Health and Personnel, no more than $3,867,000 shall be available for the Office of Human Resources, no more than $2,325,000 shall be available for the Office of Federal Financial Management, no more than $5,198,000 shall be available for the Office of Information and Regulatory Affairs, no more than $2,407,000 shall be available for the Office of Federal Procurement Policy, no more than $16,912,000 shall be available for the Office of the Director, the Office of the Deputy Director, the Office of the Deputy Director for Management, the Office of Communications, the Office of the General Counsel, the Office of Legislative Affairs, the Office of Economic Policy, the Office of Administration, the Legislative Reference Division, and the Budget Review Division, of which not to exceed $5,000,000 shall be available to carry out the provisions of 44 U.S.C. chapter 35: *Provided*, That, as provided in 31 U.S.C. 1301(a), appropriations shall be applied only to the objects for which appropriations were made except as otherwise provided by law: *Provided further*, That none of the funds appropriated in this Act for the Office of Management and Budget may be used for the purpose of reviewing any agricultural marketing orders or any activities or regulations under the provisions of the Agricultural Marketing Agreement Act of 1937 (7 U.S.C. 601 et seq.): *Provided further*, That none of the funds made available for the Office of Management and Budget by this Act may be expended for the altering of the transcript of actual testimony of witnesses, except for testimony of officials of the Office of Management and Budget, before the Committee on Appropriations or the Committee on Veterans' Affairs or their subcommittees: *Provided further*, That this proviso shall not apply to printed hearings released by the Committee on Appropriations or the Committee on Veterans' Affairs.

OFFICE OF NATIONAL DRUG CONTROL POLICY

SALARIES AND EXPENSES

For necessary expenses of the Office of National Drug Control Policy; for research activities pursuant to title I of Public Law 100–690; not to exceed $8,000 for official reception and representation expenses; for participation in joint projects or in the provision of services on matters of mutual interest with nonprofit, research, or public organizations or agencies, with or without reimbursement; $20,062,000, of which $10,200,000, to remain available until expended, shall be available to the Counter-Drug Technology Assessment Center for counternarcotics research and development projects and shall be available for transfer to other Federal departments or agencies, and of which $600,000 shall be transferred to the Drug Enforcement Administration for the El Paso Intelligence Center: *Provided*, That the Office is authorized to accept, hold, administer, and utilize gifts, both real and personal, for the purpose of aiding or facilitating the work of the Office.

UNANTICIPATED NEEDS

For expenses necessary to enable the President to meet unanticipated needs, in furtherance of the national interest, security, or defense which may arise at home or abroad during the current fiscal year; $1,000,000.

FEDERAL DRUG CONTROL PROGRAMS

HIGH INTENSITY DRUG TRAFFICKING AREAS PROGRAM

(INCLUDING TRANSFER OF FUNDS)

For necessary expenses of the Office of National Drug Control Policy's High Intensity Drug Trafficking Areas Program, $104,000,000 for drug control activities consistent with the approved strategy for each of the designated High Intensity Drug Trafficking Areas, of which no less than $52,000,000 shall be transferred to State and local entities for drug control activities; and of which up to $52,000,000 may be transferred to Federal agencies and departments at a rate to be determined by the Director; and of which up to $3,000,000 may be available to the Director for transfer to Federal agencies, or State and local entities, or non-profit organizations to support special demonstration projects that provide systematic programming to reduce drug use and trafficking in designated targeted areas: *Provided*, That the funds made available under this head shall be obligated within 90 days of the date of enactment of this Act, except those funds made available to the Director to support special demonstration projects which shall be obligated by June 1, 1996.

This title may be cited as the "Executive Office Appropriations Act, 1996".

The CHAIRMAN. Are there amendments to title III?

Mr. HOYER. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I will be brief. In this title, unfortunately, as I mentioned in my opening statement, we find a number of cuts that I think are inappropriate.

Mr. Chairman, I am not, frankly, going to offer any amendments. Some are not in order and I understand that and I have discussed with the gentleman from Iowa [Mr. LIGHTFOOT], my

friend the gentleman's perception that a couple of these are not in order.

For instance, asking to reinstate the funding for the Council of Economic Advisors, the White House residents, the special assistants to the President, the National Security Council, the Office of Administration and the Office of Management and Budget, all of which have been cut.

Mr. Chairman, I simply rise to express opposition to some of these cuts; not all. The OMB, obviously, is subject to scrutiny review and to such budget action as we deem appropriate. But in terms of the internal agencies of the White House itself, that is the President's personal staff to accomplish his objectives as President, not as leader of the executive department but as President and chief policymaker of the land.

The fact of the matter is, Mr. Chairman, I said earlier, in times past we did not cut those sums under President Reagan and President Bush. There were some exceptions to that statement that I have just made, but it proved the rule.

I regret that we had these cuts, contrary to my chairman, I believe some of them are pretty significant, but we will not be offering amendments at this time and I will hope that we can restore these in conference.

The CHAIRMAN. Are there any amendments to title III?

If not, the Clerk will designate title IV.

The text of title IV is as follows:

TITLE IV—INDEPENDENT AGENCIES

COMMITTEE FOR PURCHASE FROM PEOPLE WHO ARE BLIND OR SEVERELY DISABLED

SALARIES AND EXPENSES

For necessary expenses of the Committee for Purchase From People Who Are Blind or Severely Disabled established by the Act of June 23, 1971, Public Law 92–28; $1,682,000.

FEDERAL ELECTION COMMISSION

SALARIES AND EXPENSES

For necessary expenses to carry out the provisions of the Federal Election Campaign Act of 1971, as amended; $26,521,000, of which no less than $1,500,000 shall be available for internal automated data processing systems, of which not to exceed $5,000 shall be available for reception and representation expenses: *Provided*, That none of the funds appropriated for automated data processing systems may be obligated until the Chairman of the Federal Election Commission provides to the House Committee on Appropriations a systems requirements analysis on the development of such a system.

FEDERAL LABOR RELATIONS AUTHORITY

SALARIES AND EXPENSES

For necessary expenses to carry out functions of the Federal Labor Relations Authority, pursuant to Reorganization Plan Numbered 2 of 1978, and the Civil Service Reform Act of 1978, including services as authorized by 5 U.S.C. 3109, including hire of experts and consultants, hire of passenger motor vehicles, rental of conference rooms in the District of Columbia and elsewhere; $19,742,000: *Provided*, That public members of the Federal Service Impasses Panel may be paid travel expenses and per diem in lieu of subsistence as authorized by law (5 U.S.C. 5703) for persons employed intermittently in the Government service, and compensation as authorized by 5 U.S.C. 3109: *Provided further*, That notwithstanding 31 U.S.C. 3302, funds received from fees charged to non-Federal participants at labor-management relations conferences shall be credited to and merged with this account, to be available without further appropriation for the costs of carrying out these conferences.

GENERAL SERVICES ADMINISTRATION

FEDERAL BUILDINGS FUND

LIMITATIONS ON AVAILABILITY OF REVENUE

The revenues and collections deposited into the Fund established pursuant to section 210(f) of the Federal Property and Administrative Services Act of 1949, as amended (40 U.S.C. 490(f)), shall be available for necessary expenses of real property management and related activities not otherwise provided for, including operation, maintenance, and protection of Federally owned and leased buildings; rental of buildings in the District of Columbia; restoration of leased premises; moving governmental agencies (including space adjustments and telecommunications relocation expenses) in connection with the assignment, allocation and transfer of space; contractual services incident to cleaning or servicing buildings, and moving; repair and alteration of federally owned buildings including grounds, approaches and appurtenances; care and safeguarding of sites; maintenance, preservation, demolition, and equipment; acquisition of buildings and sites by purchase, condemnation, or as otherwise authorized by law; acquisition of options to purchase buildings and sites; conversion and extension of Federally owned buildings; preliminary planning and design of projects by contract or otherwise; construction of new buildings (including equipment for such buildings); and payment of principal, interest, taxes, and any other obligations for public buildings acquired by installment purchase and purchase contract, in the aggregate amount of $5,066,822,000, of which (1) not to exceed $367,777,000 shall remain available until expended for construction of additional projects at locations and at maximum construction improvement costs (including funds for sites and expenses and associated design and construction services) as follows:

New Construction:

Colorado:

Lakewood, Denver Federal Center, U.S. Geological Survey Lab Building, $10,321,000

Florida:

Tallahassee, U.S. Courthouse Annex, $9,606,000

Georgia:

Savannah, U.S. Courthouse Annex, $1,039,000

Louisiana:

Lafayette, Federal Building and U.S. Courthouse, $11,826,000

Maryland:

Montgomery and Prince George's Counties, Food and Drug Administration, Phase II, $65,764,000

Nebraska:

Omaha, Federal Building and U.S. Courthouse, $21,370,000

Nevada:

Las Vegas, U.S. Courthouse, $38,404,000

New Mexico:

Albuquerque, Federal Building and U.S. Courthouse, $2,450,000

New York:

Brooklyn, U.S. Courthouse, $49,040,000

Central Islip, Federal Building and U.S. Courthouse, $75,641,000

North Dakota:

Pembina, Border Station, $4,445,000

Ohio:

Youngstown, U.S. Courthouse, $6,974,000

Pennsylvania:

Scranton, Federal Building and U.S. Courthouse Annex, $9,638,000

South Carolina:

Columbia, U.S. Courthouse Annex, $1,425,000

Texas:

Austin, Veterans Affairs Annex, $3,176,000

Brownsville, Federal Building and U.S. Courthouse, $10,981,000

Washington:

Blaine, U.S. Border Station, $6,168,000

Point Roberts, U.S. Border Station, $1,406,000

West Virginia:

Martinsburg, Internal Revenue Service Computer Center, $25,363,000

Non-Prospectus Projects Program, $12,740,000:

Provided, That each of the immediately foregoing limits of costs on new construction projects may be exceeded to the extent that savings are effected in other such projects, but not to exceed 10 per centum unless advanced approval is obtained from the House and Senate Committees on Appropriations of a greater amount: *Provided further*, That the $6,000,000 under the heading of non-prospectus construction projects, made available in Public Laws 102–393 and 103–123 for the acquisition, lease, construction and equipping of flexiplace work telecommuting centers, is hereby increased by $5,000,000 from funds made available in this Act for non-prospectus construction projects, all of which shall remain available until expended: *Provided further*, That of the $5,000,000 made available by this Act, half shall be used for telecommuting centers in the State of Virginia and half shall be used for telecommuting centers in the State of Maryland: *Provided further*, That all funds for direct construction projects shall expire on September 30, 1997, and remain in the Federal Buildings Fund except funds for projects as to which funds for design or other funds have been obligated in whole or in part prior to such date: *Provided further*, That claims against the Government of less than $250,000 arising from direct construction projects, acquisitions of buildings and purchase contract projects pursuant to Public Law 92–313, be liquidated with prior notification to the Committees on Appropriations of the House and Senate to the extent savings are effected in other such projects; (2) not to exceed $713,086,000 shall remain available until expended, for repairs and alterations which includes associated design and construction services: *Provided further*, That funds in the Federal Buildings Fund for Repairs and Alterations shall, for prospectus projects, be limited to the amount by project as follows, except each project may be increased by an amount not to exceed 10 per centum unless advance approval is obtained from the Committees on Appropriations of the House and Senate of a greater amount:

Repairs and Alterations:

Arkansas:

Little Rock, Federal Building, $7,551,000

California:

Sacramento, Federal Building (2800 Cottage Way), $13,636,000

Colorado:

Lakewood, Denver Federal Center Building 25, $29,351,000

District of Columbia:

Heating Plant Stacks, $11,141,000

Lafayette Building, $33,157,000

ICC/Connecting Wing Complex/Customs (phase 2/3), $58,275,000

Treasury Department Building, Repair and Alteration, $7,194,000

White House, Roof Repair and Restoration, $2,220,000

Illinois:

Chicago, Federal Center, $45,971,000

Maryland:

Woodlawn, SSA East High-Low Buildings, $17,422,000

New York:

New York, Silvio V. Mollo Federal Building, $4,182,000

North Dakota:

Bismarck, Federal Building, Post Office and U.S. Courthouse, $7,119,000

Pennsylvania:

Philadelphia, SSA Building, Mid-Atlantic Program Service Center, $11,376,000

Puerto Rico:

Old San Juan, Post Office and U.S. Courthouse, $25,701,000

Texas:

Dallas, Federal Building (Griffin St.), $5,641,000

Washington:

Richland, Federal Building, U.S. Post Office and Courthouse, $12,724,000

Nationwide:

Chlorofluorocarbons Program, $50,430,000

Elevator Program, $13,109,000

Energy Program, $25,000,000

Advance Design, $24,608,000

Basic Repairs and Alterations, $307,278,000: *Provided further*, That additional projects for which prospectuses have been fully approved may be funded under this category only if advance approval is obtained from the Committees on Appropriations of the House and Senate: *Provided further*, That the difference between the funds appropriated and expended on any projects in this or any prior Act, under the heading "Repairs and Alterations", may be transferred to Basic Repairs and Alterations or used to fund authorized increases in prospectus projects: *Provided further*, That all funds for repairs and alterations prospectus projects shall expire on September 30, 1997, and remain in the Federal Buildings Fund except funds for projects as to which funds for design or other funds have been obligated in whole or in part prior to such date: *Provided further*, That of the funds provided for Advanced Design, $100,000 shall be made available for architectural design studies for renovation of the National Veterinary Services Laboratory and a biocontainment facility at the National Animal Disease Center, Ames, Iowa: *Provided further*, That the amount provided in this or any prior Act for Basic Repairs and Alterations may be used to pay claims against the Government arising from any projects under the heading "Repairs and Alterations" or used to fund authorized increases in prospectus projects; (3) not to exceed $181,963,000 for installment acquisition payments including payments on purchase contracts which shall remain available until expended; (4) not to exceed $2,341,100,000 for rental of space which shall remain available until expended; and (5) not to exceed $1,389,463,000 for building operations which shall remain available until expended: *Provided further*, That funds available to the General Services Administration shall not be available for expenses in connection with any construction, repair, alteration, and acquisition project for which a prospectus, if required by the Public Buildings Act of 1959, as amended, has not been approved, except that necessary funds may be expended for each project for required expenses in connection with the development of a proposed prospectus: *Provided further*, That the General Services Administration shall establish a "Federal Triangle Office" reporting directly to the Commissioner of the Public Buildings Service for the purpose of completing the design and construction of the Federal Triangle Building: *Provided further*, That the Federal Triangle Office shall continue to utilize the procurement and operating procedures established for the project pursuant to the Federal Triangle Development Act (40 U.S.C. 1104), and to implement and enforce the Development Agreement and other contracts and agreements developed for the project: *Provided further*, That the Administrator is authorized to enter into and perform such leases, contracts, or other transactions with any agency or instrumentality of the United States, the several States or the District of Columbia, or with any person, firm, association, or corporation as may be necessary to implement the Federal Triangle Project: *Provided further*, That for the purposes of this authorization, buildings constructed pursuant to the purchase contract authority of the Public Buildings Amendments of 1972 (40 U.S.C. 602a), buildings occupied pursuant to installment purchase contracts, and buildings under the control of another department or agency where alterations of such buildings are required in connection with the moving of such other department or agency from buildings then, or thereafter to be, under the control of the General Services Administration shall be considered to be federally owned buildings: *Provided further*, That funds available in the Federal Buildings Fund may be expended for emergency repairs when advance approval is obtained from the Committees on Appropriations of the House and Senate: *Provided further*, That amounts necessary to provide reimbursable special services to other agencies under section 210(f)(6) of the Federal Property and Administrative Services Act of 1949, as amended (40 U.S.C. 490(f)(6)) and amounts to provide such reimbursable fencing, lighting, guard booths, and other facilities on private or other property not in Government ownership or control as may be appropriate to enable the United States Secret Service to perform its protective functions pursuant to 18 U.S.C. 3056, as amended, shall be available from such revenues and collections: *Provided further*, That revenues and collections and any other sums accruing to this Fund during fiscal year 1996, excluding reimbursements under section 210(f)(6) of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 490(f)(6)) in excess of $5,066,822,000 shall remain in the Fund and shall not be available for expenditure except as authorized in appropriations Acts.

POLICY AND OVERSIGHT

For necessary expenses, not otherwise provided, for government-wide policy and oversight activities associated with asset management, property management, supply management, travel and transportation, telecommunications and information technology; to fund the Board of Contract Appeals; services authorized by 5 U.S.C. 3109; and not to exceed $5,000 for official reception and representation expenses; $62,499,000.

OPERATING EXPENSES

For expenses authorized by law, not otherwise provided for, necessary for utilization of excess and surplus personal property; transportation; procurement; supply; and information technology activities; the utilization survey, deed compliance inspection, appraisal, environmental and cultural analysis, and land use planning functions pertaining to excess and surplus real property; accounting, records management, and other support services incident to adjudication of Indian Tribal Claims by the United States Court of Federal Claims; services as authorized by 5 U.S.C. 3109; $49,130,000.

OFFICE OF INSPECTOR GENERAL

For necessary expenses of the Office of Inspector General and services authorized by 5 U.S.C. 3109, $32,549,000: *Provided*, That not to exceed $5,000 shall be available for payment for information and detection of fraud against the Government, including payment for recovery of stolen Government property: *Provided further*, That not to exceed $2,500 shall be available for awards to employees of other Federal agencies and private citizens in recognition of efforts and initiatives resulting in enhanced Office of Inspector General effectiveness.

ALLOWANCES AND OFFICE STAFF FOR FORMER PRESIDENTS

For carrying out the provisions of the Act of August 25, 1958, as amended (3 U.S.C. 102 note), and Public Law 95–138; $2,181,000: *Provided*, That the Administrator of General Services shall transfer to the Secretary of the Treasury such sums as may be necessary to carry out the provisions of such Acts.

GENERAL PROVISIONS—GENERAL SERVICES ADMINISTRATION

SECTION 1. The appropriate appropriation or fund available to the General Services Administration shall be credited with the cost of operation, protection, maintenance, upkeep, repair, and improvement, included as part of rentals received from Government corporations pursuant to law (40 U.S.C. 129).

SEC. 2. Funds available to the General Services Administration shall be available for the hire of passenger motor vehicles.

SEC. 3. Funds in the Federal Buildings Fund made available for fiscal year 1996 for Federal Buildings Fund activities may be transferred between such activities only to the extent necessary to meet program requirements. Any proposed transfers shall be approved in advance by the Committees on Appropriations of the House and Senate.

SEC. 4. No funds made available by this Act shall be used to transmit a fiscal year 1997 request for United States Courthouse construction that does not meet the standards for construction as established by the General Services Administration and the Office of Management and Budget and does not reflect the priorities of the Administrative Office of the Courts as set out in its approved five-year construction plan.

SEC. 5. The Administrator of General Services is authorized to accept and retain income received by the General Services Administration on or after October 1, 1993, from Federal agencies and non-Federal sources, to defray costs directly associated with the functions of flexiplace work telecommuting centers.

SEC. 6. Of the $11,000,000 made available by this Act and Public Laws 102–393 and 103–123 for flexiplace work telecommuting centers, not less than $2,200,000 shall be available for immediate transfer to the Charles County Community College, to provide facilities, equipment, and other services to the General Services Administration for the purposes of establishing telecommuting work centers in Southern Maryland (Charles, Calvert, and St. Mary's County) for use by Government agencies designated by the Administrator of General Services: *Provided*, That the language providing authority to pay a public entity in the State of Maryland, not to exceed $1,300,000 for the purpose of establishing

telecommuting work centers in Southern Maryland, under the heading "Federal Buildings Fund Limitations on Availability of Revenue" in Public Law 103-329 (108 Stat. 2400), is hereby repealed.

SEC. 7. Not to exceed 5 percent of funds made available under the heading "Operating Expenses" and "Office of Policy and Oversight" may be transferred between such appropriations upon the advance approval of the House and Senate Committees on Appropriations.

JOHN F. KENNEDY ASSASSINATION RECORDS REVIEW BOARD

For necessary expenses to carry out the John F. Kennedy Assassination Records Collection Act of 1992, $2,150,000.

MERIT SYSTEMS PROTECTION BOARD

SALARIES AND EXPENSES

(INCLUDING TRANSFER OF FUNDS)

For necessary expenses to carry out functions of the Merit Systems Protection Board pursuant to Reorganization Plan Numbered 2 of 1978 and the Civil Service Reform Act of 1978, including services as authorized by 5 U.S.C. 3109, rental of conference rooms in the District of Columbia and elsewhere, hire of passenger motor vehicles, and direct procurement of survey printing, $21,129,000, together with not to exceed $2,430,000 for administrative expenses to adjudicate retirement appeals to be transferred from the Civil Service Retirement and Disability Fund in amounts determined by the Merit Systems Protection Board.

NATIONAL ARCHIVES AND RECORDS ADMINISTRATION

OPERATING EXPENSES

For necessary expenses in connection with the administration of the National Archives and records and related activities, as provided by law, and for expenses necessary for the review and declassification of documents, and for the hire of passenger motor vehicles, $193,291,000: *Provided*, That the Archivist of the United States is authorized to use any excess funds available from the amount borrowed for construction of the National Archives facility, for expenses necessary to move into the facility.

NATIONAL HISTORICAL PUBLICATIONS AND RECORDS COMMISSION

GRANTS PROGRAM

For necessary expenses for allocations and grants for historical publications and records as authorized by 44 U.S.C. 2504, as amended, $4,000,000 to remain available until expended.

OFFICE OF GOVERNMENT ETHICS

SALARIES AND EXPENSES

For necessary expenses to carry out functions of the Office of Government Ethics pursuant to the Ethics in Government Act of 1978, as amended by Public Law 100-598, and the Ethics Reform Act of 1989, Public Law 101-194, including services as authorized by 5 U.S.C. 3109, rental of conference rooms in the District of Columbia and elsewhere, hire of passenger motor vehicles, and not to exceed $1,500 for official reception and representation expenses; $7,776,000.

OFFICE OF PERSONNEL MANAGEMENT

SALARIES AND EXPENSES

(INCLUDING TRANSFER OF TRUST FUNDS)

For necessary expenses to carry out functions of the Office of Personnel Management pursuant to Reorganization Plan Numbered 2 of 1978 and the Civil Service Reform Act of 1978, including services as authorized by 5 U.S.C. 3109, medical examinations performed for veterans by private physicians on a fee basis, rental of conference rooms in the District of Columbia and elsewhere, hire of passenger motor vehicles, not to exceed $2,500 for official reception and representation expenses, and advances for reimbursements to applicable funds of the Office of Personnel Management and the Federal Bureau of Investigation for expenses incurred under Executive Order 10422 of January 9, 1953, as amended; $85,524,000 and in addition $102,536,000 for administrative expenses, to be transferred from the appropriate trust funds of the Office of Personnel Management without regard to other statutes, including direct procurement of health benefits printing, for the retirement and insurance programs, of which $11,300,000 shall be transferred at such times as the Office of Personnel Management deems appropriate, and shall remain available until expended for the costs of automating the retirement recordkeeping systems, together with remaining amounts authorized in previous Acts for the recordkeeping systems: *Provided*, That the provisions of this appropriation shall not affect the authority to use applicable trust funds as provided by section 8348(a)(1)(B) of title 5, United States Code: *Provided further*, That, except as may be consistent with 5 U.S.C. 8902a(f)(1) and (i), no payment may be made from the Employees Health Benefits Fund to any physician, hospital, or other provider of health care services or supplies who is, at the time such services or supplies are provided to an individual covered under chapter 89 of title 5, United States Code, excluded, pursuant to section 1128 or 1128A of the Social Security Act (42 U.S.C. 1320a-7-1320a-7a), from participation in any program under title XVIII of the Social Security Act (42 U.S.C. 1395 et seq.): *Provided further*, That no part of this appropriation shall be available for salaries and expenses of the Legal Examining Unit of the Office of Personnel Management established pursuant to Executive Order 9358 of July 1, 1943, or any successor unit of like purpose: *Provided further*, That the President's Commission on White House Fellows, established by Executive Order 11183 of October 3, 1964, may, during the fiscal year ending September 30, 1996, accept donations of money, property, and personal services in connection with the development of a publicity brochure to provide information about the White House Fellows, except that no such donations shall be accepted for travel or reimbursement of travel expenses, or for the salaries of employees of such Commission: *Provided further*, That no funds appropriated herein shall be used to pay administrative expenses or the compensation of any officer or employee of the United States to implement a reduction in force in the Office of Federal Investigations prior to June 30, 1996.

OFFICE OF INSPECTOR GENERAL

SALARIES AND EXPENSES

(INCLUDING TRANSFER OF TRUST FUNDS)

For necessary expenses of the Office of Inspector General in carrying out the provisions of the Inspector General Act, as amended, including services as authorized by 5 U.S.C. 3109, hire of passenger motor vehicles: $4,009,000, and in addition, not to exceed $6,181,000 for administrative expenses to audit the Office of Personnel Management's retirement and insurance programs, to be transferred from the appropriate trust funds of the Office of Personnel Management, as determined by the Inspector General: *Provided*, That the Inspector General is authorized to rent conference rooms in the District of Columbia and elsewhere.

GOVERNMENT PAYMENT FOR ANNUITANTS, EMPLOYEES HEALTH BENEFITS

For payment of Government contributions with respect to retired employees, as authorized by chapter 89 of title 5, United States Code, and the Retired Federal Employees Health Benefits Act (74 Stat. 849), as amended, $3,746,337,000 to remain available until expended.

GOVERNMENT PAYMENT FOR ANNUITANTS, EMPLOYEE LIFE INSURANCE

For payment of Government contributions with respect to employees retiring after December 31, 1989, as required by chapter 87 of title 5, United States Code, such sums as may be necessary.

PAYMENT TO CIVIL SERVICE RETIREMENT AND DISABILITY FUND

For financing the unfunded liability of new and increased annuity benefits becoming effective on or after October 20, 1969, as authorized by 5 U.S.C. 8348, and annuities under special Acts to be credited to the Civil Service Retirement and Disability Fund, such sums as may be necessary: *Provided*, That annuities authorized by the Act of May 29, 1944, as amended, and the Act of August 19, 1950, as amended (33 U.S.C. 771-75), may hereafter be paid out of the Civil Service Retirement and Disability Fund.

GENERAL PROVISIONS—OFFICE OF PERSONNEL MANAGEMENT

SECTION 1. Section 1104 of title 5, United States Code, is amended—

(1) in subsection (a)—

(A) in paragraph (2)—

(i) by striking "(except competitive examinations for administrative law judges appointed under section 3105 of this title)"; and

(ii) by striking the semicolon at the end of paragraph (2) and inserting in lieu thereof a period; and

(B) by striking the matter following paragraph (2) through "principles."; and

(2) in subsection (b) by adding at the end the following new paragraph:

"(4) At the request of the head of an agency to whom a function has been delegated under subsection (a)(2), the Office may provide assistance to the agency in performing such function. Such assistance shall, to the extent determined appropriate by the Director of the Office, be performed on a reimbursable basis through the revolving fund established under section 1304(e).".

SEC. 2. Subparagraph (B) of section 8348(a)(1) of title 5, United States Code, is amended—

(1) by inserting "in making an allotment or assignment made by an individual under section 8345(h) or 8465(b) of this title," after "law),"; and

(2) by striking "title 26;" and inserting "title 26 or section 8345(k) or 8469 of this title;".

SEC. 3. Section 4(a) of the Federal Workforce Restructuring Act of 1994 (Public Law 103-226; 108 Stat. 111) is amended—

(1) by deleting "FISCAL YEARS 1994 AND 1995" and inserting in lieu thereof: "VOLUNTARY SEPARATION INCENTIVE PAYMENTS.—"; and

(2) in paragraph (1)(A) by striking "and before October 1, 1995,".

SEC. 4. Title 5, United States Code, is amended—

(1) in the second section designated as section 3329 (as added by section 4431(a) of Public Law 102-484)—

(A) by redesignating such section as section 3330; and

(B) by adding at the end thereof the following new subsection:

"(f) The Office may, to the extent it determines appropriate, charge such fees to agencies for services provided under this section and for related Federal employment information. The Office shall retain such fees to pay the costs of providing such services and information."; and

(2) in the table of sections for chapter 33 by amending the second item relating to section 3329 to read as follows:

"3330. Government-wide list of vacant positions.".

OFFICE OF SPECIAL COUNSEL

SALARIES AND EXPENSES

For necessary expenses to carry out functions of the Office of Special Counsel pursuant to Reorganization Plan Numbered 2 of 1978, the Civil Service Reform Act of 1978 (Public Law 95-454), the Whistleblower Protection Act of 1989 (Public Law 101-12), Public Law 103-424, and the Uniformed Services Employment and Reemployment Act of 1994 (Public Law 103-353), including services as authorized by 5 U.S.C. 3109, payment of fees and expenses for witnesses, rental of conference rooms in the District of Columbia and elsewhere, and hire of passenger motor vehicles; $7,840,000.

UNITED STATES TAX COURT

SALARIES AND EXPENSES

For necessary expenses, including contract reporting and other services as authorized by 5 U.S.C. 3109; $32,899,000: *Provided*, That travel expenses of the judges shall be paid upon the written certificate of the judge.

This title may be cited as the "Independent Agencies Appropriations Act, 1996".

The CHAIRMAN. Are there any points of order against title IV? Are there any amendments to title IV?

Mr. HOYER. Mr. Chairman, I move to strike the last word.

Again, I am not going to offer an amendment, again because I have not had that amendment protected by the rule. I regret that, and under the rule that we have adopted, unless I cut from this title, I cannot restore an item that has been cut out entirely. I think that is an unfortunate procedural situation into which I have been put and other Members of the Congress have been put.

Having said that, although I will not offer an amendment, I am hopeful that in conference we will restore the ACIR. That is an organization established some years ago to serve as an Advisory Commission on Intergovernmental Relations.

The new leadership of this House and the Senate has talked about a significant change. That change would incorporate shifting additional responsibilities back to the States and local governments in terms of getting rid of unfunded mandates and in terms of block granting certain programs. All of that gives additional responsibilities to the States and local governments and heightens the focus on how we are interrelating as a Federal Government with our States and localities.

Mr. Chairman, I think it regrettable that a small agency, with which many of us have participated in years past as state legislators, is being put on the chopping block by the committee's action. But, again, it is not in order for me to offer this amendment, so I will not, but I am hopeful, Mr. Chairman, that we will have, if the Senate puts it back in, the ability to retain it in conference. It is a very small sum of money, with, in my opinion, a very large payoff.

The CHAIRMAN. Are there any amendments to title IV?

Mr. HOYER. Mr. Chairman, I ask unanimous consent to strike the last word.

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

There was no objection.

Mr. HOYER. Mr. Chairman, because I have not offered an additional amendment, I understand the chairman's observation. The Federal Election Commission is an agency that has great interest in this body. Obviously, it deals with each and every one of us in terms of overseeing our accounts.

It has the responsibility of monitoring our campaign finance laws and our disclosure. Clearly the nub of campaign reform was allowing the public to know from whom we receive money, how much money we receive, and how we spend that money so the public can make an informed judgment as to whether or not there is a nexus between the positions we take and the financial support that we get.

That is, in my opinion, the nub of campaign reform. It is critical. But if the public does not get that information in a timely fashion, it is not useful to them.

Therefore, in my opinion, it is important to fully fund the FEC. The chairman's mark is $2.5 million below the commission's request. This is not an increase, as the committee suggests. It is only an increase if you assume the $1.4 million rescission that has not been signed into law. As a matter of fact, that rescission languishes in the other body. As a result, this is a cut in the FEC's appropriation.

The impact of the rescission would be to reduce the staff and, therefore, reduce its ability to oversee our accounts. Again, Mr. Chairman, I think this is an unwise move that we have taken. I am not going to offer an amendment to restore the money, but I want the chairman, as I have told him privately, to know and the House to know, that I intend to work to see if this money can be restored as we go to conference.

The CHAIRMAN. Are there any amendments to title IV?

If not, the Clerk will designate title V.

The text of title V is as follows:

TITLE V—GENERAL PROVISIONS

THIS ACT

SECTION 501. No part of any appropriation made available in this Act shall be used for the purchase or sale of real estate or for the purpose of establishing new offices inside or outside the District of Columbia: *Provided*, That this limitation shall not apply to programs which have been approved by the Congress and appropriations made therefor.

SEC. 502. No part of any appropriation contained in this Act shall remain available for obligation beyond the current fiscal year unless expressly so provided herein.

SEC. 503. The expenditure of any appropriation under this Act for any consulting service through procurement contract, pursuant to 5 U.S.C. 3109, shall be limited to those contracts where such expenditures are a matter of public record and available for public inspection, except where otherwise provided under existing law, or under existing Executive order issued pursuant to existing law.

SEC. 504. None of the funds made available to the General Services Administration pursuant to section 210(f) of the Federal Property and Administrative Services Act of 1949 shall be obligated or expended after the date of enactment of this Act for the procurement by contract of any guard, elevator operator, messenger or custodial services if any permanent veterans preference employee of the General Services Administration at said date, would be terminated as a result of the procurement of such services, except that such funds may be obligated or expended for the procurement by contract of the covered services with sheltered workshops employing the severely handicapped under Public Law 92-28. Only if such workshops decline to contract for the provision of the covered services may the General Services Administration procure the services by competitive contract, for a period not to exceed 5 years. At such time as such competitive contract expires or is terminated for any reason, the General Services Administration shall again offer to contract for the services from a sheltered workshop prior to offering such services for competitive procurement.

SEC. 505. None of the funds made available by this Act shall be available for any activity or for paying the salary of any Government employee where funding an activity or paying a salary to a Government employee would result in a decision, determination, rule, regulation, or policy that would prohibit the enforcement of section 307 of the Tariff Act of 1930.

SEC. 506. None of the funds made available by this Act shall be available for the purpose of transferring control over the Federal Law Enforcement Training Center located at Glynco, Georgia, and Artesia, New Mexico, out of the Treasury Department.

SEC. 507. No part of any appropriation contained in this Act shall be used for publicity or propaganda purposes within the United States not heretofore authorized by the Congress.

SEC. 508. No part of any appropriation contained in this Act shall be available for the payment of the salary of any officer or employee of the United States Postal Service, who—

(1) prohibits or prevents, or attempts or threatens to prohibit or prevent, any officer or employee of the United States Postal Service from having any direct oral or written communication or contact with any Member or committee of Congress in connection with any matter pertaining to the employment of such officer or employee or pertaining to the United States Postal Service in any way, irrespective of whether such communication or contact is at the initiative of such officer or employee or in response to the request or inquiry of such Member or committee; or

(2) removes, suspends from duty without pay, demotes, reduces in rank, seniority, status, pay, or performance of efficiency rating, denies promotion to, relocates, reassigns, transfers, disciplines, or discriminates in regard to any employment right, entitlement, or benefit, or any term or condition of employment of, any officer or employee of the United States Postal Service, or attempts or threatens to commit any of the foregoing actions with respect to such officer or employee, by reason of any communication or contact of such officer or employee with any Member or committee of Congress as described in paragraph (1) of this subsection.

SEC. 509. Funds under this Act shall be available as authorized by sections 4501–4506 of title 5, United States Code, when the achievement involved is certified, or when an award for such achievement is otherwise payable, in accordance with such sections. Such funds may not be used for any purpose with respect to which the preceding sentence relates beyond fiscal year 1996.

SEC. 510. The Office of Personnel Management may, during the fiscal year ending September 30, 1996, accept donations of supplies, services, land and equipment for the Federal Executive Institute, the Federal Quality Institute, and Management Development Centers to assist in enhancing the quality of Federal management.

SEC. 511. The United States Secret Service may, during the fiscal year ending September 30, 1996, accept donations of money to off-set costs incurred while protecting former Presidents and spouses of former Presidents when the former President or spouse travels for the purpose of making an appearance or speech for a payment of money or any thing of value.

SEC. 512. None of the funds made available by this Act may be used to withdraw the designation of the Virginia Inland Port at Front Royal, Virginia, as a United States Customs Service port of entry.

SEC. 513. No part of any appropriation contained in this Act shall be available to pay the salary for any person filling a position, other than a temporary position, formerly held by an employee who has left to enter the Armed Forces of the United States and has satisfactorily completed his period of active military or naval service and has within ninety days after his release from such service or from hospitalization continuing after discharge for a period of not more than one year made application for restoration to his former position and has been certified by the Office of Personnel Management as still qualified to perform the duties of his former position and has not been restored thereto.

SEC. 514. None of the funds made available in this Act may be used to provide any nonpublic information such as mailing or telephone lists to any person or any organization outside of the Federal Government without the approval of the House and Senate Committees on Appropriations.

SEC. 515. COMPLIANCE WITH BUY AMERICAN ACT.—No funds appropriated pursuant to this Act may be expended by an entity unless the entity agrees that in expending the assistance the entity will comply with sections 2 through 4 of the Act of March 3, 1933 (41 U.S.C. 10a–10c, popularly known as the "Buy American Act").

SEC. 516. SENSE OF CONGRESS; REQUIREMENT REGARDING NOTICE.—(a) PURCHASE OF AMERICAN-MADE EQUIPMENT AND PRODUCTS.—In the case of any equipment or products that may be authorized to be purchased with financial assistance provided under this Act, it is the sense of the Congress that entities receiving such assistance should, in expending the assistance, purchase only American-made equipment and products.

(b) NOTICE TO RECIPIENTS OF ASSISTANCE.—In providing financial assistance under this Act, the Secretary of the Treasury shall provide to each recipient of the assistance a notice describing the statement made in subsection (a) by the Congress.

SEC. 517. PROHIBITION OF CONTRACTS.—If it has been finally determined by a court or Federal agency that any person intentionally affixed a label bearing a "Made in America" inscription, or any inscription with the same meaning, to any product sold in or shipped to the United States that is not made in the United States, such person shall be ineligible to receive any contract or subcontract made with funds provided pursuant to this Act, pursuant to the debarment, suspension, and ineligibility procedures described in section 9.400 through 9.409 of title 48, Code of Federal Regulations.

SEC. 518. Except as otherwise specifically provided by law, not to exceed 50 percent of unobligated balances remaining available at the end of fiscal year 1996 from appropriations made available for salaries and expenses for fiscal year 1996 in this Act, shall remain available through September 30, 1997 for each such account for the purposes authorized: *Provided*, That a request shall be submitted to the House and Senate Committees on Appropriations for approval prior to the expenditure of such funds.

SEC. 519. Where appropriations in this Act are expendable for travel expenses of employees and no specific limitation has been placed thereon, the expenditures for such travel expenses may not exceed the amount set forth therefore in the budget estimates submitted for appropriations without the advance approval of the House and Senate Committees on Appropriations: *Provided*, That this section shall not apply to travel performed by uncompensated officials of local boards and appeal boards in the Selective Service System; to travel performed directly in connection with care and treatment of medical beneficiaries of the Department of Veterans Affairs; to travel of the Office of Personnel Management in carrying out its observation responsibilities of the Voting Rights Act; or to payments to interagency motor pools separately set forth in the budget schedules.

SEC. 520. Notwithstanding any other provision of law or regulation: (1) The authority of the special police officers of the Bureau of Engraving and Printing, in the Washington, DC Metropolitan area, extends to buildings and land under the custody and control of the Bureau; to buildings and land acquired by or for the Bureau through lease, unless otherwise provided by the acquisition agency; to the streets, sidewalks and open areas immediately adjacent to the Bureau along Wallenberg Place (15th Street) and 14th Street between Independence and Maine Avenues and C and D Streets between 12th and 14th Streets; to areas which include surrounding parking facilities used by Bureau employees, including the lots at 12th and C Streets, SW, Maine Avenue and Water Streets, SW, Maiden Lane, the Tidal Basin and East Potomac Park; to the protection in transit of United States securities, plates and dies used in the production of United States securities, or other products or implements of the Bureau of Engraving and Printing which the Director of that agency so designates; (2) The exercise of police authority by Bureau officers, with the exception of the exercise of authority upon property under the custody and control of the Bureau, shall be deemed supplementary to the Federal police force with primary jurisdictional responsibility. This authority shall be in addition to any other law enforcement authority which has been provided to these officers under other provisions of law or regulations.

SEC. 521. Section 5378 of Title 5, United States Code, is amended by adding: "(8) Chief—not more than the maximum rate payable for GS–14."

SEC. 522. Notwithstanding any other provision of law, there is hereby established in the Treasury of the United States, a United States Mint Public Enterprise Fund (the "Fund"): *Provided*, That all receipts from Mint operations and programs, including the production and sale of numismatic items, the production and sale of circulating coinage, the protection of Government assets, and gifts and bequests of property, real or personal shall be deposited into the Fund and shall be available without fiscal year limitations: *Provided further*, That all expenses incurred by the Secretary of the Treasury for operations and programs of the United States Mint that the Secretary of the Treasury determines, in the Secretary's sole discretion, to be ordinary and reasonable incidents of Mint operations and programs, and any expense incurred pursuant to any obligation or other commitment of Mint operations and programs that was entered into before the establishment of the Fund, shall be paid out of the Fund: *Provided further*, That not to exceed 6.2415 percent of the nominal value of the coins minted, shall be paid out of the Fund for the circulating coin operations and programs: *Provided further*, That the Secretary of the Treasury may borrow such funds from the General Fund as may be necessary to meet existing liabilities and obligations incurred prior to the receipt of revenues into the Fund and the General Fund shall be reimbursed for such funds by the Fund within one year of the date of the loan and retain receipts from the Federal Reserve System from the sale of circulating coins at face value for deposit into the Fund; and transfer to the Fund all assets and liabilities of the Mint operations and programs, including all Numismatic Public Enterprise Fund assets and liabilities, all receivables, unpaid obligations and unobligated balances from the Mint's appropriation, the Coinage Profit Fund, and the Coinage Metal Fund, and the land and buildings of the Philadelphia Mint, Denver Mint, and the Fort Knox Bullion Depository: *Provided further*, That the Numismatic Public Enterprise Fund, the Coinage Profit Fund and the Coinage Metal Fund shall cease to exist as separate funds as their activites and functions are subsumed under and subject to the Fund, and the requirements of 31 USC 5134(c)(4), (c)(5)(B), and (d) and (e) of the Numismatic Public Enterprise Fund shall apply to the Fund: *Provided further*, That at such times as the Secretary of the Treasury determines appropriate, but not less than annually, any amount in the Fund that is determined to be in excess of the amount required by the Fund shall be transferred to the Treasury for deposit as miscellaneous receipts: *Provided further*, That the term "Mint operations and programs" means (1) the activities concerning, and assets utilized in, the production, administration, distribution, marketing, purchase, sale, and management of coinage, numismatic items, the protection and safeguarding of Mint assets and those non-Mint assets in the custody of the Mint, and the Fund; and (2) includes capital, personnel salaries and compensation, functions

relating to operations, marketing, distribution, promotion, advertising, official reception and representation, the acquisition or replacement of equipment, the renovation or modernization of facilities, and the construction or acquisition of new buildings: *Provided further*, That the term "numismatic item" means any medal, proof coin, uncirculated coin, bullion coin, or other coin specifically designated by statute as a numismatic item, including products and accessories related to any such medal, coin, or item.

SEC. 523. Section 531 of Public Law 103-329, is amended by inserting, "of the first section", after "adding at the end".

SEC. 524. No funds appropriated by this Act shall be available to pay for an abortion, or the administrative expenses in connection with any health plan under the Federal employees health benefit program which provides any benefits or coverage for abortions.

SEC. 525. The provision of section 524 shall not apply where the life of the mother would be endangered if the fetus were carried to term.

SEC. 526. Notwithstanding any other provision of law, the Administrator of General Services shall delegate the authority to procure automatic data processing equipment for the Tax Systems Modernization Program to the Secretary of the Treasury: *Provided*, That the Director of the Office of Management and Budget shall have the authority to revoke such delegation upon the written recommendation of the Administrator that the Secretary's actions under such delegation are inconsistent with the goals of economic and efficient procurement and utilization of automatic data processing equipment: *Provided further*, That for all other purposes, a procurement conducted under such delegation shall be treated as if made under a delegation by the Administrator pursuant to 40 U.S.C. 759.

SEC. 527. RELIEF OF CERTAIN PERIODICAL PUBLICATIONS.—For mail classification purposes under section 3626 of title 39, United States Code, and any regulations of the United States Postal Service for the administration of that section, a weekly second-class periodical publication which—

(i) is eligible to publish legal notices under any applicable laws of the State where it is published;

(ii) is eligible to be mailed at the rates for mail under former subsection 4358 (a), (b), and (c) of title 39, United States Code, as limited by current subsection 3626(g) of that title; and

(iii) the pages of which were customarily secured by 2 staples before March 19, 1989;

shall not be considered to be a bound publication solely because its pages continue to be secured by 2 staples after that date.

SEC. 528. None of the funds in this Act may be obligated or expended for employee training that does not meet identified needs for knowledge, skills and abilities bearing directly upon the performance of official duties.

SEC. 529. (a) Prior to February 15, 1996, none of the funds appropriated by this Act may, with respect to an individual employed by the Bureau of the Public Debt in the Washington metropolitan region on April 10, 1991, be used to separate, reduce the grade or pay of, or carry out any other adverse personnel action against such individual for declining to accept a directed reassignment to a position outside such region, pursuant to a transfer of any such Bureau's operations or functions to Parkersburg, West Virginia.

(b) Subsection (a) shall not apply with respect to any individual who, prior to February 15, 1996, declines an offer of another position in the Department of the Treasury which is of at least equal pay and which is within the Washington metropolitan region.

The CHAIRMAN. Are there any amendments to title V?

AMENDMENT OFFERED BY MR. HOYER

Mr. HOYER. Mr. Chairman, I offer an amendment.

The CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment offered by Mr. HOYER:

Amendment No. 6: Strike everything from "Sec. 524" on page 63 line 22 through "term." on line 5 page 64.

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

Mr. HOYER. I yield to the gentleman from Iowa.

Mr. LIGHTFOOT. Mr. Chairman, I would like to ask unanimous consent that all debate on this amendment and all amendments thereto close in 30 minutes, since we have got this 7 o'clock cutoff that we are supposed to meet here tonight to go to the other provision.

Mr. HOYER. Mr. Chairman, we had put an hour on this, but I have a lot of Members on my side of the aisle. I would agree to a limitation to 7 o'clock, but I would not want to go further than that.

Mr. LIGHTFOOT. Mr. Chairman, that is agreeable. That is fine with me. That way we could finish the amendment up.

The CHAIRMAN. The gentleman's unanimous consent request is that all debate end by 7 o'clock on this amendment and all amendments thereto?

Mr. LIGHTFOOT. And equally divided on the time.

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

There was no objection.

Mr. HOYER. Mr. Chairman, I agree to this time restraint, notwithstanding the fact this is an issue of great emotional impact and great political interest in this body and throughout the country.

This issue deals with the question of abortion. But I would suggest to the Members of this House, it does not deal with the public funding of abortion and that is the issue on which we have substantial disagreement.

The fact of the matter is, we have carried in this bill for some period of time the issue of the Federal employee health benefit plans. During the last 3 years we struck from the bill a prohibition on the use of funds which the public employees supply to the purchase of their Federal employment health policies.

Now, let me put this in context. There are available to Federal employees approximately 345 health benefit plans. A substantial number of those plans provide for the termination of pregnancy. The choice of whether to secure those plans is that of the employees.

Mr. Chairman, a Federal employee, like private sector employees, is paid three ways in their compensation package. Now, the private sector may have additional. They may have stock options, educational options, training options, all sorts of things of that nature, but essentially a Federal employee has three options.

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Those three options are: Salary. A Federal employee is paid X number of dollars as salary.

In addition, the Federal employee is told, if you work for us, part of your compensation package will be the payment of 72 percent of your health care premium, your being the employee's, not the Federal Government's. That is part of the employee's benefit package.

Third, part of that benefit package is their pension; and we make a contribution towards their retirement, of course, as we do on all other Federal and State and local and private sector employees, a FICA contribution since 1983.

Now, what does that mean? That means the employee has, as a compensation package, those three elements. What the amendment that the Chairman has put back, that the committee and full committee has put back in the bill is a provision that again says that none of the funds in this bill may be used to purchase health care insurance which covers the termination of pregnancy, that is, abortion.

Now, again, I said, this is a very controversial and emotional debate. But ladies and gentlemen of this House, this deals with the employee's choice, not the Federal Government's choice. When we had the health care debate in this House, many Members on the other side of the aisle and this side of the aisle said that they believed that individuals ought to have their choice in purchasing their health care program, not the Government's choice, not Members of Congress's choice, but the individual's choice. And because they work for the Federal Government they should have no less rights than any other person who works in America and gets a health care benefit as part of their compensation package, not the Federal Government's.

This is no more Federal money than their salary is. After all, and I would hope that everybody would pay attention, we pay them the salary. That is out of Federal dollars. Are we to say you can't spend that money except in certain ways and only as we choose because that is Federal money? Is that what our position is, that we are going to control their salary dollars?

The Federal employee compensation, health care contribution is their money. This amendment undermines

their compensation package. It is wrong. It undermines their own free choice, not of an abortion but of how they spend their money.

I want to tell my friends on that side of the aisle who perceive themselves as conservatives, I would hope that a number of them I see on that side of the aisle who are conservatives, who perceive themselves as conservative—the gentleman from New York [Mr. SOLOMON] is pointing to himself. I presume he will vote with me on this amendment. I hope he will.

The fact of the matter is, I perceive conservatives taking the position that really government ought to stay out of, to the greatest extent possible, personal decisions, personal lives. That is how I perceive conservatives, and that you perceive liberals as those who want to get government into people's lives and making decisions for them that you think can be better made by the individual.

I suggest if that is your philosophy you ought to vote with me to strike this language, because you are substituting the Government's decision here for the individual's decision here.

Mr. Chairman, I would urge my colleagues to vote "yes" on the Hoyer amendment to strike this prohibition.

Mr. LIGHTFOOT. I yield myself such time as I may consume.

Mr. Chairman, I rise in opposition to the amendment offered by my friend from Maryland. Basically, what we did in the bill, between 1984 and 1993, language was carried in the bill which prohibited paying for health coverage that included abortions under the Federal Health Benefit Plan. This was changed in 1993 to allow that to happen. Very simply, we took the language out that put that restriction in place, returning us back to the original language which had been in place since 1984.

At this point in time, the issue I think boils around should we force taxpayers to pay for something to which there is a great deal of opposition. I think we can argue this thing for hours, and we are not going to change some people's positions on the issue one way or the other. And I certainly understand that and respect people who feel very strongly on both sides of the issue.

But because it is a controversial issue, I believe that is why the original language was put in place back in 1984 which basically said that we would not, through any taxpayer funds, be funding abortions. In essence, as I have mentioned, we are just going back to that original language. That is all we did.

There is concern, I understand, from a number of my colleagues, and quite frankly I share their concern, that the language says that it is only in the case of the life of the mother. It does not include the incest and rape provision that is in what we have come to know as the Hyde amendment.

Unfortunately, to put that language in becomes legislating on an appropriations bill. We are very loathe to do that sort of thing, and we have never carried that language in this bill. So that is the reason it is not in there.

I would say to my colleagues who feel very strongly that that should be part of it, that I agree with them and would work during conference to try to get that language included as well.

Just a brief history on the situation, if you look at how FEHB works, perhaps some enlightenment to those who don't participate in the plan is in order. It is a private insurance system. The Federal Government has a set of private companies who offer insurance to Federal employees. All of us who work for the Federal Government get a list of 25 or 30 insurance companies, and we can select from those companies which one we want to provide our coverage, and we pay the premiums and so on.

In 1995, there were 345 insurance companies under the Federal Employee Health Benefit Plan. Abortion coverage was offered by 178 of them. Not quite half.

Since taxpayer money comes in to make up the Government's matching part of the premium and is used for the Government's matching part of the premium, a portion of this premium is also paid out of the employee's pocket, which obviously they have the right to do with whatever they want to do.

There have been attempts, I think, to compromise on the issue allowing Federal employees to pay for the abortion coverage themselves.

The biggest problem we had, and I offered to work with the gentleman from Wisconsin [Mr. OBEY] on that, is that it will not work for the simple reason that OPM indicates insurance companies would charge a high price for the coverage, almost as high as the cost of the abortion itself, since the companies would assume that the only employees likely to use it would want it. That means that the only viable option is that contained in this bill which says a Federal employee who wants an abortion would have to pay for it themselves.

The bill prohibits any insurance company from offering abortion coverage under FEHB unless the life of the mother is threatened. It is the same language, again, that was carried from 1984 up until 1993 when insurance coverage for abortions was reinstated after having been banned over that period of years.

I think it is a grave matter of personal conscience. I would urge Members to think this through carefully to try to take the emotion out of the argument, which is difficult to do, but I think it is necessary to do, and oppose the amendment, and really allow us just to return our bill back to what has been in place since 1984.

Mr. Chairman, I yield 5 minutes to the gentleman from New Jersey [Mr. SMITH].

Mr. SMITH of New Jersey. Mr. Chairman, I thank my good friend for yielding time to me.

Mr. Chairman, I urge Members to vote no on the Hoyer amendment, which would gut the every effective language that was put into the legislation by the chairman of the committee, the gentleman from Iowa [Mr. LIGHTFOOT]. Let me just remind Members, as the chairman pointed out so well, the language that is in the bill was current law throughout the 1980's and into the 1990's, but regrettably during the last Congress we were unable to get the language put back into the appropriations bill so we began paying for abortion on demand as part of the Federal Employees Health Benefits Program.

Mr. Chairman, I think it is becoming increasingly clear by way of public opinion polls, by way of the kind of feedback that we are all getting from our home districts, that people do not want to subsidize abortion on demand, they do not want taxpayer funds or premium funds being used to subsidize for willful killing of unborn children simply because they are inconvenient, simply because it is a matter of a birth control abortion or for some other reason.

Make no mistake about it. The Hoyer amendment, if it succeeds, would usher in abortion on demand at any time during the pregnancy, and we would have situations where babies are literally dismembered or chemically poisoned simply because we were subsidizing and providing the wherewithal to kill those babies.

Taxpayers do not want any part of this. Let me make that clear. We saw with the national health care reform debate last year, which unfortunately never happened because all of us heard from our constituents that they did not want to provide premium dollars or tax dollars for this grisly business.

Let me remind Members, too, that as part of the Federal employees health benefits plan taxpayers foot approximately 70 percent of the contribution. I think everyone knows that Federal employees, including Members of Congress, do not pay the whole freight, if you will, the entire bill when it comes to our Federal Employees Health Benefits Program.

An overwhelming amount of it, 70 percent, 72 percent to be exact, is footed by the taxpayer. So this is a government-taxpayer-funded issue, not unlike the Hyde amendment. So I would remind Members that if they are for the Hyde amendment they have to be against the Hoyer amendment and for the underlying language that Chairman LIGHTFOOT put in.

You know, I think it is becoming increasingly clear as well, Mr. Chairman, and the fight and debate that is going

on in the Committee on the Judiciary on the partial birth abortion whereby children are literally almost completely born only to be killed by the abortionist by sucking the brain out of the baby. And this goes on. And those who accuse those of us on this side of trying to inflame or in any way emotionalize this issue, it is the pro-abortion side, I would submit, that has to apologize or at least explain why they do this kind of violence, why they inflict this kind of violence on unborn children.

Well, the dirty secret of the abortion movement itself are the methods themselves, the chemical poisonings that go on, the injections of high concentrated salt solutions that literally pickle the baby alive inside the mother's uterus, usually takes about 2 hours for the baby to die. It is a very slow and gruesome death. The child swallows, gulps the salt-filled amniotic water, the water inside the amniotic sac, to die a very cruel death.

That is what we would subsidize if we go with the Hoyer amendment, because saline abortions are done in those HMO's and in those hospitals and under the auspices of the Federal Employees Health Benefits Program.

We would also be subsidizing the dismemberment of unborn children, again, the dirt secret of the abortion movement, a child literally dismembered, arms, legs, torso, head, completely cut.

Nobody wants to talk about that. People roll their eyes and say we are bringing emotion into this. These are the plain facts of what abortion does to a baby.

It is violence. We need to be providing positive, nonviolent alternatives to women who have distressful pregnancies, not providing and facilitating by way of taxpayer dollars the killing of their unborn children.

Let me also point out that the Federal Employees Health Benefits Program does not distinguish between lower and upper income employees. Without the Lightfoot language, taxpayers subsidize most of the costs of all Federal employees and their families, even those making over $100,000, so we would be paying for abortions for them as well.

I want to just conclude by reminding Members unborn children are not warts, a pregnancy is not a disease, and if we go with Mr. HOYER's amendment we will be saying that if a child, simply because he or she is inconvenient or unwanted, we will provide the wherewithal, we will provide the means, the money to have that child destroyed.

□ 1830

Reject the Hoyer amendment, it is anti-child, and support the underlying language of the gentleman from Iowa [Mr. LIGHTFOOT].

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

Mr. Chairman, for the information of the Members, it appears, because of the leadership on the majority side's desire to move toward a decision on the issue regarding the audit report tonight, that we would like to conclude this debate tonight and resume tomorrow morning, so that it would be our intention not to further debate this issue tonight. That is my understanding; that is the chairman's intention as well. Quite obviously, we are waiting for our leaderships to get here because they want to get to that issue, and I know their interest is to get Members out in a timely fashion this evening. We are prepared to do that. I have discussed that with the chairman. They are not here at this point in time. I presume they will be here shortly.

The CHAIRMAN. Under the unanimous-consent agreement we can proceed with debate until that time.

Mr. HOYER. Mr. Chairman, I yield myself such time as I may consume. Let me follow up on my previous statement.

Mr. Chairman, we are going to have a number of people talk about this issue. The gentleman from New Jersey [Mr. SMITH] just talked. Mr. SMITH and I are very close friends. We have a disagreement on this issue, and it is an issue on which he is a very, very sincere advocate, an able advocate, and deeply convicted advocate of his position. I think his position is a position that is intellectually and morally very defensible, period. I have no quarrel with him on that.

I do, however, make the suggestion again that in this context the gentleman is placing Federal employees in a position that no other employees in America are placed in, and that is:

"If you work for General Motors, you get a health care plan, and you choose a policy if you have alternatives. Now, you happen to have, as a Federal employee, more alternatives than you have perhaps at General Motors. But the fact of the matter is that is perceived as your compensation package, your money, your selection of the insurance policies."

Mr. Chairman, this is not about the Federal Government, and Medicare, and Medicaid paying for an abortion. It is about giving to an employee compensation in the form of a health care contributions to the purchase of an insurance policy. That employee then applies to his or her choice.

Now, just as we, the Federal Government, pays FICA, that is then mine or pays my salary. It is mine or pays my retirement. That is then vested. They cannot take it back from me. This is not their choice of where it goes. This health care benefit is theirs. It is HENRY HYDE's. It is STENY HOYER's. It is JIM LIGHTFOOT's. It is whoever's. It is ours, and we then apply that looking through the list of what policy do I want to purchase? It is not the Federal Government making that choice for us. It is not the Federal Government buying that policy.

Yes, it is Federal dollars. But as I said before my friends got to the floor, the dollars that we are paid in salary are Federal dollars. I ask, "Are we to be then told that, look, those are Federal dollars, and you can't spend them except in a fashion with which we, the Federal Government, agree"? I asked that question rhetorically, but I am wondering if there is a response to it.

Those dollars are the dollars of our employees, not ours, not our dollars, and that is, I respectfully suggest to my good friends, the significant difference between this and the issue of Medicaid, or Medicare, or some other program where the Federal Government actually pays for the services rendered.

Now, I know the deep convictions are that anything that might further the objective is objectionable itself. I understand that. I think that is a fair argument, and I understand that position. It is a position with which I disagree, but not that I lack respect for.

Mr. Chairman, I am hopeful that, as the debate develops tomorrow, that Members will have the opportunity to see the difference between this issue raised on this bill, and the issue raised in the Labor-Health bill, and that difference will be seen as dollars of the employee as opposed to the dollars of the Federal Government.

Yes, the source is the same, but the ownership is different. The ownership is significantly different.

Mr. LIGHTFOOT. Mr. Chairman, I yield 2 minutes to the gentlewoman from Nevada [Mrs. VUCANOVICH].

Mrs. VUCANOVICH. Mr. Chairman, I rise today in opposition to the amendment offered by Mr. HOYER. This amendment would strike the language in H.R. 2020 that would prohibit the use of funds to pay for abortion or to be used for administrative expenses in connection with any health plan under Federal employees health benefit program. This program provides coverage for abortion, except where the life of the mother would be endangered if the fetus were carried to term. Currently, the American taxpayer bears the burden of providing almost 72 percent of the funds used to purchase health insurance for Federal Employees. That again raises the question: "Should the Federal Government be in the business of funding abortions?" The answer is, of course, no.

The Federal Government does not need to provide funding for abortion coverage in basic health coverage for Federal employees. Abortion is usually not considered part of basic health insurance coverage. Even the Nation's largest provider of individual and group health insurance Mutual of Omaha, specifically excludes all elective abortions from its coverage.

Perhaps some here feel that abortion should be covered because it is simply another medical procedure, much like removing an unwanted tumor or wart. However, the Supreme Court of the United States has said that the Government can distinguish between abortion and "other medical procedures" because "abortion is inherently different from other medical procedures. No other procedure involves the purposeful termination of a potential human life."

At a time when 70 percent of Americans oppose Federal funding of abortion it is appropriate for Congress to uphold the sanctity of life and limit Federal funding of abortion. I urge my colleagues to vote "no" on the Hoyer amendment.

Mr. HOYER. Mr. Chairman, I yield 2 minutes to the gentleman from California [Mr. FARR].

Mr. FARR of California. Mr. Chairman, I rise today in support of the Hoyer amendment and in support of the basic right of women to choose, regardless of whether they work in the private sector or they serve in the Federal Government as public servants.

We all are well aware of the fact that the U.S. Supreme Court ruled in Roe versus Wade that a woman's right to a safe and legal abortion is constitutionally guaranteed. This is the law of the land. The provision of the bill that my colleagues and I seek to strike would single out Federal employees and prohibit them from choosing a health care policy which provides a full range of reproductive health services including abortion.

What you may not realize is that currently two-thirds of private fee-for-service plans and 70 percent of health maintenance organizations provide abortion coverage. As most insurance plans today provide coverage for reproductive health care including abortion, to deny Federal health benefit participants this health service is harmful to women's health.

Mr. Chairman, this is not a pro-choice or pro-life issue, it is an issue of discrimination. This provision blatantly discriminates against women who work for the Federal Government, singling them out and denying them the same access to safe reproductive health care that non-Federal workers in State, local, and the private sector would receive.

This is an issue of basic fairness and equity, Mr. Chairman. Fairness to our Nation's public servants who wake up every day and work to serve their country. These women deserve the same quality of care that non-Federal employees have access to every day. These women pay into their health insurance plans, such as Blue Cross-Blue Shield or Atena just like women in the private sector. The difference would be that these women, unlike women in the private sector, would not receive coverage for abortion. Excluding abortion procedures is taking away part of the medical coverage that thousands of Americans currently have. Are we going to treat these hard-working women as second-class citizens because they are employed by the Federal Government? I hope not.

I urge my colleagues to join me in standing up today in support of women's rights—in support of women's health—let's strike this blatantly discriminatory and harmful provision in the bill.

Mr. LIGHTFOOT. Mr. Chairman, I yield 2 minutes to the gentleman from Maryland [Mr. BARTLETT].

Mr. BARTLETT of Maryland. Mr. Chairman, I rise today in strong opposition to the amendment offered by my good friend and colleague from Maryland [Mr. HOYER]. This is a very simple and straightforward issue. Should the taxpayers and people who are conscientiously opposed be forced to pay for and subsidize abortion on command?

Mr. Chairman, the Congress and the Supreme Court have been very clear on this issue. This amendment flies in the face of the Hyde amendment which this Congress has, on several occasions, upheld which simply says that the Federal Government should not be in the practice of funding abortions with taxpayer money. In upholding the Hyde amendment, the court has said that, and I quote:

> Abortion is inherently different from other medical procedures because no other procedure involves a purposeful termination of a potential life.

Let us not fund abortion on demand with taxpayer money. Let us not force those who are conscientiously opposed to pay for these abortions.

Mr. HOYER. Mr. Chairman, I yield 2 minutes to the gentlewoman from New York [Mrs. LOWEY].

Mrs. LOWEY. Mr. Chairman, currently, Federal employees, like other American workers, are permitted to choose a health care plan that covers the full range of reproductive health services. The new majority wants to change that and take American women backward. This is one of the first steps in the radical right's campaign to eliminate the right to choose.

The issue before us today is whether or not this House will allow American women the freedom to choose a private health insurance plan that includes coverage of abortion.

The Hoyer amendment is about giving American women options—of the 345 FEHBP plans, just about half—178—currently cover abortion. If women want to participate in a plan that covers abortions they can. If they find abortion objectionable they can belong to a plan that doesn't cover abortion. The choice is theirs—not mine—and not this institution's.

This is the status quo—and unless we approve Mr. HOYER'S amendment, this House will be taking away health care coverage that Federal employees currently have. There are 1.2 million women of reproductive age who rely on FEHBP for their medical care—1.2 million American women who would lose the right to choose if the Hoyer amendment isn't adopted.

In fact, the provision that Mr. HOYER seeks to strike is so extreme that it doesn't even allow FEHBP plans to cover abortions in the case of rape and incest.

□ 1845

So if you are a Federal employee and you have been raped and become pregnant, the new majority says that you cannot use your own private insurance to have an abortion. That is an outrage.

Basic women's health care includes the full range of redprocutive health services, including abortion. We should not be singling this procedure out. I urge my colleagues to support the Hoyer amendment.

Mr. LIGHTFOOT. Mr. Chairman, I yield 2 minutes, as we continue the tour of the East Coast, to the gentlewoman from Maryland [Mrs. MORELLA].

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

Mr. Chairman, I rise in support of the amendment by the gentleman from Maryland.

From 1983 to 1993, Congress limited the coverage of abortion services under FEHBP, except in cases in which the life of the woman was at risk. In the fiscal year 1994 Treasury-Postal appropriations bill, we finally restored the coverage that had been provided to most of the rest of this country's work force through their health insurance plans. Today, this bill once again denies this health coverage to Federal employees.

The coverage of abortion services in Federal health plans does not mean that abortions are being subsidized by the Federal Government. Currently, the Government simply contributes to the premiums of Federal employees in order to allow them to purchase private health insurance. Abortion services do not add to the cost of an insurance plan; the additional cost amounts to a few cents per month to cover the cost of administration.

The bill's provision is all the more inequitable because it does not even cover abortions in the case of rape and incest, coverage provided under the Medicaid program and the Hyde amendment. If the funding ban is reinstated, Federal employees will have to pay for abortions with their own money, even in the cases of rape and incest.

Thousands of Federal employees have incomes below or close to the Federal poverty line. For these workers, the cost of an abortion would be a significant hardship, interfering with a woman's constitutionally protected right to

choose. And it discriminates against Federal employees.

Mr. Chairman, the Hoyer amendment simply restores the rights of Federal employees to the same health care services covered by most private sector health plans. I urge my colleagues to support it.

Mr. EMERSON. Mr. Chairman, I rise today in opposition to the Hoyer amendment. The Federal Government should not be in the business of funding abortions nor should taxpayers be forced to underwrite the cost of abortions for Federal employees.

The Federal Government currently contributes approximately 72 percent of the money toward the purchase of health insurance for its employees. Thus, taxpayers do provide a majority share of the funds to purchase health insurance for the Federal civilian work force. If this amendment were adopted the American taxpayers would be forced to underwrite the costs of abortion for Federal employees. In addition to taxpayer funds paying for abortions, premiums contributed by conscientiously opposed Federal employees will also be used to subsidize abortion on demand.

Abortion is not just another form of "routine health care". In upholding the Hyde amendment, the Supreme Court has said that the Government can distinguish between abortion and "other medical procedures." The court said, "Abortion is inherently different from other medical procedures, because no other procedure involves the purposeful termination of a potential life."

Mr. Chairman, the language that Mr. LIGHTFOOT incorporated into this bill which would prohibit OPM from allowing Federal employee health insurance plans to cover abortion, except when the mother's life is at stake should remain a part of the Treasury, Postal Service appropriation bill as it has from 1984 through fiscal year 1993, and this amendment should be defeated.

Ms. HARMAN. Mr. Chairman, I rise in strong support of the Hoyer amendment to strike the language that prohibits Federal employees from choosing health care plans that include abortion services.

This is the latest in a series of assaults on a woman's right to choose. The consequence of this assault, like the others being pursued through the appropriations process, is to leave women's rights under Roe versus Wade hollow—and effectively repeal of those rights without directly reversing the Supreme Court's decision.

Earlier this spring, the House passed a ban on privately funded abortions in military hospitals overseas. Then came the provision preventing international family planning organizations from using their own funds to provide abortions. Now the assault continues with a ban on abortion services for Federal employees.

One ban after another—choice opponents are on their way to rolling back a woman's right to choose.

This is a discriminatory change from current policy. Choice opponents in the Congress are now singling out Federal employees to restrict a constitutional right. This is not about Federal funding—employee's own salaries are being withheld. It is about infringing upon employees' rights to bargain for their own benefits.

Congress has no place obstructing private insurance companies from offering services that are necessary to women's health. At least two-thirds of private health insurance plans currently include coverage for abortions.

Prohibiting Federal employees from choosing insurance plans that offer abortion services endangers their health. The question for our House colleagues is whether they can justify limiting Federal employees' constitutionally protected rights and limiting their health care options simply because these women receive benefits through the Federal Employees Health Benefits Plan. I strongly believe we cannot.

Today's vote is part of a larger agenda to rollback a woman's right to choose without directly reversing Roe versus Wade. This provision hurts Federal employees, and I urge my colleagues to vote for equal rights and health services for Federal employees and their dependents.

Mrs. COLLINS of Illinois. Mr. Chairman, I rise in support of the amendment offered by the gentleman from Maryland [Mr. HOYER] which would strike the bill's provisions prohibiting the use of funds to pay for abortions under the Federal Employees Health Benefits Program [FEHBP].

The Republican majority seeks to return us to the nefarious policy adopted during the Reagan/Bush years where women enrolled in FEHBP were denied access to the full range of legal reproductive health options that are available to women enrolled in private sector health plans. Two years ago, that policy was rightfully put to an end by the Clinton administration which determined that the participating plans and enrollees should be free to make the choices concerning the availability and access to abortion coverage.

Today, no participating health plan is forced to cover abortions, and no participating employee or annuitant is forced to join a plan that covers them. The Office of Personnel Management allows each plan decide on its own whether to provide abortion coverage. This year, only 178 of 345 participating plans do. FEHBP participants have the option of choosing from among the wide variety of plans available the one which best meets their health care needs.

Sections 524 and 525 of this bill will limit the reproductive choices available to women covered by FEHBP. I support their elimination and urge adoption of the Hoyer amendment.

Mr. LIGHTFOOT. Mr. Chairman, I ask unanimous consent to vacate the previous unanimous-consent agreement limiting debate on this amendment, that there be 80 minutes of debate on this amendment and all amendments thereto, and that the time be equally divided and controlled by myself and the gentleman from Maryland [Mr. HOYER] tomorrow when the committee resumes its sitting on this bill.

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

There was no objection.

Mr. LIGHTFOOT. 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. RIGGS) having assumed the chair, Mr. DREIER, chairman of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill (H.R. 2020) making appropriations for the Treasury Department, the U.S. Postal Service, the Executive Office of the President, and certain independent agencies, for the fiscal year ending September 30, 1996, and for other purposes, had come to no resolution thereon.

PROVIDING FOR ADDITIONAL AUDITING BY HOUSE INSPECTOR GENERAL

Mr. ARMEY. Mr. Speaker, I offer a resolution (H. Res. 192) and I ask unanimous consent for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 192

Whereas on January 4, 1995, the House of Representatives voted 430-1, that "during the One Hundred Fourth Congress, the Inspector General, in consultation with the Speaker and the Committee on House Oversight, shall coordinate, and as needed contract with independent auditing firms to complete, a comprehensive audit of House financial records and administrative operations, and report the results in accordance with Rule VI," [House Resolution 6, Section 107];

Whereas on July 18, 1995, the House Inspector General in cooperation with the independent auditing firm presented the findings of the first-ever audit of the House of Representatives under the provisions of the House Resolution;

Whereas this first-ever audit included both the financial and administrative functions of the House, representing a wide range of activities;

Whereas the audit does not reach conclusions in all areas due in part to a "method of accounting underlying the preparation and dissemination of financial management information [that] was simplistic and ill-suited for an organization the size of the House," [Report of Independent Accountants, July 18, 1995];

Whereas "In addition to the deficiencies in accounting and reporting, and in information systems, there are other weaknesses in the House's internal control structure...the severity of these weaknesses affects the reliability of the financial statements, because in the absence of an effective internal control structure, there can be no assurance that all House transactions were properly recorded, accumulated and reported in accordance with the rules, policies and procedures of the House," [Report of Independent Accountants, July 18, 1995];

Whereas it is the sense of the House, including the leadership of both parties, that a followup audit should be completed to further examine the transactions and reports contained therein; and

Whereas the House Inspector General, a nonpartisan appointee who was selected by the former majority and retained by the current majority, has requested and should be given resources necessary to complete this followup audit: Now, therefore, be it

Resolved, That the Inspector General is authorized and directed to take such steps as

necessary to carry out any additional auditing required to ensure the completion of the audit of House financial and administrative operations authorized during the One Hundred Fourth Congress by House Resolution 6, Section 107.

SEC. 2. The Inspector General shall complete such additional auditing expeditiously, but in no case later than November 30, 1995.

SEC. 3. The Committee on House Oversight of the House of Representatives shall have the authority to prescribe regulations and to authorize the expenditure of additional funds from the appropriate House accounts as may be required to fully ensure the final completion of the comprehensive audit of House financial and administrative operations.

SEC. 4. The results of such auditing shall be submitted in accordance with House Rule VI, clause 3(d) which provides "simultaneously submitting to the Speaker, the majority leader, the minority leader, and the chairman and ranking minority party member of the Committee on House Oversight a report on each audit conducted under this rule.".

SEC. 5. The results of such auditing, shall to the extent appropriate, be reported by the Inspector General in accordance with House Rule VI, clause 3(e) which provides "reporting to the Committee on Standards of Official conduct information involving possible violations of any Member, officer, or employee of the House any rule of the House or any law applicable to the performance of official duties or the discharge of official responsibilities which may require referral to the appropriate Federal or State authorities pursuant to clause 4(e)91)(C) of rule X.".

Mr. ARMEY (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. Is there objection to the request of the gentleman from Texas?

There was no objection.

The SPEAKER pro tempore. The gentleman from Texas [Mr. ARMEY] is recognized for 1 hour.

Mr. ARMEY. Mr. Speaker, I yield 30 minutes to the gentleman from Missouri [Mr. GEPHARDT], the distinguished minority leader, for purposes of debate only.

Mr. Speaker, pending that, I ask unanimous consent that the gentleman from California [Mr. THOMAS], be allowed to control my 30 minutes.

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

There was no objection.

Mr. THOMAS. Mr. Speaker, I yield such time as she may consume to the gentlewoman from Washington [Ms. DUNN], a member of the Committee on House Oversight.

Ms. DUNN of Washington. Mr. Speaker, I thank the gentleman for yielding.

Mr. Speaker, in keeping with the theme of the 104th Congress, we are today keeping another promise we made to the American people. That promise is a commitment to openness and to reform, to let the Sun shine in on the internal operations of the House of Representatives.

As promised, the results of the first audit ever done in the U.S. House of Representatives by the independent nonpartisan firm of Price Waterhouse have been revealed, and, as expected, the auditors found that during a single 15-month time period, from October 1993 to December 1994, the Congress squandered millions of taxpayer dollars because of poor management practices, inefficiencies, and waste in all House operations. Corrective steps recommended by the auditors will help the Congress save the taxpayers over $20 million. We have already begun instituting some of those reforms

Mr. Speaker, the legislation before us for a further forensic audit will help ensure that never again will this honorable institution become a casualty in the course of Members conducting the people's business with the public's money.

We are acting decisively to restore the American people's faith in this institution. Taxpayers deserve full disclosure, and they are finally getting it. They deserve full accountability, and they are finally getting it. They deserve to have their Representatives take responsibility for the way things are run in Congress, and in the 104th Congress, Mr. Speaker, they are finally getting it. And from now on, they always will.

Mr. Speaker, when the auditors cannot even deliver an opinion because financial records were so inadequate or incomplete, we have got a problem. I was told at today's Committee on House Oversight meeting that in the private sector this type of finding of no opinion by the auditors is unheard of. What a shame.

I applaud the bipartisan work of the House leadership, Mr. Speaker, of the Inspector General and the auditors, and I am very pleased to support this bill.

Mr. THOMAS. Mr. Speaker, I yield such time as he may consume to the gentleman from Michigan [Mr. EHLERS], the vice chairman of the Committee on House Oversight.

Mr. EHLERS. Mr. Speaker, I have not been in Congress a long time. I was elected approximately a year and a half ago in a special election. But it took a very short time after my arrival to realize that there was something wrong with the way the books of the House were kept.

I have always insisted on keeping track of the finances in my office during my years in the legislature in Michigan, and I tried to do the same here, and found I simply could not get the answers I needed from the Finance Office.

It is clear that some action had to be taken. I am delighted that at the beginning of this Congress, we passed a resolution virtually unanimously, 430 votes to 1 vote, we passed a resolution asking for an independent outside audit from a major accounting firm.

Today we received the report from the auditor, and the auditor's opinion was that he had no opinion. He could not state an opinion because the House books were in such a mess that he could not conclude whether there had been anything done wrong, any misdeeds performed, or whether the books in fact balanced.

This is a more serious indictment than we expected, and certainly has to be dealt with. The auditor may not have an opinion, but I certainly have an opinion, and my opinion is that we have to straighten this out and straighten it out soon. I am very pleased that the Committee on House Oversight under the chairmanship of the gentleman from California [Mr. THOMAS] has taken action, and we plan to straighten the House books out as soon as possible.

Furthermore, and this resolution speaks to that, we will maintain them in order. We will insist on regular outside audits to make sure that the House books continue to be in order from henceforth.

I think it is incumbent upon us to do that. There is a matter of public accountability. We are responsible to the people of the United States for the money we expend, and we have insisted on the various departments of our Government giving us accountability for the money that we allocate to them. At the very least, we as a House must have accountability to ourselves and to the public for the money that we spend for the operation of this august institution.

I speak strongly in favor of adopting the resolution, and ensuring not only that we straighten out the House books, but also that they will remain in good condition from henceforth.

Mr. Speaker, I pledge to my constituents, I pledge to our colleagues, and I pledge to my colleagues on the Committee on House Oversight, to do everything I can to assist in this effort by the Committee on House Oversight to ensure that the House can be proud of the financial operation of its own affairs.

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

Mr. Speaker, I rise in support of this resolution. Obviously, I have co-authored it with the distinguished majority leader. As you know, this resolution directs the inspector general of the House to continue certain aspects of the audit in those areas where Price Waterhouse auditors have recommended further examination.

I join in the introduction of this resolution to fulfill the promise of the audit and to ensure that all questions raised in the course of the audit are fully and completely answered. I urge all Members to support this resolution.

As has been made clear in the audit, the systems and procedures of the House during the audit period were

outdated and incomplete. This occurred even though for the entire period of the audit the House Finance Office was under the direction of the nonpartisan administrator picked by Speaker Foley, Mr. Michel, the minority leader, and myself, in a bipartisan way.

The auditors found that the financial information available to them simply did not provide explanations for all transactions and procedures they reviewed. As a result, the auditors were unable to draw final conclusions about certain transactions and procedures.

The auditors themselves have recommended that the House undertake a further review to resolve these differences. The passage of this resolution will accomplish this. The resolution directs the inspector general to finish the work and to reach the conclusions that are necessary to determine if any further action by any relevant House committee is required.

Under the resolution, the inspector general will report no later than November 30 of this year the results of his further review. These reports will be referred to the relevant House committees for appropriate action. This is the right course of action for the House. Any other approach would result in the premature release of information that is incomplete, and, worse, potentially misleading. If the auditors themselves found the information inconclusive, how can Members be expected to be able to explain the questions remaining in the audit?

As the Speaker and I stated in our "Dear Colleague" letter circulated today, we believe that many of the areas of concern identified by the auditors can be explained as products of the inadequate systems and procedures of the House. I believe that this further review will result in additional improvements to the management of the operations of the House. This is the reason that 434 Members of the House voted to undertake this audit in the first place.

□ 1900

We must allow the audit to be completed as it was intended. I urge all Members to vote in favor of this resolution.

Mr. Speaker, I yield such time as he may consume to the distinguished gentleman from California [Mr. FAZIO], distinguished ranking member of the Committee on House Oversight.

Mr. FAZIO of California. Mr. Speaker, as I said earlier today in the committee meeting, and I reiterate now, I fully support the effort that we are completing the first phase of here today. I was obviously one of the many Members who supported it on January 4, and I feel very strongly that this first effort independent audit, the audit of the finances and the administration of the operations of the House, has been conducted in a very effective way. The IG, Mr. John Lainhart, is deserving of our thanks and appreciation. He has taken his full responsibility and worked ably, with the accounting firm of Price Waterhouse, to complete these documents that have been made available to all Members and to the public today.

The gentleman from California [Mr. THOMAS] and the Republican leadership deserve credit for giving the House the impetus to move aggressively to identify ways in which we can improve our business operations by adopting modern management policies and practices as is applicable elsewhere in the private and the public sector.

I personally want to commend Mr. THOMAS, my colleague and good friend, as ever, and the IG for the manner in which this work has been conducted. It is open. It is fair. And it is bipartisan. And that, I think, is the way in which we need to continue this work as we move on to the next segment, which is the purpose of the resolution offered here today.

Let me also say, as an appropriator who has dealt with these matters over a number of years, I have long sought many of the objectives that are included in the work of the inspector general and of this audit.

The resolution assures the American people that upon conclusion of this audit by the IG, they will have 100 percent public accountability for the expenditure of House funds. And to do that, we must have a picture of the House business practices which fully, fairly and accurately portrays the way in which Members dedicate their resources to representing their constituents.

Although the resolution provides for a reporting deadline not later than November 30, I fully expect the inspector general will file his report as soon as possible. Let me say, I would hope that it could be done by the August recess. I will do everything I can personally do to give the IG whatever resources, human and financial, he needs to complete this more focused audit and to report his findings to the Members of this body and to the public.

We need to finish this first and foremost and then we need to move on to the next audit, which will guide us further as we continue to make changes in the operations of this House.

It is very important to point out, this is, yes, an important baseline audit, but really, the first of many that will come. And we all must learn to deal with this form of self-criticism, because ultimately, it is the only way in which we can make the kind of improvements here that we all seek.

So with that, Mr. Speaker, I urge all Members to unanimously support this resolution. It is the proper way to proceed, one that will get the information that we need to the public and yet protect the legitimate due process that ought to prevail here in the House of Representatives.

Mr. THOMAS. Mr. Speaker, I yield 1 minute to the gentleman from Florida [Mr. SHAW], who is a CPA.

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

I would just like to say that the time has long passed for us to do what this action is calling us to do. We have a sacred trust that is from the people for the taxpayers that they pay into this Government. Accountability is, I think, primary, whether you are talking about ethics or whether you are talking about what we do with the people's money. It is absolutely necessary that all of us be completely accountable for those funds that are entrusted to us. We are at last, I think, brushing away a dinosaur of the past. And that is a dinosaur which did not have accountability here in the House for the funds that we are expending.

I would like to congratulate the leadership on both sides of the aisle for the realization that now the time has come for accountability, that now the time has come to have an independent audit done of the House books.

I would certainly urge a yes vote, as I am sure one is going to come probably without exception, because this is such a commonsense resolution.

Again, I would like to commend the leadership on both sides of the aisle to seeing that this day has finally arrived.

Mr. THOMAS. Mr. Speaker, I yield 1 minute to the gentleman from Kansas [Mr. BROWNBACK].

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

I would just like to say, as a freshman Member of Congress, on the opening day of Congress it was my pleasure to be able to carry the bill that started this audit, and it passed 430 to 1 in this institution. I was delighted at that time, as somebody who ran saying the institution needed to open its doors up and let some fresh air in, to see this finally happen.

Getting the audit report out today, I think that is an important step to be taking. I think it is important that we take this on forward and that we make real changes and real improvements in this institution so the American people can feel like it represents them and it is an open institution, that they know what happens with their taxpayer dollars.

So I urge my colleagues to support this motion that is coming forward and that we can carry on this process in giving the people's House back to the people.

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

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

Mr. Speaker, I think what we have seen here is a continuation of the spirit

in which we started this particular Congress.

On opening day we did call for, by resolution, an independent audit. It was virtually unanimous in this House that we move forward with that independent audit. Regardless of the reasons that may have led us to that conclusion, I think everyone here today agrees that it was a positive step. The only regret we all have is that, as outlined in the resolution in several whereas clauses, the books that the independent auditor and the inspector general had to look at where wholly inadequate to coming to some clear and final conclusions about financial transactions over the last 15 months.

This resolution, jointly sponsored by the majority and the minority leader, intends to clarify and rectify those areas of the financial books that the independent auditors were incapable of clarifying. We believe that based upon the representations made to us, the inspector general will be able to resolve the questions that are outstanding. We believe that the system was at fault. There is no reason at this time to try to draw any conclusions at all, given the difficulty of professional auditors in determining with some finality, what occurred.

It would be a service to no one, the American people, Members of this institution, or anyone else, to speculate on what might occur. Rather, the absolute appropriate approach of a House resolution, asking our inspector general to take on what resources are necessary to finalize this audit as soon as possible, but no later than November 30, is not only the appropriate step but really consciously the only one that we can take.

So it is with great pleasure, on a bipartisan note, that we offer for the Members consideration House Resolution 192.

Mr. Speaker, I yield back the balance of my time, and I move the previous question on the resolution.

The previous question was ordered.

The SPEAKER pro tempore. The question is on the resolution.

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

Mr. GEPHARDT. 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 414, nays 0, not voting 20, as follows:

[Roll No. 525]

YEAS—414

Abercrombie
Ackerman
Allard
Andrews
Archer
Armey
Bachus
Baesler
Baker (CA)
Baker (LA)
Baldacci
Ballenger
Barcia
Barr
Barrett (NE)
Barrett (WI)
Bartlett
Barton
Bass
Bateman
Becerra
Beilenson
Bentsen
Bereuter
Bevill
Bilbray
Bilirakis
Bishop
Bliley
Blute
Boehlert
Boehner
Bonilla
Bonior
Bono
Borski
Boucher
Browder
Brown (CA)
Brown (FL)
Brown (OH)
Brownback
Bryant (TN)
Bunn
Bunning
Burr
Burton
Buyer
Callahan
Calvert
Camp
Canady
Cardin
Castle
Chabot
Chambliss
Chapman
Chenoweth
Christensen
Chrysler
Clayton
Clement
Clinger
Clyburn
Coble
Coburn
Coleman
Collins (GA)
Collins (IL)
Combest
Condit
Conyers
Cooley
Costello
Cox
Coyne
Cramer
Crapo
Cremeans
Cubin
Cunningham
Danner
Davis
de la Garza
Deal
DeFazio
DeLauro
DeLay
Dellums
Deutsch
Diaz-Balart
Dickey
Dicks
Dingell
Dixon
Doggett
Dooley
Doolittle
Dornan
Doyle
Dreier
Duncan
Dunn
Durbin
Edwards
Ehlers
Ehrlich
Emerson
Engel
English
Ensign
Eshoo
Evans
Everett
Ewing
Farr
Fattah
Fawell
Fazio
Fields (LA)
Fields (TX)
Filner
Flake
Flanagan
Foglietta
Foley
Forbes
Ford
Fowler
Fox
Frank (MA)
Franks (CT)
Franks (NJ)
Frelinghuysen
Frisa
Frost
Funderburk
Furse
Gallegly
Ganske
Gejdenson
Gekas
Gephardt
Geren
Gibbons
Gilchrest
Gillmor
Gilman
Gonzalez
Goodlatte
Goodling
Gordon
Goss
Graham
Green
Greenwood
Gunderson
Gutierrez
Gutknecht
Hall (OH)
Hall (TX)
Hamilton
Hancock
Hansen
Harman
Hastings (FL)
Hastings (WA)
Hayes
Hayworth
Hefley
Hefner
Heineman
Herger
Hilleary
Hilliard
Hinchey
Hobson
Hoekstra
Hoke
Holden
Horn
Hostettler
Houghton
Hoyer
Hunter
Hutchinson
Inglis
Istook
Jackson-Lee
Jacobs
Jefferson
Johnson (CT)
Johnson (SD)
Johnson, E. B.
Johnson, Sam
Johnston
Jones
Kanjorski
Kaptur
Kasich
Kelly
Kennedy (MA)
Kennelly
Kildee
Kim
King
Kingston
Kleczka
Klink
Klug
Knollenberg
Kolbe
LaFalce
LaHood
Largent
Latham
LaTourette
Laughlin
Lazio
Leach
Levin
Lewis (CA)
Lewis (GA)
Lewis (KY)
Lightfoot
Lincoln
Linder
Lipinski
Livingston
LoBiondo
Lofgren
Longley
Lowey
Lucas
Luther
Maloney
Manton
Manzullo
Markey
Martinez
Martini
Mascara
Matsui
McCarthy
McCollum
McCrery
McDade
McDermott
McHale
McHugh
McInnis
McIntosh
McKeon
McKinney
McNulty
Meehan
Meek
Menendez
Metcalf
Meyers
Mfume
Mica
Miller (CA)
Miller (FL)
Mineta
Minge
Mink
Molinari
Mollohan
Montgomery
Moorhead
Moran
Morella
Myers
Myrick
Nadler
Neal
Nethercutt
Neumann
Ney
Norwood
Nussle
Oberstar
Obey
Olver
Ortiz
Orton
Owens
Packard
Parker
Pastor
Paxon
Payne (NJ)
Payne (VA)
Pelosi
Peterson (FL)
Peterson (MN)
Petri
Pickett
Pombo
Pomeroy
Porter
Portman
Poshard
Pryce
Quillen
Quinn
Radanovich
Rahall
Ramstad
Rangel
Reed
Regula
Richardson
Riggs
Rivers
Roberts
Roemer
Rogers
Rohrabacher
Ros-Lehtinen
Rose
Roth
Roukema
Roybal-Allard
Royce
Rush
Sabo
Salmon
Sanders
Sanford
Sawyer
Saxton
Scarborough
Schaefer
Schiff
Schroeder
Schumer
Scott
Seastrand
Sensenbrenner
Serrano
Shadegg
Shaw
Shays
Shuster
Sisisky
Skaggs
Skeen
Skelton
Slaughter
Smith (MI)
Smith (NJ)
Smith (TX)
Smith (WA)
Solomon
Souder
Spence
Spratt
Stearns
Stenholm
Stockman
Stokes
Studds
Stump
Stupak
Talent
Tanner
Tate
Tauzin
Taylor (MS)
Taylor (NC)
Tejeda
Thomas
Thompson
Thornberry
Thornton
Thurman
Torkildsen
Torres
Torricelli
Towns
Traficant
Tucker
Upton
Velazquez
Vento
Visclosky
Vucanovich
Waldholtz
Walker
Walsh
Wamp
Ward
Waters
Watt (NC)
Watts (OK)
Waxman
Weldon (FL)
Weldon (PA)
Weller
White
Whitfield
Wicker
Williams
Wilson
Wise
Wolf
Woolsey
Wyden
Wynn
Young (AK)
Young (FL)
Zimmer

NOT VOTING—20

Berman
Brewster
Bryant (TX)
Clay
Collins (MI)
Crane
Hastert
Hyde
Kennedy (RI)
Lantos
Moakley
Murtha
Oxley
Pallone
Reynolds
Stark
Tiahrt
Volkmer
Yates
Zeliff

□ 1930

So the resolution was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

PERSONAL EXPLANATION

Mr. KENNEDY of Rhode Island. Mr. Speaker, I am including in the RECORD following rollcall votes 517 through 525 an indication of how I would have voted had I been present, to be followed with statements submitted for the RECORD.

I was away from Washington at work back in my district today. However, had I been here I would have responded in the following manner for the rollcall votes on House Resolution 1977, Interior Appropriations for Fiscal Year 1996.

Roll call No. 517, Schaefer amendment, "aye; roll call No. 518, Chabot amendment, "nay"; roll call No. 519, Parker amendment, "nay"; roll call No. 520, Zimmer amendment, "nay"; roll call No. 521, Klug amendment, "aye"; roll call No. 522, Kennedy (MA), "aye"; roll call No. 523, on passage, "nay"; roll call No. 524, ordering the previous question, "nay"; and roll call No. 525, agreeing to the resolution, "aye".

PERSONAL EXPLANATION

Mr. HASTERT. Mr. Speaker, due to the fact that I was unavoidably detained last evening, I missed the rollcall vote on House Resolution 192, which called for the House Inspector General to complete a more detailed audit of the House. Had I been present on rollcall vote No. 525 I would have voted "yes."

PERSONAL EXPLANATION

Mr. VOLKMER. Mr. Speaker, on Tuesday, July 18, I missed four rollcall votes during consideration of H.R. 1977, the Interior Appropriations for Fiscal Year 1996. On rollcall votes Nos. 517 and 518, I would have voted "nay." On rollcall votes 519 and 525, I would have voted "aye."

PERSONAL EXPLANATION

Mr. TIAHRT. Mr. Speaker, due to the fact that I was unavoidably detained, I missed the rollcall vote on House Resolution 192, which called for the House inspector general to complete a more detailed audit of the House, Had I been present on rollcall vote No. 525 I would have voted "yes."

RECOGNIZING THE HONORABLE BILL RICHARDSON FOR HIS WORK IN OBTAINING RELEASE OF THE TWO AMERICANS HELD CAPTIVE

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

Mr. FATTAH. Mr. Speaker, I want to congratulate the gentleman from New Mexico [Mr. RICHARDSON] who is on the floor for his great work and have the House recognize his tremendous deed on behalf of the two Americans who were held captive. He is here. I want the House to extend its appropriate respect for the work of our colleague.*

SPECIAL ORDERS

Mr. SPEAKER pro tempore (Mr. MCINNIS). Under the Speaker's announced policy of May 12, 1995, and under a previous order of the House, the following Members will be recognized for 5 minutes each.

ADDRESSING AMERICA'S GROWING TRADE DEFICIT

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Oregon [Mr. DEFAZIO] is recognized for 5 minutes.

Mr. DEFAZIO. Mr. Speaker, today we had the latest in a round of disastrous statistics relating to the United States trade policy. We ran a record 1-month trade deficit for May. We ran a near record with Mexico, over $1.5 billion. We are headed toward a $20 billion trade deficit with Mexico; $3.5 billion with that great bastion of democracy and capitalism, the People's Republic of China, a known terrorist nation, oppressing its own people, putting United States citizens in jail, dealing in nuclear weapons, and yet they still have most-favored-nation status.

What is the response of the new Republican majority, the Republican revolution, those who were going to bring change to Washington, DC? Do they defy the established order, the order that has been imposed in Washington, DC, by Wall Street and the multinational corporations? Are they calling for a change in this disastrous trade policy?

We are headed toward a $170 billion trade deficit this year. If we use our own Commerce Department's statistics, that would mean over 3 million American manufacturing, family-wage jobs will be exported from this country due to unfair foreign trade practices.

True, the Clinton White House, Mickey Kantor, our Special Trade Representative, are complicit in this, also. In fact, they did something probably George Bush could not have done had he been reelected, that is, getting both NAFTA and GATT through the House of Representatives and signed into law. So we have complicity at the top on both sides, a complicity of silence.

So much of the campaign contributions flow from the corporations that are doing so well, and so few of the campaign contributions flow from the workers and the communities that are being devastated by this trade policy, this export of technology, this export of jobs. It is time to admit that American trade policy is a failure. How can anybody look at a string of annual growing deficits in trade, every billion dollars meaning 20,000 lost jobs here in the United States of America and say this policy is successful?

There is only one major power in the world we run a trade surplus with, and that is Great Britain, because they are crazier about following the edicts of an economist that has been dead more than 200 years, Adam Smith, than we are. They have opened more of their markets and their country to unfair trading practices than even the United States of America has done.

Every other one of our major industry trading partners and our not-so-major trading partners, like Mexico, have figured it out. That is, that you should have a trade policy that creates wealth in your country, you should have a trade policy that raises wages in your country, you should have a trade policy that creates jobs in your country, you should have a trade policy set up so that you do not run annual account deficits to the tune of $160 billion which puts your currency at risk in the world markets.

All of our trading partners have figured that out. The Japanese laugh at the things we do, the so-called concessions that the Clinton administration got on auto parts. Spark plugs still cost $8 in Japan, and the same spark plug produced in the United States of America still costs $1, and you cannot get that $1 spark plug into Japan or into a Japanese engine because they say theirs are different.

They are not any different. What is different is they are protecting their industry, they are protecting their jobs, and we have done nothing to open those markets. The statistics we got today point to the further failure of that policy.

It is time to begin thinking about a new trade policy for this country. I am urging my colleagues to look at and hopefully sign a letter which I am writing to the President, the Speaker of the House, the majority leader of the Senate and the minority leaders on both sides asking that we name a bipartisan commission to review and investigate our trade policy and formulate a policy that make sense as we guide this country into the next century.

Mr. Speaker, we cannot go on forever piling $160 billion trade deficit on $160 billion trade deficit any more than we can go on piling $200 billion national deficit on deficit year in and year out. You have got to get your trade in balance the same way you have got to get your Federal budget in balance. It is time for a change. I urge Members to join me in this effort.

GOP POSTER

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Illinois [Mr. RUSH] is recognized for 5 minutes.

Mr. RUSH. Mr. Speaker, I rise today as a proud member of a body that was created to allow for differences of opinion and stands for the kind of bipartisan debate and discussion that provides for true representation of all Americans.

It is with great sadness and considerable regret that I learned that my Republican colleagues believe that, in this great House, there is room only for their political opinions and their lockstep ideology—an ideology that smacks of racism, antisemitism, and sexism.

And, as evident by the latest GOP fundraising tactic—a liberals "Wanted" poster—this is an ideology that provokes violence and the worst possible kind of hatred.

The Republican Party clearly knows no bounds when it eagerly targets lawmakers like myself and likens us to outlaws and criminals.

How shameful, that in the age of terrorism that has already struck in Oklahoma City and has made a virtual fortress out of the Nation's Capitol, the Republicans have made my picture into a virtual bull's eye that dares any right wing extremist to take aim and to shoot.

I will not allow a bounty to be placed on my head or on the heads of other black, Jewish, hispanic, or female Members of Congress. Those of us whose faces are plastered on the GOP's Wanted poster speak for thousands of Americans who have sent us to these hallowed halls so that their voices will be heard.

And even a gimmick as dirty and as sinister as this poster will not silence our voices.

We will continue to speak out loudly and clearly as the members of the loyal opposition who dare to take issue with Republican cuts in medicare; with Republican proposals to do away with student aid; and with a Republican agenda that seeks to disenfranchise all but the handful of rich fat cats that fill the Republican coffers.

It is with bitter irony that, after spending much of my lifetime as a target of the FBI, the Chicago police department, and others, my face appears on a Wanted poster only after becoming a Member of Congress. And the individuals who put me there are my own colleagues.

I and the American people have seen these Republican scare and divide tactics before. I well remember the days of Watergate and Richard Nixon's enemies list. Now it looks like NEWT GINGRICH and the Republican Party has their own hit list too.

Those of us who are targets of this cheap shot are ready to fight back.

But, ours will be a fair fight.

One that is based on the issues that the American citizens who sent us here care about.

Mr. Speaker, I include for the RECORD an editorial from the Buffalo News, as follows:

[From the Buffalo News, July 16, 1995]

NASTY POLITICS FROM PAXON—POSTER TARGETS MINORITIES BUT DEMEANS GOP

The National Republican campaign machine, with a crude "wanted" poster, has identified itself with racial politics again. This time it's a Western New Yorker, Rep. Bill Paxon, coming up with a gimmick that puts an ethnic face on ideas that should be debated on their own merits.

The disproportionate loading of the now-infamous poster with the faces of African-American, Jewish and female members of Congress is hard to read as inadvertent.

The poster says "liberal Democrats" who voted against at least seven out of 10 provisions of the Contract With America are its target. But the pictures below show a group that others might have chosen as demonstrating a positive picture of the diversity of this country—a diversity that is still all too poorly represented in the ranks of Congress.

By Paxon's own statement, more than 170 Democrats "failed the Contract With America test." Yet, of the 28 members pictured, 10 are black and eight are Jewish. Nine also are female.

Those numbers in no way reflect the makeup of the Democratic caucus or Democratic opposition to the contract's regressive, counterproductive provisions.

The poster was released as part of a fundraising letter by the National Republican Congressional Committee. As head of the committee, Paxon must take full responsibility for its divisive tenor. The Republicans should have learned their lesson after the infamous Willie Horton campaign in 1988 linked the Democratic Party to minorities in a way calculated to frighten white voters. But here, the pattern seems to be repeated.

Paxon, who represents a carefully gerrymandered safe Republican district stretching from Amherst east to Auburn, has little to lose personally no matter what campaign tactics he becomes identified with. But the nation loses when politics sinks to a level that panders to ethnic fears.

The selection of pictures says to the white male voters who increasingly make up the Republican base that the GOP's enemies are the people who don't look like them.

That, in turn, is likely to appeal to the anger many on the economic margin already feel over declining economic opportunities that Republicans want to blame on blacks and women trying to penetrate the job markets.

The incident doesn't say much for Paxon's confidence in the Republican platform or the party's ideology. The Republicans should learn to rely on the power of their ideas to win voters' support.

Paxon and the other party honchos are defending their poster. Instead, they should be acknowledging it as a mistake and backing away from what it implies as fast as they can move.

Ms. ESHOO. Mr. Speaker, I rise to speak out on something which never should have seen the light of day in our political process—a new low in tactics to raise money to win elections.

As part of a recent fund raising drive, the National Republican Congressional Committee has issued a special "wanted" poster. This poster features pictures of 28 Democrats who it claims to be targeting for defeat because they voted against the Contract With America 70 percent of the time.

Ninety Democrats have similar voting records, yet the Republican wanted poster consists almost entirely of people who are seldom associated with Republican fund raising lists—African-Americans, women, Jewish-Americans, and Hispanics. In fact, only 6 of the 28 targeted Democrats are white men who are not Jewish.

Despite Republican protests to the contrary, this wanted poster is less about raising money than it is about raising the ugly specter of racism, sexism, and antisemitism.

It's all about appealing to the most base elements of human nature. It's all about degrading the opposition with thinly veiled personal attacks. It's all about manipulating the political forces of division and hate.

This wanted poster illustrates how far the party of Lincoln has fallen.

Today's Republican Party has been captured by the forces of extremism and intolerance. Moderate Republican voices are being drowned out by a chorus of right-wing ideologues who are far outside the mainstream of American thinking.

This wanted poster sends several messages.

It says that while Pat Buchanan and David Duke may have failed in their efforts to win national public office, they have won the hearts and minds of the national Republican Party.

It says that Republicans would rather run with Willie Horton than run on the issues.

It says that Republicans are less concerned about controlling illegal immigration than they are about whipping up fear over Hispanics increasing their presence in our communities.

It says that women who stand up for the right to choose should sit down and be silent.

It says that the gay-baiting and bashing openly practiced by Republican leaders in the House and Senate is a deliberate policy, not a slip of the tongue.

Finally, it says that Republicans are willing to inflame the anti-Government sentiment which contributed to the Oklahoma City tragedy instead of reminding people that public service is a noble calling.

The Republican wanted poster demonstrates a dark side of the majority party and their politics. These below-the-belt tactics have no place in this Nation and its body politic.

I think the Republican Party needs a new wanted poster, and here's what it should say: "Wanted—Tolerance. Civility. Moderation. Inclusion. If found, please apply to the Republican National Congressional Committee for reward."

Mr. Speaker, bigotry belongs in the trash bin of American history, not in the envelopes of Republican fund raising letters.

It's time for those who instigated this effort to recognize their mistake and apologize to the people who they attacked and withdraw this shameful effort.

It's time for them to pledge to the American people that it will never happen again.

And it's time for them to heed the words of President George Washington who wrote that our Government should be one which "* * * gives bigotry no sanction; to persecution no assistance."

AUDIT OF THE HOUSE OF REPRESENTATIVES

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Kansas [Mr. BROWNBACK] is recognized for 5 minutes.

Mr. BROWNBACK. Mr. Speaker, on the opening day of this Congress, January 4, there were a number of needed reforms that were passed in this institution. One was an audit of the House of Representatives. In looking back on that period of time, we were talking then about, well, when was the last time that the institution of the House of Representatives, the People's House, had been audited?

We looked back and we looked back and we looked back and found out it had never been audited before ever in the history of the institution. It is about time, and that audit was released today. A number of us as freshmen Members coming into this body had asked for and pushed for reforms of Congress, that the Congress itself had grown imperial and aloof.

One of those things that it had failed to have done was audit itself. It asked for that of all sorts of other institutions, both public and private, but not of itself.

□ 1945

Mr. Speaker, the closet doors were thrown open today with the audit coming forth, and it revealed many problems of the House of Representatives and skeletons in the closet, such as the recordkeeping was so shoddy and haphazard that our auditor would not suggest any definite conclusion on the reliability of the financial statements. Oversight was so flexible as to be nonexistent. It was anything goes for some Members in the past.

Mr. Speaker, computing services in the House were woefully inadequate for modern security needs, and accounting practices were, in effect, run on an inappropriate cash basis instead of an accrual accounting basis to account for debts and earnings.

Congress must not operate in the dark. A regular, independent audit coupled with the other reforms of the institution will keep this place honest, and we will begin to rebuild the people's faith in this body.

As much as I am disgusted by the results of the audit, I am proud to have carried the bill authorizing the audit to this floor in January. It was a good way to begin the year. The House audit is the first and only comprehensive and independent audit of House operations, something inconceivable in the recent past.

We are committed to regular audits in the future, just like any other institution. It is embarrassing to realize that the executive branch instituted regular audits the year I was born.

Congress in the past has betrayed the public trust. Now we have to ask, and we must ask, to get that public trust back and to earn it back. An audit is one way of doing that. We must push reforms to the next level. We have already instituted a number of the recommendations made by the Price Waterhouse firm that did the auditing. We need to evaluate the remainder of those.

This audit is one of the best indications of real change in the Congress. People sent us here to change government, and we are doing it.

With this audit, Congress has taken steps toward credibility with the American people. Congress must operate in the open. As we legislate openness and accountability for private companies and public institutions, we have to obey these principles ourselves. The old Congress didn't obey these rules.

The auditors found in the last Congress a shocking disregard for financial control, for institutional management, and just pure common sense.

For example, the audit showed that some of the Members overspent their allowances for staff salaries, office expenses, and official mail. It showed Members being paid twice for their travel expenses. If Congress were a business, an auto repair shop, a farm, a bank, well, by the auditors' own statements, they would not be able to get a loan and they would be bankrupt. If it was a public institution, it would have been violating laws since 1990.

It is time that these practices end, and today we finally had the audit that came forward with the information to open the closet doors. This is only a start. We have to continue these reforms. We have to continue to open this body up to the people so that they can look and see and hear and learn what all is taking place.

This is taxpayer dollars, and this is how the people's decisions are being made. We need to continue to open that up. I am very proud that this first big step was taken today, to open up, and now we have to continue to push this forward. We have to aggressively pursue those things that are put forward in this audit to be able to clean up the People's House.

Mr. Speaker, I am happy to hear of this audit coming forward, and I think the American people will be most interested in its findings.

ADMINISTRATION ATTEMPTS TO DESTROY TOBACCO INDUSTRY

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from North Carolina [Mr. JONES] is recognized for 5 minutes.

Mr. JONES. Mr. Speaker, it is clear that Bill Clinton and Dr. Kessler at the FDA did not get the message of the November 8th elections.

The American people do not want more regulations and more government in their lives. They want far less intrusion and far less regulation.

This latest attempt by the administration to destroy the tobacco industry, through a regulatory power grab, is unprecedented and unwarranted.

It is ironic to me, that the Clinton administration wants to classify nicotine as a drug. I think the administration should spend their time and money fighting the illegal drug trade, that is destroying this country instead of being so concerned about a legal product which has been used since the founding of this country.

The Federal Government has consistently used tobacco as their whipping boy, first trying to finance their big government health care plan on the backs of tobacco and now by trying to regulate them to death.

Let me make it clear, no tobacco farmer or tobacco company is encouraging young people to smoke. As a matter of fact the tobacco industry has established programs to encourage young people not to smoke. In many States, it is illegal to sell cigarettes to minors.

The Clinton administration view is that they know what is best for the American people. They believe that Government has an obligation to be our big brother.

This is big brother at its worst. What next, prohibition of alcohol, caffeine, chocolate?

Ladies and gentlemen, adults over 18 make responsible decisions on caffeine, tobacco, and alcohol every day.

The Government has no business in those decisions and the FDA and Commissioner have no authority to classify nicotine as a drug.

The courts have consistently stated that the FDA has no authority to regulate cigarettes and it is time that Kessler end this witch hunt on the tobacco industry and the tobacco farmer.

If Bill Clinton and Dr. Kessler had ever held a real job, they would understand the struggle that family farmers face.

They would understand that the tobacco farmer has to fight the elements and that most farmers work within a small financial margin.

Congress has already levied numerous taxes on tobacco making the farmers' life even more difficult and his ability to make a profit even slimmer.

Again, I call on the administration to stop the witch hunt of the tobacco industry and tobacco farmers and get on with the business of downsizing Government, reducing the debt, and implementing the mandate of the November 8th elections.

FIRST AUDIT EVER OF THE PEOPLE'S HOUSE

The SPEAKER pro tempore (Mr. MCINNIS). Under a previous order of the House, the gentleman from Arizona [Mr. HAYWORTH] is recognized for 5 minutes.

Mr. HAYWORTH. Mr. Speaker, when I return home to the Sixth District of Arizona and visit with my constituents and talk to them about various issues confronting this body and this Nation, the question always arises: What are you in the Congress doing to take the lead? What differences have you made by example?

Today in this Congress, we reaffirm one of those examples with the announcement of the privately conducted audit of this institution, the first ever, the first in its history finally being completed.

Unfortunately, some of the worst fears of the American people have been confirmed with this report. Because you see, Price Waterhouse, the independent accounting firm with whom we contracted to do the audit, said that the records were so poorly kept that they could not even make an accurate assessment of the problem. What a terrible indictment of the old order, that this, the people's House, had fallen into such disrepair in terms of balancing the ledger books, in terms of keeping track of your money, that the independent accounting firm could not even issue any type of evaluation or accurate opinion. In accounting parlance the worst possible evaluation.

The audit is rife with examples. The House Finance Office, an office which processes $700 million a year in salary and expense checks using handwritten ledgers to keep records. Here in the information age, as we brought the House of Representatives on line and on the Internet through Thomas, as we look to the technological advancements in the computer age, and still in this institution handwritten records. The opportunities for abuse were plentiful. The audit notes bills were paid late, appropriations limits ignored. Little accounting for the property and equipment belonging to this, the people's House, and with the computer program and the computer system that does exist, significant security problems.

Now, be forewarned: It is almost impossible in the course of 6 or 7 months to take this institution and automatically put it on the right track. Certainly more remains to be done, and there may even be a period of time here where we are trying to move from these archaic, unrealistic accounting practices to a fair, honest, and open system. The hard work may still be ahead of us in correcting this as an institution. But I noted with great satisfaction that Members on both sides of the aisle stepped up unanimously I believe, if my math is correct and my recollection correct, to vote for a resolution approving of this audit and carrying on the business at hand.

This morning, during the course of 1-minutes, one speaker had the audacity to pooh-pooh, I guess, just put down the audit process. I note with interest the Member voted for this resolution. I appreciate his commitment there. But the fact is that working together, Members of both parties must remake this institution in the image of the American people. Mr. Speaker, we are committed to that.

THE REPUBLICAN PARTY'S WANTED POSTER

The SPEAKER pro tempore. Under a previous order of the House, the gentlewoman from Georgia [Ms. MCKINNEY] is recognized for 5 minutes.

Ms. MCKINNEY. Mr. Speaker, 30 years ago, a little bit more than 30 years ago, the Republican Party put out a wanted poster, and the day after this poster was put out, our beloved President was assassinated.

Well, old habits die hard. And so now we find that the Republican Party has once again put out a wanted poster. Now, what is it that they expect to happen to the good people who are on this wanted poster, people who are elected by 580,000 people sent here to do a job, and whose main business is to take care of their constituents back home and to make sure that this is indeed a kinder and gentler Nation. But when you put on a wanted poster black folks, women, Latinos, certain white males, and Jews, and you say that these are people who are aiding and abetting President Bill Clinton's big government, what are you really saying? What you are saying to me, it seems, is that there are too many black people in Congress, there are too many Jews in Congress.

□ 2000

There are too many women out of the house, in this House, making public policy. And what is the result of this kind of racist, anti-Semitic, divisive politics? Something happens in the heartland of America, and I can tell you what happens in the heartland of America. I have received hate mail.

This is just a sample of the hate mail that I receive: "Save America. Nigger genocide." Some people do not even have any feelings. They will sign their name. This one says, "You have a hell of a nerve trying to tell the Supreme Court what they can and cannot do. You lousy niggers." I have another one that says, "Definition of a nigger: An extremely vile and heinous, fecal-colored, wild animal that inhabits America's concrete jungles and walks upright on its hind legs, attempting to mimic human behavior." Then another one here: "Niggers destroy America."

It seems that in the quiet of their homes, people find some kind of pleasure in using the word "nigger." Well, you know, I have heard it all my life. It does not bother me. But some people get off using that word "nigger." That is what happens when you try and divide a nation. That is what happens when you try and divide a country. And that is what happens when you put politics above all else and the bottom line above all else and above all people.

American people are smart, though, and there is hope.

I just received this letter from a young woman in Gainesville, FL. She said, "Dear Congresswoman McKinney: I watched you this morning in regards to the idiotic poster the Republican party distributed labeled 'Wanted liberals.' I realize your office has been under attack recently, due to the Supreme Court decision on redistricting and this most recent incident. As a young white female with all of the advantages of growing up in the upper middle-class neighborhood of Gwinnett County, GA, allow me to be the first to say thank you for speaking the truth. The forces trying to tear you apart are the same people who say that they are trying to protect what I have. I have a lovely home, I have a bright future, and I have a blessed life. I do not need protection for what I have. I need to know that other people will grant the opportunity to achieve what I take for granted."

Mr. Speaker, I think the people get the point.

HEARINGS CONCERNING THE BRANCH DAVIDIAN/WACO AFFAIR

The SPEAKER pro tempore (Mr. MCINNIS). Under a previous order of the House, the gentleman from Tennessee [Mr. BRYANT] is recognized for 5 minutes.

Mr. BRYANT of Tennessee. Mr. Speaker, tomorrow we begin hearings in this House on the 1993 Waco incident.

Mr. Speaker, ours is a Government of laws, not men. In order to preserve the rules of law, our citizens must be assured that their government, its institutions, its officials, and its law enforcement agents are accountable. Accountability is the key to ensuring public confidence in the system in order for all of us to live well. Confidence in one's government is essential to the long-term survival of that government and to the peaceful life of that government's citizens.

The abuse of power threatens any society. However, a government of laws gives stability to a nation, a state, and a community. The abuse of power is tyranny.

Mr. Speaker, when a sizable portion of our citizens become concerned, even fearful, over a perceived lack of accountability by Federal law enforcement, the time has come that we need to clear the air.

These hearings are intended to be a part, to demonstrate how our system works. The members of these investigating committees seek to ascertain the truth. We seek to restore the confidence of the American people in their government. We seek to discover and explore the events leading up to and including what many consider excessive force by law enforcement. We seek a more complete revelation of the details of the Waco events.

The goal of these hearings is to discover the truth, to seek the answers to unanswered questions that linger, that even have festered since earlier hearings.

The surviving Davidians have been tried in court, which yielded new information and mixed verdicts. With respect to individuals involved on all sides, let the chips fall where they may. Those responsible for breaches of law or policy must be held accountable for their abuses of power.

Only by finding the truth can accountability be secured.

If abuses of the Government power in fact occurred, then we must take what we learn at these hearings and move forward with steps that insure such abuses of Government power will not occur again.

Mr. Speaker, I believe Government has its proper roles. While we do not need or want anarchy, we do not want unlimited Government either, nor do we want agents who breach our constitutional rights or God-given rights.

As a former young State's attorney and Federal prosecutor, I worked closely with Federal law enforcement personnel at all levels of government. I believe the majority of enforcement personnel are honorable and only want to do what is legal and just. These hearings are not intended to bash any law enforcement in general or any agency in particular; at least, that is not my purpose in participating in these hearings.

Individuals make decisions, and individuals should bear responsibility for consequences of their actions. That goes for criminal offenders and those in fiduciary roles of Government.

In the bigger picture, it is my hope these hearings will help to restore the American people's confidence in their Federal Government. This country needs a healing, a renewal.

I look forward to these hearings and to the healing effect that is so needed in this great Nation. Let us do our part to restore the rule of law and the preservation of liberty.

THE TRAGIC CONSEQUENCES OF THE "WANTED" POSTER

The SPEAKER pro tempore. Under a previous order of the House, the gentlewoman from Florida [Mrs. MEEK] is recognized for 5 minutes.

Mrs. MEEK of Florida. Mr. Speaker, I am one of 28 infamous, so-called infamous, people that appeared on the fundraising poster that was put out by Mr. BILL PAXON of the Republican fundraising committee.

It is respectable to be a Republican. There are many good ones who seek only good for all people. There are others who feel that it is not respectable or to be respected to be racist or sexist.

It is truly disgusting what some people would do, Mr. Speaker, to raise political money. Why, in this period of fear and discontent, uncertainty and danger, when the country is still reeling from the Oklahoma City bombing, the unabolished threats and lawless, paranoid, violent people who can only express themselves by killing other people of defaming other people are inflicting pain and suffering? Why in this unsettled and unsettling climate, Mr. Speaker, would someone put another person's picture on a wanted poster that looks like something the FBI would put in a post office?

This kind of thing can bring fear, particularly to a woman's heart who has to walk many times in dark places and dark corners of this country.

The reason why? The National Republican Congressional Committee, under Mr. PAXON, tells us it is to raise money. I do not think that is a good reason, Mr. Speaker. I guess he has concluded that hate sells.

Hate does not sell in this country, particularly when they are trying to separate God's people, those who are black, those who are white, those who are Jewish, those who are female. That is not the way that our Maker would have us go. So hate does not sell.

If that is the case, then I feel sorry for those who feel that that is so. These people feel that it is OK to feed hate and hysteria. They do not mind advancing their cause by making enemies of those who have honest disagreements with them. Yes, I did not vote for the Contract With America. I did not feel that I wanted to vote for many of the concepts of the contract. Therefore, I voted against it.

I was told that was the reason why I was placed on the poster. That could not be further from the truth, in that there were 70 or 80 other people who voted the same way as I did. Yet their faces did not appear on the contract.

What seemed to be the target on the contract, on the poster, were people of African-American descent, people of Jewish faith, and white women. Those are the people who appeared on this poster.

But I want to say that the Republican Party should repudiate the likes of the kinds of ethics and techniques that Mr. PAXON has used. He has not set a great example for this party. This was the party of Lincoln. This was the party that freed the slaves. So certainly this is not a good way to depict what their party stands for.

I have been in the public a long time. I have been through the lynching period. I have been through the civil rights period. I have been through all of these periods of racial hate. But I had to come to the great Congress of the United States to have the kind of hate poster and the hate mail which I have received here.

Do you know why? This kind of thing, coming from the top of the party, sets a climate of lawlessness and hate, and it provides the atmosphere and the climate for people who want to divide this country, to be able to write us here in Congress the kinds of hate mail and to give us the hate kinds of calls, using our ethnicity as a cloak to form their hate.

This wanted poster is not a healthy sign. It is a sick sign. It is as much a reflection of our times as it is a product of people who think in a sick way.

I have got my own wanted poster, Mr. Speaker, I want decent schools for the people in this country, both black and white and otherwise, and I want better education and training for young people. I want a way the senior citizens can get help in their old age and get long-term care. I want that, Mr. Speaker. I want to make sure that parents who buy food for their children, that the meat will have the proper inspection so they can have good health. I want good health for all people of America. I do not want to think this is a color-blind society. I know it is not. But I want everything good for everybody.

I want to assure these older Americans that they will not go bankrupt if they get sick. My wanted poster is out there, Mr. Speaker, My voting record attests to that. It is composed of goals that all of us should work for, not people to search, target, and destroy, because of hateful literature.

I thought that the Republican Party had come much further than Mr. PAXON has taken them, but I guess he wants to revive the old Nixon enemies hit list.

I call on the Republicans of good faith to repudiate what Mr. PAXON has done.

I have all kinds of hate mail. It is so much of it that I just make one or two excerpts from it to show you the kind of things that come from the kinds of things that are happening in the party now, and it is throwing a very bad light on all the rest of us. "Sit down and shut up," as if I were not elected by the people of Florida. They use the "b" word throughout much of this stuff. I cannot mention it in the hallowed hall of this House. They are saying;

> We are taking our Nation. We took it with force of arms, defended it with force of arms, and we will take it back with force of arms. You and your filthy species are nothing.

I say to them, my father and my forefathers helped to build this country. I will not take a back seat to anyone. I will continue to voice my opinion on this floor of this House.

They continue to say:

> "You are primitive, childish, selfish, petulant, demanding, dependent, arrogant, evil, treacherous creatures regressing to your natural state, Rwanda, Biafra, Somalia, Liberia, South Africa, Mozambique, Ethiopia, Los Angeles, New York, Washington, Atlanta, New Orleans, Miami, that is your legacy. You will pay for what you have done. We are enemies forever. No way around this fact. We cannot and will not coexist with you animals.

I want to say to you, Mr. Speaker, and the rest of this House and the rest of this country, we are God's children like everyone else. We do not have to tolerate this kind of bad literature that comes because it is stirred by the hatred from that poster.

ORDER OF BUSINESS

Mrs. CLAYTON. Mr. Speaker, I ask unanimous consent to address the House for 5 minutes.

The SPEAKER pro tempore. Is there objection to the request of the gentlewoman from North Carolina?

Mr. KINGSTON. Reserving the right to object, Mr. Speaker, would the gentlewoman tell us how many other unanimous consent orders there may be tonight?

Mrs. CLAYTON. I would not know. I am only asking for one myself.

Mr. KINGSTON. Mr. Speaker, will the gentlewoman be the last one?

Mrs. CLAYTON. Mr. Speaker, there is one other.

Mr. KINGSTON. Mr. Speaker, I object unless we can get a commitment that this will be the last one, simply because we have the first hour. We would be happy to yield some time in the spirit of dialog, but inasmuch as this is an orchestrated attempt, I do not know that we need to continue.

Mrs. CLAYTON. Mr. Speaker, we are the last two.

Mr. KINGSTON. Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentlewoman from North Carolina?

There was no objection.

□ 2015

THE MOST WANTED POSTER

The SPEAKER pro tempore. (Mr. MCINNIS). Under a previous order of the House, the gentlewoman from North Carolina [Mrs. CLAYTON] is recognized for 5 minutes.

Mrs. CLAYTON. Mr. Speaker, recently certain elements of the Republican Party published a so-called "Wanted" poster, wherein twenty-eight Democratic Members of Congress were identified as targets.

This callous, insensitive, and abhorrent act is offensive, repulsive, and ugly.

I take this opportunity to use these strong terms because the "Wanted" poster targeted a particular group of Members.

Twenty-two of the twenty-eight Democrats are African-American, Hispanic, Jewish or female.

Apart from those classes of individuals, there was no other rhyme, reason or rational relationship to reasonably put these Members in a group—refer to them as "Wanted"—and lace the poster with language such as aiding and abetting—suggesting that these public servants should be associated with criminal allegations.

I was not on the list, Mr. Speaker, but this act was insulting to me as an American and should be insulting to every American who favors freedom, democracy, and the way we function as a Government and as a people.

More than an affront, this act was a very sad deed.

Congressman PAXON claimed that the faces on the "Wanted" poster were chosen because of their voting records.

Another spokesperson claimed that the faces were chosen because of their geographic location.

Still another spokesperson claimed the faces were chosen because they were from areas deemed winnable by Republican strategists.

The fact is that it would appear that little or no thought was given to this disgusting act.

Perhaps this act was driven by the same attitude that created Willie Horton during a recent Presidential campaign.

The fact is that among the faces on the "Wanted" poster are African-Americans, Hispanics, Jewish Americans and women who won their last elections with as much as three-fourths of the vote in their districts.

Few of the faces represent districts that could even remotely be considered politically vulnerable.

This poster appealed to the worst kind of sentiment we can imagine. It appealed to emotions that brought us bull dogs and billy clubs in past years.

And, it appealed to emotions that have brought us Oklahoma City and those organized band of thugs whose purpose is to deny to some the rights that they demand for themselves.

Again, Mr. Speaker, these are strong words that I use—words that I do not ordinarily use on the floor of the House.

But, unless we speak out against this kind of dangerous and demeaning act, none of us will be able to enjoy the fruits of this democracy.

I condemn this condemnable act in the strongest of terms.

WE WANT TO MAKE MEDICARE A BETTER SYSTEM

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Oklahoma [Mr. WATTS] is recognized for 5 minutes.

Mr. WATTS of Oklahoma. Mr. Speaker, we are debating here on the floor of the House or we are having discussion going on concerning Medicare, and I have got a couple of charts here that I want to share.

I want to read, my colleagues, a quote. Today Medicaid and Medicare are going up at three times the rate of inflation. We propose to let it go up at two times the rate of inflation, not three times the rate of inflation. But this quote says the person that made this statement said that we are proposing to let it go up at two times the rate of inflation rather than three times the rate of inflation. That is not a Medicare or Medicaid cut. So, when you hear all this business about cuts, let me caution you that that is not what is going on. We are going to have increases in Medicare and Medicaid and a reduction in the rate of growth.

President Clinton, 1993.

I find that it is interesting, Mr. Speaker, that when we talk about Medicare and Medicaid it seems as though when Republicans talk about Medicaid and Medicare and we are slowing down the rate of growth, it seems that that is a cut. However, when the President talks about slowing down the growth in Medicare or Medicaid, then that seems to be an increase.

I want to share with you a chart here from 1995 through the year 2002 and just wanted to illustrate what the dollar figures are concerning the Medicare spending and the plan that is before America. In 1995, we will spend $178.2 billion. Now, Mr. Speaker, that is per beneficiary, per month, about $401. In 1996, we will spend 191 billion; 1997, 201.8 billion; 1998, 213.8 billion; 19999, 226.3 billion; the year 2000, 238.9 billion; the year 2001, 255.4 billion; and in the year 2002, 274.1 billion.

Now the per beneficiary/per month, dollar amount goes from $401 a month in the year 1995 to the year 2002, going to $561 a month per beneficiary, and I ask the American people, "Where is the cut?"

Mr. Speaker, the Medicare Board of Trustees, and three of these trustees are—six total—three of these trustees were appointed by the President of the United States, his current administration, and those six trustees signed off on the annual report of the Medicare Board of Trustees report that said that by the year 1996 that Medicare would be broken, by the year 2002 Medicare would be bankrupt, if we do not deal with it.

Now that report was consistent in 1994, and it is consistent in 1995. That was the conclusion that, if we do not do something about Medicare, that it would be bankrupt by the year 2002.

So, in the President's plan he refused to deal with Medicare. The Republicans we are choosing to deal with it so we can save Medicare for our children, for our children's children, for future generations. We know that there are people today that depend on Medicare, and, if we let this go unnoticed and do not choose to deal with this, we will have many, many people in this country, especially the senior citizens, that will be crippled tremendously if we do nothing about this.

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

Mr. WATTS of Oklahoma. I yield to the gentleman from Pennsylvania.

Mr. GEKAS. Mr. Speaker, I am very happy to stand here and to commend the gentleman for bringing to the attention of the American people the statistics that you have offered here this evening. We have been struggling for a long time, and you are helping us now, struggling to get the message across to people to be, contrary to the propaganda that we have heard about the cuts in Medicare and Medicaid, and the gentleman has gone a long way in dispelling the doubts that are out in the American public. I wanted to commend him for that.

Mr. WATTS of Oklahoma. There is a hundred billion dollars in the Medicare system that was spent in the year 1994, and 44 billion of that was fraud. We want to cut the fraud. We want to made Medicare a better system. We want to preserve it for our children, our children's children, for the future of America.

THE STATUS OF THE MEDICARE PROGRAM IN THE UNITED STATES

The SPEAKER pro tempore. Under the Speaker's announced policy of May 12, 1995, the gentleman from Ohio [Mr. HOKE] is recognized for 40 minutes and the gentleman from Florida [Mr. BILIRAKIS] will be recognized for 20 minutes as the designees of the majority leader.

Mr. HOKE. Mr. Speaker, tonight during the time that we have allotted in the leadership hour for special orders I have asked some of my colleagues to help me talk about the status of the Medicare program in the United States and to try to elucidate for the American people exactly where we are at, where we are going, what our responsibilities are, and how we are going to meet those responsibilities, and I am going to, before I yield any time to my good friends, I want to read a little bit from this report.

This report, Mr. Speaker, is called the Status of the Social Security and Medicare Programs. It is a summary of the 1995 annual reports of the Social Security and Medicare Board of Trustees. It is a very important report because what it does is it forms the basis of all the problems that we have got with Medicare in the U.S., and frankly I urge all Americans to call their representatives at (202) 224-3121 and ask for a copy of this report. Particularly senior citizens will be interested in this.

Let me read to you a little bit about it. It is called A Message to the Public. The Federal Hospital Insurance HI Trust Fund which pays inpatient hospital expenses will be able to pay benefits for only about 7 years and is severely out of financial balance in the long range. The trustees believe that prompt, effective and decisive action is necessary. This is signed by six trustees: Robert Rubin, Secretary of the Treasury; Robert Reich, Secretary of Labor; Donna Shalala, Secretary of Health and Human Services; Shirley Chader, the Commissioner of Social Security; Stanford Ross and David Walker, both trustees.

Now what are the trust funds? There are four trust funds that have been established by law to finance Social Security and Medicare. For Medicare, the Hospital Insurance Trust Fund HI pays for hospital and related care. This is often called part A, for people that are over 65 years old and workers who are disabled. The Federal Supplementary Medical Insurance Trust Fund; this is the SMI Fund, pays for physician and outpatient services, often called part B, for people that are 65 and over and workers who are disabled.

Who exactly are the board of trustees? These are six people who serve as trustees on the Social Security and Medicare Boards, Secretary of the Treasury, Secretary of Labor, Secretary of Health and Human Services, the Commissioner of Social Security and two members appointed by the President and confirmed by the Senate to represent the public. The Boards are required by law to report to the Congress each year on the operation of the trust funds during the preceding years and the projected financial status for future years.

So this report is all about the financial status of Medicare in the United States of America in the future, and, as you will see, they have various scenarios that they are required to follow to let us know exactly what the status will be.

How are the trust funds financed? Well, the trust funds are financed in different ways, but the HI Fund, the hospital insurance fund that is part A, is financed by a tax on earnings. It is unlimited. Beginning with 1994 the taxes are paid on total earnings with no ceiling at 1.45 percent. The part B program is financed in a way that is similar to yearly renewable term insurance, health term insurance. Participants pay premiums that in 1994 covered about 30 percent of the costs. That means the other 70 percent of the cost is covered by the taxpayers out of the general fund of the United States.

□ 2030

The rest is paid for by the Federal Government.

The 1995 monthly premium is $46.10 per month.

How is the financial status of the trust funds tested? Several tests, based on the intermediate assumptions, are used to review the financial status of the trust funds. There is a short-range test, a long-range test, and a future outlook test.

And, finally, although the trust fund ratio line for the part A fund is over the 100 percent level at the beginning of the 10-year period, it falls below that level in 1995, and, as a result, it does not meet the short-range test.

Under the intermediate assumptions, the projected year of exhaustion for the HI Trust Fund is 2002. Under more adverse conditions, as in the high-cost alternative, it could be as soon as 2001.

The cost rate for the part A trust fund is higher than the income rate. We are spending more than we are taking in by rapidly growing amounts throughout the 75-year projection period, and by the end of the period the cost rate is projected to be roughly three times greater than the income rate.

The conclusion is that the status of the Medicare program can be summarized by looking at the results of the tests used to evaluate the financial status of the trust funds and the number of years before each trust fund is expected to be exhausted under the intermediate assumptions.

Here are the conclusions, and my colleagues will not be able to see this, but what they say is that the Social Security Trust Fund will not be exhausted for 36 years. At that point, it will be exhausted, in 36 years; the Disability Insurance Trust Fund, in 21 years; the combined trust funds in 35 years of those two. But the Hospital Insurance, the Part A Trust Fund, will be exhausted in seven years.

It will be able—and here are the written conclusions. "The Part A trust fund will be able to pay benefits for only about 7 years and is severely out of actuarial balance. Because of the magnitude of the projected actuarial deficit in the program and the high probability that the trust fund will be exhausted just after the turn of the century, the trustees urge the Congress to take additional actions designed to control Part A program costs and to address the projected financial imbalance in both the short range and the long range."

This is the section that is called, "A Message from the Public Trustees: The Need for Action."

"During the past 5 years, there has been a trend of deterioration in the long-range financial condition of the Medicare programs and an acceleration in the projected dates of exhaustion in the related trust funds, but to some extent the increasingly adverse projections have come from unforeseen events and from the absence of prompt action in response to clear warnings that changes are necessary.

"These adverse trends can be expected to continue and indicate the possibility of a future retirement crisis as the U.S. population begins to age rapidly. We urge that concerted action be taken promptly to address the critical public policy issues raised by the financing projections for these programs.

"We feel strongly that comprehensive Medicare reforms should be undertaken to make this program financially sound now and over the long term."

This is from three members of the President's Cabinet, the Commissioner of Social Security, and two other people nominated, appointed, by the President and confirmed by the Senate. Let me repeat it.

We feel strongly that comprehensive Medicare reforms should be undertaken to make this program financially sound now and over the long term. The focus should be on making Medicare itself sustainable, making it compatible with Social Security and making both Social Security and Medicare financially sound in the long term.

And, finally, we strongly recommend that the crisis presented by the financial condition of the Medicare trust funds be urgently addressed on a comprehensive basis, including a review of the programs' financing methods, benefit provisions and delivery mechanisms. Various groups should be consulted and reform plans developed that will not be disruptive to the beneficiaries, will be fair to current taxpayers who will in the future become beneficiaries, and will be compatible with government finances overall.

We strongly recommend that the crisis represented by the financial condition of the trust funds be urgently addressed on a comprehensive basis.

These are the words of three members of the President's Cabinet, the Commissioner of Social Security, and two other individuals appointed by the President and confirmed by the Senate.

Mr. GEKAS. Mr. Speaker, would the gentleman yield?

Mr. HOKE. I would be happy to yield to the gentleman from Pennsylvania.

Mr. GEKAS. Just as I expressed to the gentleman from Oklahoma for taking the floor and telling the American people the truth about the situation in Medicare, I want to commend the gentleman for recapitulating this issue this evening.

Now, let us get this straight. The President of the United States says that Medicare, and the positions that he has undertaken with Medicare, do not constitute cuts in Medicare. Rather, they are slowing the increases of expenditures in Medicare under his plan. That is No. 1.

Mr. HOKE. That is correct. That is exactly correct. He has said very clearly that he is not, we are not, nobody is—the Republicans are not suggesting cuts in Medicare but, in fact, slowing the rate of growth in Medicare.

Mr. GEKAS. So the President says that and the gentleman from Oklahoma has indicated the Republican plan says that, that we are not interested in cutting Medicare. Nobody ever threatened to do that, but, rather, we have to fix the problem, and one of the ways to do it is to recognize that we must slow the growth of Medicare.

OK, so now we have the President of the United States and we have the Republicans in the House of Representatives saying the same thing.

Now, did not the President—I ask the gentleman from Ohio, did not the President say all these things way in advance of the report to which the gentleman has referred this evening from the trustees?

Mr. HOKE. That is correct.

Mr. GEKAS. So now we have the confirmation of what could be determined by the Democrats as a Republican political ploy to say these things, or even if they want to counter their own President who said these very same things, but now how do the Democrats, who are opposing all of these programs of the Republicans, how are they describing the report of the trustees? I have not heard much.

Mr. HOKE. I have not heard them talk much about the report of the trustees. Apparently, the Democrats think that they can score political gain by misrepresenting or distorting or in some way not telling the truth about Medicare and the problem.

Mr. KINGSTON. Will the gentleman yield?

Mr. HOKE. I would be happy to yield to the gentleman.

Mr. KINGSTON. Does the gentleman have the Democrat plan, the Gephardt plan, or the Daschle plan or the Clinton plan?

Mr. HOKE. Yes, I do. Is that the plan you are referring to?

Mr. KINGSTON. That is the plan I have heard that is out there, and that, we have laughed about this for a long time, and today there still has not been a plan offered to save or protect Medicare by the administration, even though it is the administration who reports it is going broke.

Mr. HOKE. I think it is important that we start out with the fundamental understanding, the premise that there is a crisis. We did not make up the crisis. We did not create the crisis. We have not been running this place. But the fact is, there is a crisis. It is right here, honestly.

I urge all senior citizens to call up their representative. They can get a copy of this at (202) 225-3121, (202) 224-3121, I think they both work, and ask for a copy. It lays out the crisis. The crisis is real.

It seems to me, Mr. KINGSTON, that it would be grossly irresponsible for elected Members of Congress not to do something about a financial crisis that is about to affect—and I mean about—in either 6 or 7 years, depending on which scenario one buys into from their report, it is about to engulf senior citizens.

Mrs. SMITH of Washington. Will the gentleman yield?

Mr. HOKE. I would be happy to yield to the gentlewoman from Washington.

Mrs. SMITH of Washington. I listened to the debate, the one today and the one I have been hearing on and off all day. It seems like every time someone stands up, they say, The sky is falling.

I want people to know out there who are relying on Medicare that your bills are going to be paid tomorrow and they are going to be paid the next week and do not worry. A lot of the scare tactics are to scare you into reacting.

I do know that if we do not fix this system that there will come a time where we cannot pay bills. That same report states the law. This trust fund was set up for Medicare to be a trust fund when the money runs out; it cannot pay any more bills. There is enough money there and there is enough money coming in from people's payroll checks, that is where the money comes into, then it pays your medical bills. There is enough money now.

It goes into a problem next year, folks, and we can draw to that trust fund for awhile, but just like your savings account that is giving you interest each month, you are maybe living off of the interest, when you get into the principal, it can run out. And what is going to happen is it is going to run out.

Now, do not let anybody scare you, but do what seniors are doing all over this Nation, come and tell us how. You have told us some things that are right. Fraud and abuse is right. I am finding terrible things in the system. But I do not want to also tell you that it is very——

The SPEAKER pro tempore. Gentlewoman shall sustain. Members are reminded of the policy of the floor that when you address the House, you are to address Members of the House. You are not to address the viewing audience. Just a gentle reminder. The gentlewoman may proceed.

Mr. HOKE. Will the gentlewoman yield for a moment?

Mrs. SMITH of Washington. Certainly.

Mr. HOKE. I think what the gentlewoman is talking about with respect to the exhaustion of the trust funds is shown pretty clearly by this chart.

As the gentlewoman can see, we have got about $150 billion in the Part A trust fund right now. This is what I was just reading about earlier. By the year 2002 or 2001, depending again on the scenario, here is the zero line. You can see that we are depleting that trust fund and that it goes down to zero. And then 2003, 2004, these are according again to the projections of the annual report, and this chart is directly out of that annual report. You can see that we are going to run out of money. We are going to exhaust the funds.

And one of the things you will hear claim is that somehow tax increases will have some impact on this trust fund. The reality is, it will have no impact whatsoever because the tax on earnings that funds the Part A Trust Fund at 1.45 percent of the employee's earnings is set. It is fixed. And nothing short of changing that law will make any difference.

So it does not matter if we increase taxes, income taxes, or decrease them. It has no effect on the trust fund.

Mr. FOX of Pennsylvania. Will the gentleman yield?

Mr. HOKE. Be happy to.

Mr. FOX of Pennsylvania. Congressman HOKE, I think the gentleman is on target with a very important reality here as well. We know from the bipartisan task force, even the President's secretaries of different agencies, that Medicare will run out of money in 7 years. But we in the Republican majority of Congress are not going to let the money run out.

As Congresswoman SMITH had stated, we are going to look for the initiatives from within the Congress and also the public. I have formed, and many other Congressmen on our side of the aisle and others, a Medicare Preservation Task Force. The fact is that health care costs generally are going up 4 percent a year, but Medicare is going up 10 to 12 percent a year, and part of that is the fraud.

Mr. HOKE. May I interrupt for a minute because I think that that fact the gentleman just mentioned really gives room for a tremendous amount of hope with respect to the ability to save Medicare. Because what are we trying to do as Republicans? We are trying to save, we are trying to preserve, protect, and in fact improve it, make it even better.

Mr. FOX of Pennsylvania. Exactly.

Mr. HOKE. If the gentleman is telling me that in the private sector we have got health insurance—I am sorry, health care inflation at 4.5 percent, 4 percent, and in the public sector we are at over 10.5 percent, it seems to me that we ought to be able to follow the lead of the private sector here and get that inflation down.

Now, what we are doing is terms of out own projections?

Mr. FOX of Pennsylvania. The fact is, if the gentleman would yield, $44 billion, billion, that is, with a B, $44 billion is in waste, fraud, and abuse between Medicaid and Medicare. Now, if we can attack that problem and make the changes within this House and the Senate, then we will go a long way toward preserving Medicare and making sure we give the kind of health care for our seniors that we want to give.

Mr. KINGSTON. If the gentleman would yield, the gentleman knows on waste, fraud, and abuse, most of it probably—I am not sure what the breakdown is—actually Medicare legal, meaning if a person, and this happened in the district I represent, that a woman needed her stitches removed, an elderly woman on Medicare, and an ambulance—because the transportation was provided, an ambulance picked her up at her house and instead of taking her to a hospital in her town, took her to a hospital in another town, and instead of billing $200, billed about $1,200, and Medicare pays that.

It is legal, and it is never argued, it is never checked, it is never questioned. And one of the things that we think would help protect and preserve Medicare is to crack down on those kinds of just absolutely wasteful practices that show that people running certain businesses want to take advantage of Medicare, have the ability, and we need to stop that.

Mrs. SMITH of Washington. Will the gentleman yield?

Mr. KINGSTON. Yes.

Mrs. SMITH of Washington. The task force that we had in our district, we have a task force and then we had 900 people come in and talk to us about Medicare so far, elderly people. They have come up with one overriding thing that is a problem, and that is their ability to read their bills. And they find that when they can figure out what is going on, they are their own best watchdogs.

So I think one of the best things that has come to me from them is better readable billing. Now, that is pretty simple, and if they could be their own watchdogs, they could look for mistakes, duplicate billing, and sometimes some really gross things.

I just found one, in looking at one of the reports, of a man who is dying who had $8,000 in therapy that would never apply to a man in his condition billed to him in 1 month. Now, that are things like that going on, and yet, when people cannot understand their own bills, then they have got a problem. Sure does seem that that is a commonsense thing that the people have brought to us that we should be able to deal with.

□ 2045

Mr. HOKE. Certainly one of the things that we are looking at and considering is to give beneficiaries personal incentives to scrutinize those bills and to ferret out themselves the way that they would look at a bill from the dry cleaner or look at a bill from the phone company.

Mrs. SMITH of Washington. Have you tried to look at those bills? I challenge you to take a look at a hospital bill billed under Medicare. But you are right. They need to look at that.

Mr. HOKE. Those people also need to be given incentives to do that. That is one of the things we are considering. It is important.

I have another chart here I want to just talk about for a moment. One of the things you will hear a lot about on the rhetoric and the demagoguery on this issue that I do not think is particularly helpful is that we are slashing Medicare, cutting Medicare. You typically hear this during debate on the floor. One of the things we get to do in these special orders is we get to dissect an issue and look at it more carefully, thoughtfully, and reflectively as opposed to in a rhetorical and demagogic fashion.

The question here is where is the cut. This tells you exactly on a yearly basis how much the per-beneficiary per-month amount goes up. Here in 1995 we are spending about $401 per beneficiary, per senior citizen on Medicare per month. That goes up in 1996 to $423, in 1997 to 440, up until the year 2002, it is $561. Per year it goes from about $4,800 to over $6,800. That is a substantial increase. In fact on a compounded basis it is about 6.5 percent per year.

This amount, by the way, this per-beneficiary, per-month, it takes into account that we are going to have more people coming in than are going out. When you think about it, this is one of the big problems not only with Medicare but with Social Security as well. That is, that the number of workers per beneficiary in 1995 is 3.3. But the number of workers per beneficiary in the year 2025 will be 2.1.

Mr. KINGSTON. If the gentleman will yield, we have a lot of things we are trying to resolve and address at once. But one of the things we are trying to do is deregulate businesses so that they can expand and create more jobs. We are also trying to get people who are able-bodied off of welfare so that they will go out in the workplace. In doing that, what we are going to do is increase revenues and then have that worker-to-retiree ratio go up. Because many, many years ago it was a 19-to-1 ratio, and the 3.3 is scary enough. We need to actually increase the number of workers to retirees, not just for practical purposes like in Medicare but to decrease the welfare rolls, decrease the rolls on public assistance in general, increase revenues, self-esteem, and make the world a better place so that everybody can enjoy the socioeconomic mainstream of America.

Mr. FOX of Pennsylvania. If the gentleman will yield, just to carry forward what the gentleman from Georgia [Mr. KINGSTON] just said, not only have we in the Republican majority here in Congress made inroads on welfare reform, we also did it with regulatory and legal reform, all ways to help businesses grow, produce and hire and help us be able to find the funds for actual services to make sure that Medicare, which is going to help people in their health care, in fact, have the quality of life they want but decrease the number of bureaucrats that we have in Washington and the bureaucracy in Washington. I think we want to go to direct services and less regulation.

Mr. HOKE. I think one of the things that is important to emphasize as we talk about the Medicare debate is that we are absolutely committed to keeping the current system for anyone who wants to stay in it exactly as it is today. I think that it is very important that senior citizens know that, that they understand and they expect that, and they can look forward to that and be confident that they know that their representatives in Washington, that the Republicans that are now in control of the Congress, are committed to that. I think it is also important for them to know that we are considering various options that will give them choices with respect to Medicare that will in fact not only preserve it, which we are committed to doing, but will actually improve it. Maybe we could talk about some of those choices that we expect to see in the future.

For example, one of the choices would be HMO-type programs, the managed care model where you become a part of a network that provides everything. There are managed care programs today under Medicare in Florida, for example, where everything is covered, including prescription drugs, which right now is not a Medicare benefit, and in some programs even optical benefits are covered.

Mr. FOX of Pennsylvania. I believe hearing aids would also be available through the managed care.

Mr. HOKE. I do not know if it is in any of these programs, but it certainly could be.

Mrs. SMITH of Washington. If the gentleman will yield further, I am hearing some scary things out there. Some people do not want to go into managed care. I think what I like in here at this point in the debate, not between the two of you, but in Congress is that most people are saying that should be an option. If you choose that option and it is a little less costly, we are going to give you more benefits in that option. But if you choose to have another option that is a little more costly, you may need to share in the cost of a more costly option. But you still have a choice.

I think the most exciting thing that I see coming is we are going to have options the seniors have not had before. I think we are going to have better plans. I look at it, and I am going on six grandkids so I have a little bit to go but not as long as some of you. I look at it not on choices. In fact, I want choices now. I want the next 10 years for me to develop a plan where I can take care of myself and I can transfer and not have Medicare. Maybe I can buy my own private plan. Those are some of the things we are talking about. Not just those that are on but those coming on and then the younger ones who are just coming into the work force. What do we do about them? It would be irresponsible to not consider that. We are looking at all three age levels.

Mr. KINGSTON. One of the things that I think is very, very important, and the gentlewoman has certainly touched on it, is that with our senior citizens, more than options, they want certainty. We are going to provide for that certainty by strengthening and protecting Medicare from a financial standpoint. Then for the folks who want options, it is going to be out there if they want it. Then for health care in general, as the gentleman from Pennsylvania [Mr. FOX] said earlier, the Medicare inflation has been so atrocious compared to the private sector or the normal medical inflation, that we are going to work on health care reform in general, portability of coverage so that you can move if you are in a managed care plan from one to the other, if you are in the traditional fee-for-service insurance plan, you can move from that to another, if you want to have a medisave option where you are willing because of your economic bracket to take a higher deductible and pay more of the front-end cost on your own to reduce your premium but still have catastrophic coverage, you can do that. But the great effect of that is actually to help the marketplace become more competitive because people will start shopping around and seeing where they can get the best buy on a lot of health care services.

There are a lot of exciting things that are going on out there, but it is all going to be built on a solid bedrock of certainty for our valued seniors who are on Medicare.

Mr. HOKE. If the gentleman would yield on that point, I think this idea of different options is very important.

I also want to say to the gentlewoman from Washington, I think you are absolutely right with respect to HMO's and managed care. It is a funny thing. The biggest problem that people have with managed care is the concern that they will not be able to be treated by their own doctor. I think that is a very real concern. It certainly is a concern that I take seriously. When you survey you find that people who are able to keep their own doctor going into an HMO are much, much happier with that situation. But I think it would be absolutely wrong to force anybody to be a part of some program that they do not want to be a part of.

Mrs. SMITH of Washington. If the gentleman will yield, I was just picturing a person that is very close to me. If she is listening, she will know who it is. It is a family member. Her doctor is in an HMO, not a system with many doctors coming together for a managed system but an actual HMO. She is happy there, she does not worry, she feels good.

We need to make sure that anybody that is somewhere they feel good and safe gets to stay there and that we protect and preserve that. The last thing we want in all of this is for anyone to be out there being afraid that they will not be able to be taken care of. The mongers that would blow this into an issue politically will try to scare people. I think I can safely say the people I am working with on both sides of the aisle will leave very secure those people that rely on Medicare. Those that rely on it can still rely on it.

Mr. KINGSTON. I think that is a good point, because in this debate, I know there are a lot of people on one side of the aisle who do not want to admit that Medicare is in trouble, but let us just say that the responsible approach is to say the Clinton trustees have said Medicare is going broke. Now, what are we as Members of Congress going to do about it, not as members of the Democrat or the Republican Party but as Members of Congress, what are we going to do about it? Then you have a choice in here. Are you going to work for Medicare or are you going to work for mediscare? I think there are people who have decided it is more politically expedient——

Mr. HOKE. Excuse me, did you say Medicare or mediscare?

Mr. KINGSTON. I think we should put that on the easel so people can see it. I think it is very important that people know that 435 Members of Congress can take the choice. Are they going to work for Medicare or are they going to work for mediscare? One is political and one is responsible.

Mr. HOKE. Let me wrap this up because there is another subject I would like to get to. We only have 10 minutes left in our portion of this hour. I do want to emphasize once more that I would strongly urge senior citizens, people about to become senior citizens, and anybody that is particularly interested in this problem, and it is a problem for every American, particularly tax-paying Americans, because the fact is that health care is the fastest growing segment of the Federal budget. Call your Representative, 202-224-3121, and ask for a copy of the "Status of the Social Security and Medicare Program Summary." It is a 14-page summary. It will explain why there is a real problem and why it would be absolutely irresponsible of us not to deal with that problem.

AUDIT OF THE HOUSE OF REPRESENTATIVES

Mr. HOKE. Mr. Speaker, I want to change the subject, if I may, to something that was released just today, the House audit which was called for by Republicans on the first day of the 104th Congress. I am going to read very briefly from the report of the Price Waterhouse independent auditors of the U.S. House of Representatives.

Mr. KINGSTON. If the gentleman would yield just before you do that, auditing exactly what, or generally what?

Mr. HOKE. What they are doing is they are auditing the books of the House of Representatives. We spend in the House, to run your office, my office, the office of the gentleman from Pennsylvania [Mr. FOX], the office of the gentlewoman from Washington [Mrs. SMITH], and all of the various business organizations of the House, the committees, the committee structure, all of the benefits, all of the people that run this, $700 million per year. That is the budget. Think about that.

Mr. KINGSTON. Is this an annual audit that is done every year?

Mr. HOKE. Excuse me? The House has never, ever, ever, ever, in its entire history been audited by an outside auditor.

Mr. KINGSTON. How often do businesses get audited?

Mr. HOKE. Once a year. Publicly traded companies must be audited once a year and they must file reports with the SEC.

Mrs. SMITH of Washington. If the gentleman will yield, is this a private audit? This is not just something we did ourselves. Did we hire these people, pay them?

Mr. HOKE. We hired one of the Big Six accounting firms, Price Waterhouse, to conduct this audit.

Mrs. SMITH of Washington. Everyone knows Price Waterhouse.

Mr. HOKE. They came in, and I do not know how many people came in. They must have had a team of 20 or 30 accountants who came in and went

through the books. That is what they do. They go over the ledgers literally page by page.

Mr. FOX of Pennsylvania. If the gentleman will yield, every State government, local government, and school board has to audit. The House has never audited before?

Mr. HOKE. We have never had an external audit, from an external auditor. We did have an internal audit. I am told it was in 1954. That was the last time we had an internal audit of the House's books.

Mrs. SMITH of Washington. Good enough to hold us that long, huh?

Mr. HOKE. Apparently yes. Let me read some of this. It is stunning. This is the report of the independent accountants, Price Waterhouse.

The House lacks the organization and structure to periodically prepare financial statements that even after significant audit adjustment and reconstruction are accurate and reliable. The House Clerk's report is a voluminous quarterly document that lists over 90,000 disbursements, but it does not summarize the disbursements in logical groupings or accounts, does not accumulate them beyond one quarter or otherwise place them in a context that could be easily understood. The individual financial reports of House units were of limited use to understanding the finances of the house as a whole because they only constituted small components of the House. The statement of accountability which purportedly accounted for all House transactions reported collections and disbursements in broad account categories but little else. None of the financial information or statements periodically produced by the House's financial and administrative units were suitable for reporting consolidated information in an acceptable financial statement.

Finally, let me read the conclusion, because this is the most stunning part:

Because the House's accounting and reporting methods were outdated and of limited utility, the accompanying financial statements required significant adjustment to attempt to conform them to generally accepted accounting principles. However, the shortcomings in the House's information systems and the weaknesses in its internal control structure were so severe that they affected the availability and reliability of the data and information supporting the financial statements. Those conditions also made it impractical for us to extend our audit procedures to the degree necessary to determine the effect that these shortcomings might have had on the House's financial statements.

□ 2100

For the reasons stated, we are unable to and do not express an opinion as to whether the supplemental schedules are fairly stated in relation to the consolidating financial statements taken as a whole, and we do not express an opinion on these consolidating financial statements. That is the worst situation, I don't know, are any of you CPAs?

Mrs. SMITH of Washington. Will the gentleman yield?

All I can tell you is if my business had that kind of an audit, I could never get a loan again. I think what it says is there can be no beginnings. I looked at that, and I am like the person with the shovel, you know, digging and looking for the pony.

Mr. HOKE. Looking for the pony.

Mrs. SMITH of Washington. And I looked at it and I thought, some things were obvious. Even before we came in in January, we started making changes, we started digging around, we started opening up files and we started closing things that were not efficient. We started looking at the mail room, we started looking at the way things were done.

My understanding is that this audit said certain things should change. We are already doing a lot of them. But I do not think we will ever know for sure all of what happened between the 1954 audit and the 1995 audit. That is a long time.

What I would like to see us do is go forward. I would love to see us look at this and say, we are a new Congress, we want to go forward. So I was excited to see that we were not going to mess with the results. We were going to turn them over to an independent counsel and let anybody else deal with them outside of this place so that it was not political. I like that, and it kind of excited me that we were already starting along the path to repair.

Mr. FOX of Pennsylvania. To follow up with what Congresswoman SMITH just said, the fact is we just passed a resolution unanimously in this House this afternoon giving the Inspector General the authority to move forward to make the kinds of changes we need. Because in the report, if I can just follow up, the appropriations limits were ignored, bills were paid late in the House, House property and equipment was unaccounted for, and there were significant security problems with their own computer system. So these changes, in order to really help our country and to lead by example, I think it is good that we have this kind of audit and that we actually do the follow-up, as Congresswoman SMITH just stated.

Mr. HOKE. I think that is right, and that we now have audits on an annual base, which is exactly what we are committed to doing.

I think we would be remiss in not pointing out two things: No. 1, that this audit was taken under the first Republican Congress in 40 years; and, No. 2, that we made the promise to the American people that we were going to start out the 104th Congress with an audit, and that is exactly what we did. It is another promise made, another promise kept.

Mr. KINGSTON. If the gentleman will yield, was this done on an inventory and on a cash basis? Because my question that I am leading to is, did we count the number of personal computers? Did we count the papers? Is there inventory missing? And is there cash missing? Is the cash done on an accrual basis, is it done on a cash basis, or could the auditors even tell one way or the other? Because what I am really hearing is, they gave up and they said, this is just too much of a mess.

Mr. HOKE. Well, they tried to do it properly, and I don't think they really gave up. What they did is they kind of threw their hands up in despair and frustration and said, we can't give you the kind of report that you wanted.

Mr. KINGSTON. Well, if the gentleman will yield, Price Waterhouse also does the audit for Washington, DC. Did they say that this was comparable?

Mr. HOKE. My understanding was that the books for Washington, the District of Columbia, were in much better shape than the books for the Congress.

I will read one other thing from this, because I think it is interesting. It says the House used cash basis accounting as its primary means of managing its financial resources and preparing internal and external financial reports.

This meant that the House tracked when it received or spent cash, but not what liabilities or legal obligations or commitments it was incurring, or the value of the assets properly recorded, accumulated and reported in accordance with the rules, policies and procedures that are established by the House itself.

Mr. KINGSTON. So perhaps we can get somebody from the Washington, DC City Council to come show the House how to take care of the books.

Mr. HOKE. Perhaps we can.

Mr. KINGSTON. Not necessary any more, is it?

Mrs. SMITH of Washington. Let's do better than that.

Mr. HOKE. I want to extend my appreciation to the gentlelady from Washington [Mrs. SMITH], the gentleman from Pennsylvania [Mr. FOX], and the gentleman from Georgia [Mr. KINGSTON] for participating with me in this special order.

Mr. Speaker, I want to yield the balance of this hour at this point to the gentleman from Florida [Mr. BILIRAKIS] to discuss Cyprus. I hope that I will have an opportunity, since it just happens that this is also an issue that is near and dear to my heart, to join him on that issue.

GENERAL LEAVE

Mr. BILIRAKIS. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks and to include extraneous material on this subject of my special order.

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

There was no objection.

CYPRUS: 21 YEARS OF DIVISION

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Florida [Mr. BILIRAKIS] is recognized for 20 minutes.

Mr. BILIRAKIS. Mr. Speaker, I thank the gentleman for yielding me the time. I also thank the gentleman and commend the gentleman and the others for basically sharing the facts and the truth regarding the Medicare picture with our viewers out there.

Mr. Speaker, Thursday, July 20, marks the twenty-first anniversary of the illegal invasion and occupation of Cyprus by Turkey. I rise here today, as I have since I first came to the Congress in 1983, to remind us all of this sad day in the history of the Republic of Cyprus.

We must all be reminded that the Green Line, separating the northern part of the island—some 40 percent and Turkish-occupied—from the free portion is the only wall remaining in the world dividing a country.

We must be reminded that our conduct here in this Congress has played a major part in ensuring that wall continues to stand.

On July 20, 1974, 6,000 Turkish troops and 40 tanks landed on the north coast of Cyprus. Turkish forces captured almost 40 percent of Cyprus, representing 70 percent of the country's economic health.

As a result of Turkey's illegal invasion, 1,619 people have never been seen again. Among these 1,619 missing individuals, five are United States citizens.

In addition, more than 200,000 Cypriots were forcibly driven from their homes. They are now refugees—a people without a home.

Today, Turkey continues its occupation of the northern portion of Cyprus, maintaining more than 35,000 troops and some 65,000 settlers there. As I previously mentioned, a barbed wire fence, known as the Green Line, cuts across the island separating thousands of Greek Cypriots from the towns and communities in which they and their families had previously lived for generations.

As you might guess, this has led to frequent incidents and disputes—and in the near future, the settlers and occupying troops will outnumber the indigenous Turkish Cypriots.

At this point, Mr. Speaker, I am pleased to yield to the gentleman from Pennsylvania [Mr. GEKAS].

Mr. GEKAS. I thank the gentleman. As usual, the gentleman from Florida has gone to extra lengths to bring a vital issue to the floor and to utilize the special auspices of the special order to get across a vital message.

The gentleman has begun his presentation with talk about refugees, and about an act of aggression. The invasion was a bold and dastardly act of aggression, was it not? The answer is yes. I will answer my own question.

Refugees became one of the results of this act of aggression. Missing persons is another disaster that came directly because of that act of aggression. Does not this remind you of what is happening in Bosnia?

Here we have a situation where an act of aggression resulted in refugees, in missing persons, in atrocities of every kind of description. The United Nations passed resolutions dealing directly with the Bosnian situation. Here we are in turmoil and dismay at being unable to do anything about what is happening in Bosnia.

Well, we could have all predicted that if only one would set that same eyeglass on the Cyprus situation: an act of aggression, ethnic cleansing, refugees, dastardly atrocities, missing persons. The United Nations passed resolution after resolution to try to do something about it. Their inaction there, in my judgment, laid the groundwork for the inaction that they are now undergoing in Bosnia.

I am sick of it. I no longer can tolerate even a gentle discussion on the Cyprus situation. How can the world community coalesce behind a Desert Storm situation to help Kuwait regain its independence, and indeed, enlist the aid of Cyprus in that effort, and then tolerate a continuing act of aggression? Every single minute that that force occupies the northeastern part of Cyprus is an act of aggression repeated and repeated.

Let us do something about this. We argue about it, we debate it, we pass resolutions, we send letters. The Bosnian situation will never be solved, nor will the Cyprus situation ever be solved, unless the resolve, as evidenced by the individuals who will be speaking this evening, is mounted into legislative action here in the Congress of the United States.

I thank the gentleman for yielding.

Mr. BILIRAKIS, I thank the gentleman for his remarks.

While I am saddened by the anguish that the invasion and occupation has caused the people of Cyprus, I am also inspired and encouraged by their undaunted spirit and determination as they have endured this tragedy.

In fact, the government of cyprus has persisted in making every possible effort to reach a just and lasting solution.

Most recently, in December of 1993, the Cyprus government submitted to the United Nations a bold and innovative proposal calling for the demilitarization of the island-nation. In exchange for the withdrawal of Turkish troops, Cyprus offered to disband its national guard, transfer the national guard's military equipment to an enlarged U.N. peacekeeping force and use the money saved from defense spending for development projects that would benefit both communities. Unfortunately, the Turkish side rejected Cyprus' proposal.

At this point, Mr. Speaker, I would yield to the gentleman from Ohio [Mr. HOKE].

Mr. HOKE. I heard what you said, Mr. BILIRAKIS, about the Turkish troops. Are these Turkish Cypriot troops, or are these Turkish troops who have been exported to Cyprus and are occupying the island.

Mr. BILIRAKIS. Clearly exported to Cyprus.

Mr. HOKE. Clearly. There are 35,000 Turkish troops that are standing on the north side, that are an occupying force on this island that was at one time an island paradise that is now divided. They are using, as I understand the situation, they are using Cyprus as a bargaining chip in their own designs and insecurities about their own domestic situation and the longtime problems that they have had with the Nation of Greece generally.

They use Cyprus as a way to get at Greece and create untold misery for the Greek Cypriots who live on that island. I know of one situation particularly in Famagusta where 60,000 people lived in Famagusta, which is just on, as I understand it, and correct me if I'm wrong, but it is just on the north side of the green line.

Now, 21 years ago at the time of the invasion by the Turks of the island of Cyprus, this city was evacuated; 60,000 people were forced to flee from Famagusta and that is now an abandoned city. Nobody is in it. There are these 60,000 people in exile of the Famagusta municipality.

It seems to me that it really is time that we began to identify the genuine source of the trouble over there. We talk a lot about human rights in this body; we talk a lot about our concern for self-determination and the concern that we have that nations be allowed to have their own rights.

Here we are with a situation in Cyprus where the Turks have invaded that beautiful nation where Moslem Cypriots and Christian Cypriots got along for centuries side-by-side, and now for the past 21 years they have not, and the Turks again are using them as a pawn.

There are 1,619, as I understand it, I think that is the correct number, people who are still missing and unaccounted for from that invasion that took place 21 years ago, and of those, five were American citizens, including one who was a young boy, or young man at the time, just in college, who was snatched away, literally in the sight of his parents when they were there on vacation. They are from Michigan, and he has never been seen since, never been accounted for. The Turkish Government refuses to cooperate or give any information about his whereabouts, and certainly he puts a very real and personal face on this tragedy.

I thank you for your leadership and what you are doing. I agree with the

gentleman from Pennsylvania that enough is enough, and it is time to act.

□ 2115

Mr. BILIRAKIS. I thank the gentleman and thank him for his interest during all the time you have been here in the Congress and on all of the other Hellenic issues, and we appreciate your concern and your caring, I say to the gentleman.

Mr. Speaker, tomorrow we will have another chance when the House International Relations Committee begins its mark-up of House Concurrent Resolution 42, introduced by my colleague from New York [Mr. ENGEL] and of which I am an original cosponsor.

This important resolution calls for the demilitarization of Cyprus and insists that all parties to the dispute regarding Cyprus agree to seek a solution based upon relevant U.N. resolutions, including provisions of Security Council Resolution 939. Resolution 939 reaffirms that a solution to the Cyprus problem be based upon a State of Cyprus with a single sovereignty, citizenship and international personality.

Mr. Speaker, I yield to the gentlewoman from New York [Mrs. MALONEY], who has truly been an inspiration on this issue.

Mrs. MALONEY. Mr. Speaker, I want to first thank the gentleman from Florida for once again organizing this special order.

Mr. BILIRAKIS is a true champion of human rights and justice and has been an inspiration to many of us as we attempt to solve the problems of the beautiful island of Cyprus.

The past few years have seen great advances in peace and human rights throughout the world.

The end of the cold war, the triumph of democracy in South Africa, and the movement toward peace in the Middle East and Northern Ireland have been beacons of hope for us all.

In light of these advances, the situation on Cyprus is all the more tragic.

This island remains divided by the continuing shackles of occupation and oppression.

This week, we commemorate the 21st anniversary of the 1974 illegal Turkish invasion of Cyprus and its occupation of 37 percent of the island.

The continued presence of 35,000 Turkish troops represents a gross violation of human rights and international law.

During the invasion, almost 200,000 Greek Cypriots were expelled from their homes. They were removed from the land that had been theirs' for generations. Their property was confiscated.

Worst of all, 1,614 Greek Cypriots and 5 Americans were seized by Turkish troops and remain unaccounted for to this day.

I've shared the pain of some of my own constituents in Astoria, Queens whose beloved family members are still missing. On this issue, there can be no compromise. We will never give up hope that people like Chrisaci Loizoi, Andrew Kassapis, and George Anastasiou will be accounted for.

I'm pleased that last year Congress passed, and the President signed into law, a bill which directs the Department of State to conduct an investigation into the whereabouts of the five Americans that are still missing.

But we must do more. Human decency demands that we use all means at our disposal to account for all of the 1,619 who are missing.

For this reason, I was particularly pleased to play an active role in the passage of an amendment to the Foreign Operations bill offered by my friend and colleague Mr. PORTER that would cut $25 million in United States economic aid to Turkey.

By a decisive vote of 247 to 155, this House spoke out loud and clear that Turkey must be forced to pay a price for its continuing human rights violations and its refusal to act in good faith on the Cyprus issue.

The House did the right thing when it passed the Porter amendment.

I am also pleased that the Clinton administration is taking concrete actions on a variety of issues of importance to the Hellenic community.

The President's appointment of a special emissary to Cyprus, Mr. Richard Beattie, was an important development. Mr. Beattie, and the special emissary to FYROM, Matt Nimitz, have both visited my district and spoken at heavily attended town hall meetings.

The actions of the President and the Congress to help secure the release of the "Omonia Four" represent another example of progress in Greek-American relations. Many of us in this Chamber tonight worked very hard to gain the freedom of these ethnic Greeks who were unfairly imprisoned in Albania.

Just this afternoon, several of us met at length with Ambassador Richard Holbrooke and other top State department officials and urged them to continue to press Turkey to come to a solution on Cyprus.

And there are additional revenues for the supporters of Greece and Cyprus to take to keep Turkey's feet to the fire on these important matters.

I strongly support the March 6 accord which will set a firm timetable for Cyprus' accession to the European Union.

Conversely, the United States should condition the admission of Turkey into the European Customs Union on an improvement on Turkish human rights and progress on the Cyprus issue.

We must likewise carefully monitor recent Turkish actions and bellicose statements with respect to the Law of the Sea Treaty. This important treaty has been signed by nearly 200 nations, including the United States and Greece, but Turkey has not only refused to sign, but has threatened war if Greece asserts its legitimate rights.

We must continue to support the $15 million earmark for economic and peace-enhancing assistance for Cyprus, and I'm pleased that this aid was included in the recently-passed Foreign Operations bill.

Finally, the United States must be mindful of a variety of Turkish abuses, even the ones that do not receive headlines. For example, the gentleman from Florida and I have introduced a House resolution to protect the Eastern Orthodox Ecumenical Patriarchate.

In recent years, there have been terrible terrorist attacks on the Ecumenical Patriarchate premises in Turkey. In addition, religious schools have been shut down and freedom of religion threatened.

Mr. Speaker, I want to conclude by thanking my colleagues, for once again joining in this special order.

We must continue to rise each and every July to commemorate these terrible events and to fulfill our obligation to the missing in Cyprus, and all the Cypriot people that we will never forget their plight.

Mr. BONIOR. Mr. Speaker, I'd like to thank my distinguished colleague, Mr. BILIRAKIS, for organizing this commemoration of a sad and frustrating anniversary.

Twenty-one years—for many American young people, it's a coming of age. But for Cypriots, and for us tonight, its a reminder that on July 20, 1974, Turkish troops invaded their island and began a military occupation.

Today, 35,000 Turkish troops remain on Cyprus. They occupy one-third of the island. In a chilling reminder of the Berlin Wall, a barbed wire fence known as the Green Line cuts across Cyprus, separating thousands of Greek Cypriots from the towns and communities in which their families have lived for generations.

As a result of the invasion 21 years ago, thousands of people were killed, more than 200,000 people were expelled from their homes, and today, more than 1,600 remain missing—including five Americans.

Instead of helping us to locate the missing and enter negotiations aimed toward unity and freedom for Cypriots, Turkey today continues to keep troops on the island.

U.S. Secretary General Boutros Boutros-Ghali just last month called Turkish-occupied northern Cyprus "one of the most highly militarized areas in the world."

Most disturbing of all, when you look at the amount of United States dollars flowing into Turkey today, it is nearly identical to the amount of money Turkey spends to keep those troops housed in Cyprus.

So in effect, American taxpayers are paying to keep Turkish troops housed in Cyprus.

Until Turkey begins to remove its troops from Cyprus, we have no business sending aid to Turkey. That is why I strongly supported the Porter amendment to the foreign operations appropriations bill.

The Turkish Government must know that the division of Cyprus will continue to be an obstacle to better relations with the United States.

Over the past few years, we have witnessed tremendous changes around the world—the fall of the Berlin Wall, the beginning of reconciliation in the Middle East and the end of Apartheid. It is my sincere hope that soon we will be able to add Cyprus to that list of places where peace and freedom have triumphed.

Mr. MANTON. Mr. Speaker, I rise today to join my colleagues in this important special order marking the 21st anniversary of Turkey's invasion of Cyprus. At the outset, I want to thank my colleague Mr. BILIRAKIS for organizing this important special order to commemorate this anniversary.

The division of Cyprus has the distinction of being one of the most intractable in the world today. Since Turkey first invaded Cyprus in 1974, 1619 people including eight Americans last seen alive in the occupied areas of Cyprus have never been accounted for. We must not let the passage of years weaken our resolve to pressure the Turkish Government to provide answers to the families of the missing. We cannot forget their suffering continues.

Mr. Speaker, last year, when marking this solemn anniversary, many of us felt hopeful that this conflict would soon be resolved peacefully through the auspices of the United Nations. Today, while I applaud the efforts of United Nations to resolve the issue of the continuing division of Cyprus, I am very frustrated by Turkish leader Rauf Denktash's stubborn resistance to meaningful negotiations. Its not just Greek Cypriots and their supporters who think Denktash has been unreasonable.

In December of 1993, in an effort to facilitate a peace resolution of the problem, President Clerides submitted to the United Nations a thoughtful and innovative proposal calling for the demilitarization of Cyprus. In exchange for the withdrawal of Turkish troops, Cyprus would disband its National Guard; transfer the National Guard's military equipment to the United Nations peace keeping force; and the money saved from Defense spending for development projects that would benefit both communities. Demilitarization would alleviate the security concerns of all parties and substantially enhance the prospects for a peaceful resolution of the problem. Once again the Turkish side rejected Cyprus' efforts toward ending the tragic unacceptable status quo. In April of this year I was proud to join my colleagues as a cosponsor of House Concurrent Resolution 42, which calls for the demilitarization of Cyprus. I urge my colleagues to join me as a co-sponsor of this very important legislation.

The United States Government has always supported a just and lasting solution to the Cyprus problem. It is important for the Congress to continue to firmly support the people of Cyprus by pressing Turkey to remove its illegal occupation force and to work constructively for a resolution of the problem in accordance with the relevant U.N. resolutions and agreements between the two sides. A just and lasting solution to the problem will benefit both communities on Cyprus, stabilize the often tenuous relationship between Greece and Turkey, as well as constitute a significant step towards peace in the unstable eastern Mediterranean region.

Mr. Speaker, I want to take this opportunity to commend the Secretary General for his tireless efforts to resolve this issue. I also want to recognize the Greek Cypriot people for their valiant commitment to resolving this conflict, despite the seeming bad faith shown by the Turkish side. It is my hope that this will be the last year members must join to discuss the longstanding problems of the people of Cyprus, that next year we may join to celebrate the end to this conflict. Until that happens, the Turkish Government must know we in the United States will continue to mark this anniversary and speak out for rights of the missing.

Mr. DELLUMS. Mr. Speaker, 12 months have passed since we last recognized, and reminded ourselves that July 20, 1974 marks the occupation and division of the Republic of Cyprus. One of the tragic consequences of that invasion and occupation is the continued 'disappearance' of almost 2,000 people.

The passing years only add to our enormous embarrassment that although there is a great deal of evidence to indicate that these individuals were arrested by Turkish military personnel during the invasion and subsequent occupation, that we, the international community, have not been able to negotiate or pressure the Turkish Government into releasing any information on these individuals.

This 21st anniversary of that occupation presents us once again with the opportunity to support the work of the United Nations negotiating team's efforts to persuade Mr. Glafcos Clerides, President of the Republic of Cyprus, and Mr. Rauf Denktash, Turkish Cypriot leader, in reaching an understanding on obtaining information on these detainees.

As always, I am honored to stand with my colleagues in calling upon the President to continue to work with the United Nations in resolving the issues of territorial control in Cyprus, in gaining knowledge of the 1,619 innocent people still missing and in achieving their eventual release.

Mr. ANDREWS. Mr. Speaker, this Thursday will mark the 21st anniversary of Turkey's invasion on the peaceful, self-governing island of Cyprus. For 21 years, Turkey has tried to make the island its own. It has done this by installing 80,000 illegal colonists, by maintaining over 30,000 heavily armed troops on the island, and by moving 200,000 Greek Cypriots from their homes. Through 21 years of hardship, the people of Cyprus have held on to a hope for peace and for the return of their island. Their purpose has not been revenge, but negotiation and reconciliation. Here in the House of Representatives, we have the opportunity to help the cause of justice. I urge my colleagues to support House Concurrent Resolution 42, calling for demilitarization of Cyprus. I encourage them to cosponsor H.R. 3475, legislation I have introduced that would reduce United States aid to Turkey by $500,000 per day until that country complies with several conditions, including progress toward withdrawal from Cyprus. As saddened as I am by their plight, as dismal as their treatment by a foreign force has been, we should all be inspired by the patience, courage and faith shown by the people of Cyprus. Let us make this the year when the people of Cyprus once again can govern themselves with peace and dignity.

Mr. SCHUMER. Mr. Speaker, I would like to applaud and express my gratitude to my fellow colleagues for conducting this special order to acknowledge the 21st anniversary of the Turkish occupation of Cyprus.

This year, the Members of the House meet again to remember this sad day and to denounce the atrocities taking place in Cyprus. There are still 1,619 people missing as a result of the occupation. Five of these missing persons are American citizens. This is an outrage.

In the time since the Turks have taken over Cyprus the situation there has steadily worsened. The widespread violence and violations of human rights can not be ignored. Action must be taken to amend these horrible travesties.

For some time I have been interested in the situation in Cyprus. I have supported legislation which would require an investigation into the whereabouts of United States citizens and others missing from Cyprus. Another bill I have supported would prohibit all United States military and economic assistance for Turkey until the Turkish Government takes responsibility for its actions in Cyprus and complies with its obligations under international law. I hope there will soon be a resolution to the problems in Cyprus once an for all.

Mr. GILMAN. Mr. Speaker, today's Special Order on Cyprus comes on the eve of the 21st anniversary of the brutal invasion by Turkish troops. I congratulate my friend, the gentleman from Florida [Mr. BILIRAKIS] for organizing this Special Order. The international community is still faced with the fact that in excess of 30,000 Turkish military personnel remain on the island to enforce an illegal partition and to protect a self-proclaimed government that has been recognized by only one other country—Turkey itself.

Those of us in Congress who have supported a negotiated settlement to the dispute which has led to the division of Cyprus are painfully aware of the complexities of the issue, the injustices committed, and particularly the suffering over these many long years of the Cypriot people on both sides of the Green line.

Indeed, Cyprus has become a code-word for stale-mate and intractability in international diplomacy.

Last year, the House passed H.R. 2826, which provides for an investigation by the President of the whereabouts of persons mission in Cyprus since 1974. The resolution of the long-lingering question of the whereabouts of 1,619 persons—including 5 Americans—needs to be resolved. The United Nations has been looking into this matter since the early 1980's. But has not solved a single case. I understand that former Ambassador Bob Dillon who has had long experience in the region will head an investigative team. I hope the administration and President Clinton will diligently pursue an investigation that can provide to the families and friends of the missing, some long overdue, answers. It is also hoped that the governments of Turkey and Cyprus will cooperate fully in providing all available information to the President as he conducts this investigation.

Old history and grievances must be placed behind us as we seek to resolve the division of Cyprus. I hope and pray that both sides of the problem will reach within themselves to

find and resolve to settle this persistent problem. The Greek Cypriots have demonstrated both, the flexibility and the spirit of compromise in recent rounds in U.N. sponsored talks. The international community and the U.N. should recognize this as we reevaluate our tactics in the light of the most recent failure to move beyond the current situation.

I have urged and will continue to prod the administration to do more to focus the Turkish Government on the necessity of withdrawing from Cyprus without further delay. Regrettably, Prime Minister Ciller appears to be in a weak position, unable to reign in recalcitrant elements among Turkey's political and military establishment. But the fortunes of the people of Cyprus must not be held hostage to internal Turkish political problems.

Twenty-one years is too long a time. There are now young people coming of age in Cyprus who know nothing other than the experience of living in a divided society. For this next generation what can guide them in learning to accept life with a neighboring but different culture? Time is running out for the possibility of achieving a peaceful settlement. The people of Cyprus now have to ask themselves if the enmity between the two communities is truly worth the price of a divided nation.

As we approach the 21st anniversary of Turkey's invasion of Cyprus, let us call on the world community to help resolve this problem of a divided and occupied Cyprus.

Mr. FAZIO. Mr. Speaker, this week marks the 21st year of the occupation and division of the Republic of Cyprus. This island nation that gained its independence from Great Britain over three decades ago was invaded by Turkey in 1974. Since the invasion, northern Cyprus has been in the grip of foreign occupation, a siege marked by violence and bloodshed.

Over 1,600 people—among them 5 United States citizens—have been missing since the island was divided after the invasion. They remain unaccounted for. Their families have no idea whether they are sick or well, dead or alive.

I want to once again profess my support for a negotiated peace on Cyprus, and for the reunification of this Mediterranean nation which has been our faithful ally over the course of its history. Lastly, Mr. Speaker, I wish to thank my colleague from Florida, [Mr. BILIRAKIS] for his devotion and dedication to the Cyprus issue. Every year, Mr. BILIRAKIS is instrumental in calling this special order and providing us with an opportunity to reaffirm our commitment to the innocent victims and families of Cyprus' occupation, as well as to an end to the turmoil and conflict under which Cypriots are forced to live. I am, as always, pleased to join my colleagues in recognition of this solemn anniversary.

Mr. FILNER. Mr. Speaker, I rise today to join my colleagues in commemorating a tragic event—Turkey's military invasion of the Republic of Cyprus in July 1974. But I think we all agree that the even greater tragedy is the fact that 21 years later, Turkey's illegal occupation of northern Cyprus remains in place and the suffering of the people of Cyprus continues.

Driven from their homes and villages, brutalized, and denied information as to the fate of over 1,600 loved ones missing since the invasion, the people of Cyprus have patiently cooperated with international negotiators—for 21 years) in the hopes of securing a peaceful coexistence.

Mr. Speaker, Greek-Americans in San Diego and across the United States also share in the agony created by the occupation of Cyprus. They agonize about mission friends and family, the destruction of the Greek Cypriot culture and the denial of access to ancestral homelands now occupied by the Turkish Army. These people have suffered too long.

And so, together with the Greek-American community, I urge Congress and the administration to adopt a far more active role in pressing the Turkish Government to withdraw its troops from Cyprus, end the human rights abuses there and provide a full accounting of those who are missing.

It is time we let Turkey know that a peaceful resolution to this crisis is tragically overdue.

Mrs. KELLY. Mr. Speaker, I rise today to join with my colleagues in marking the tragic events that occurred 21 years ago on the Island of Cyprus. On July 20, 1974, the Government of Turkey sent troops to Cyprus and forcefully assumed control of more than one-third of the island. This action dislocated much of the Greek Cypriot population, creating a refugee problem that exists to this day. Additionally, over 1,600 Greek Cypriots are still missing or unaccounted for as a result of this brutal invasion.

The Turkish Cypriot community has continually shown its unwillingness to move toward a negotiated settlement with their Greek neighbors. The removal of the roughly 35,000 Turkish troops from the Island of Cyprus is central to any such agreement. However, the Turkish Government is doing the exact opposite. They continue their arms buildup on the island, in effect making any sort of rapprochement all the more unlikely.

The Greek Cypriots have demonstrated repeatedly their flexibility and willingness to compromise in order to bring an end to this long-standing dispute. As late as last year, President Glafcos Clerides of Cyprus unveiled a plan that would demilitarize the island. This proposal should be commended. The United States has also taken steps to facilitate an agreement. Earlier this year, President Clinton appointed a Special Envoy for Cyprus and dispatched Assistant Secretary of State Richard Holbrooke to the region in hopes of helping to achieve a solution.

However, these efforts have failed to produce any movement toward an agreement. It is time that the United States Government take bold steps to show its resolve to the Turkish Government that it is serious about moving toward peace on Cyprus. In this regard, I am pleased to be a cosponsor to House Concurrent Resolution 42, which officially calls for the demilitarization of Cyprus. Perhaps more importantly, I was very encouraged by the passage of an amendment to H.R. 1868, the Foreign Operations Appropriations Act, which cuts economic support funds and military assistance to Turkey until it withdraws its troops from Cyprus, lifts its blockade of Armenia, and makes progress on extending political and economic rights to is Kurdish minorities.

Mr. Speaker, it is with decisive steps such as these that we can begin to hope for a brighter future for Cyprus. I wish to commend the gentleman from Florida, [Mr. BILIRAKIS] for his steadfast work in this area. I look forward to working with him, and all my colleagues who share our concerns, to achieve a unified and peaceful Cyprus in the future.

Ms. ROS-LEHTINEN. Mr. Speaker, today we commemorate the 21st anniversary of a very sad event when a democratic country, Cyprus, fell victim to a foreign army.

Today, all the people of that country continue to suffer the ill consequences of that intervention and a military occupation of part of Cyprus.

The situation in Cyprus deserves our attention.

As a country at the crossroads of the great civilizations of Europe and the Middle East, Cyprus has long been an island where people from all these civilizations and cultures mingled freely and in harmony.

Twenty-one years ago, the population of Cyprus lived in peace and friendship despite the differences in religion, language, and national origin.

The Greek Cypriots did not abuse their electoral strength, and despite being 80 percent of the Cypriot population, they did not use the opportunity to deny the other citizens and residents of Cyprus of their rights to full participation in that democratic system.

Nonetheless, outside intervention led to the division of the country.

Since then, all efforts to restore Cyprus to national sovereignty and to restore the legitimate government's authority over all the national territory have been to no avail.

I sincerely hope that all parties to this conflict will heed the consensus among the democratic states of the world and put an end to its illegal occupation of the northern portion of Cyprus.

A continuation of a divided Cyprus is not in the interest of any of the citizens of that country.

Since the foreign occupation of the northern part of the island, the per capita income of the Cypriots living under the legitimate and recognized Government of the Republic of Cyprus in the south has soared from less than $1,500 in 1973 to $10,430 in 1993, while those who live in the occupied territory have seen their incomes stagnating.

The European Union is moving toward a decision in which the residents of the area under the control of the legitimate Government of Cyprus will be offered membership in the European Union, while simultaneously taking measures to further isolate the residents of the occupied territory from their market opportunities in Europe.

A settlement in Cyprus would be good for all countries in the region.

As I understand it, the European Union is willing to negotiate a customs union with Turkey which would give Turkey duty free access to the 367 million residents of the European Union countries. Thus, both Greece and Turkey will be able to move beyond the misunderstandings and conflicts of the past and become part of a customs union that will bring increased prosperity to both countries.

But that customs union cannot be achieved until there is a settlement in Cyprus to restore

the legitimate government to full control of the island, and the withdrawal of all foreign troops from that island.

The expansion of democracy throughout Cyprus is a noble goal, that I urge all Members to support.

Mr. PALLONE. Mr. Speaker, it is with great sadness and frustration that I rise tonight to commemorate the anniversary of an international crisis that has to date defied resolution. Twenty-one years ago, demonstrating a gross disrespect for both international law and human life, Turkish troops stormed into the Mediterranean island Nation of Cyprus and stole its independence. Defiantly ignoring the calls of the United Nations and NATO to allow Cyprus to resume its existence as a free and sovereign country, Turkey currently maintains its illegal occupation of the island with a force of over 30,000.

As we gather here to remember those who have died, as well as those who today live in a divided country, we must also be sure to vigorously communicate our determination to persevere until Cyprus is once again free. We must continue to point out, as I and my fellow cosponsors have done in House Concurrent Resolution 42, that the presence of 30,000-plus Turkish troops "hampers the search for a freely negotiated solution to the dispute regarding Cyprus." Calling for a complete demilitarization of the island, House Concurrent Resolution 42 asks for nothing more than Turkish compliance with the numerous resolutions passed by the United Nations Security Council.

And if the Turks continue to resist the idea of a sovereign, independent Cyprus, let there be no doubt that we will continue—just as I and many of my colleagues joined together to do in voting for the Porter amendment to the fiscal year 1996 foreign operations bill—to cut U.S. assistance to them.

Mr. Speaker, we should be proud of our efforts in the Congress to resolve this situation, but there is much work that still needs to be done. Answers must be found for those who have disappeared, including five Americans who were in Turkish held territory, following the 1974 invasion; in the absence of a complete Turkish withdrawal from the island, human rights improvements for the Cypriots must be secured; and the regional instability caused by tension between Greece and Turkey must be contained.

Thus, although we hope we will not have to return to commemorate this event next year, be assured that we will return for as many years as it takes to once again see a peaceful and independent State of Cyprus.

Mr. Speaker, I again thank the gentleman from Florida [Mr. BILIRAKIS] for organizing this special order and for his leadership on this issue and on many others.

Mr. BILIRAKIS. I thank the gentlewoman for her wonderful words.

Very quickly, getting back to demilitarization. Demilitarization is crucial to a satisfactory resolution of the division of this island-nation. In fact, this couldn't have been made more clear than in a recent report submitted to the U.N. Security Council regarding its resolution renewing the U.N. peacekeeping force in Cyprus. In that report, U.N. Secretary General, Boutros Boutros-Ghali, referred to occupied Cyprus as "one of the most highly militarized areas in the world."

Demilitarization would alleviate the security concerns of all parties and substantially enhance the prospects for a peaceful resolution of the problem.

In addition to these efforts, the United States and the international community have undertaken numerous other endeavors to end the occupation, but again and again the Turkish side has resisted.

Mr. Speaker, I yield to the gentleman from Pennsylvania [Mr. KLINK].

Mr. KLINK. Mr. Speaker, I thank the gentleman for yielding, the other half of the Hellenian Caucus, for yielding, and I thank him for his leadership on this issue.

I note you have a brief amount of time. I will just try to mention some things I do not think have been said, maybe putting this in a different perspective.

When it comes to the topic of Cyprus, there are so many paradoxes involved here. If you go back to September 14, 1829, after a tenacious 8-year battle, Hellenic troops were able to conquer larger Ottoman forces. The Greeks finally won their recognition as a sovereign state. They did that with the support of countries like Russia, Britain, France, and the United States, all supporting a return of democracy to the Greeks.

Yet, now for 21 years, these countries and many others around the world have turned their backs on Cyprus and the situation in Cyprus. It is the Greeks themselves who are credited with the entire concept of democracy. As early as the sixth century B.C., the ideas upon which our own Constitution was written were being debated by the ancient Athenian philosophers. Greeks were the first people to believe all persons are created equal and should be recognized as so, and these people can go and govern their own affairs. Yet, for 21 years on Cyprus, the Greeks who lived there, the Cypriots there, have not been allowed to do that.

Hundreds of years after the Greeks first talked about democracy, our own Founding Fathers referred to the wisdom of Pericles, Plato, and Aristotle in drafting the principles of America's own democracy and Constitution. Yet, we turn our back for 21 years on what has occurred in Cyprus.

When and under what other circumstance would this Nation turn its back on five American citizens captured and held? The gentleman from Ohio [Mr. HOKE] referred to a 17-year-old boy, who is a 38-year-old man, if he is alive. He had his passport in his hand.

The family was there, along with five Americans, along with 1,600 Greek Cypriots, who have not been heard of for 21 years. Yet, our Nation stands by, giving millions of dollars in economic aid to Turkey, giving hundreds of millions of dollars in military aid to Turkey.

In fact, it is amazing, if you take a look at those figures, the amount of money coming from the United States to Turkey is about what it costs that nation to be able to occupy Cyprus each of those 21 years, and every time the United Nations has spoken up on Cyprus, they have found that the Turkish Government has not paid attention. They have ignored everything we have done.

So I say to the gentleman, I am proud to be here on the floor with you commemorating this, and I hope that we never have to do this again, that something before the next anniversary comes up will occur so the people of Cyprus can again know the freedom that Greeks for centuries have talked about and people of this country for 200 years have also spoken about.

JOBS AND EDUCATION

The SPEAKER pro tempore (Mr. MCINNIS). Under the Speaker's announced policy of May 12, 1995, the gentleman from New York [Mr. OWENS] is recognized for 60 minutes as the designee of the minority leader.

TURKISH-OCCUPIED CYPRUS

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

Mr. OWENS. I yield to the gentleman from Florida.

Mr. BILIRAKIS. Mr. Speaker, I thank the gentleman from New York [Mr. OWENS]. I appreciate it so very much. I will not take the full 5 minutes.

Mr. Speaker, as the gentlewoman from New York said, last fall, the President appointed Mr. Richard Beattie as special emissary to Cyprus to lend new impetus in resolving the Cyprus problem. Mr. Beattie, along with State Department Special Cyprus Coordinator, James Williams, have made several trips to Cyprus stressing U.S. resolve in achieving a lasting solution to the problems there.

However, it is evident, Mr. Speaker, that a solution to the 21-year-old problem on Cyprus will not be found until tensions are lessened on the island and the Turkish side agrees to come to the table and negotiate.

I am satisfied that the Government of Cyprus remains committed to seeking a peaceful, just, and viable solution. The acceptance by the Turkish side of U.N. Resolution 939 and of Cyprus President Glafcos Clerides' demilitarization proposal would substantially enhance the prospects of a negotiated settlement.

This past weekend, in my home in Florida, a gentleman said to me that in all the history of the country of Turkey, voluntary negotiations and agreements based on those negotiations are

absent. He said, "they don't negotiate."

I truly hope that he is wrong. Turkey has many internal problems. American taxpayer dollars are intended to help them with those problems, not to help them to wage invasions on their neighbors and to illegally occupy other lands. Common sense, a true caring for their own people, their domestic needs, and world opinion all would seem to dictate that Turkey would want to work things out on a problem that they just do not need.

I feel that we in the Congress have a responsibility to use our influence to see that Cyprus is made whole again, to rescue the thousands of Greek-Cypriots who have become refugees in the land of their birth. Like those faithful Cypriots in my district and elsewhere, we must do our utmost in this cause.

Mr. OWENS. Mr. Speaker, last week the House Appropriations Subcommittee on Labor, Health and Human Services and Education reported its appropriations bill for next year. The bill will be considered by the full committee on Thursday and by the full House next week.

On previous occasions, Mr. Speaker, I made it clear that nothing is more important in this House, nothing that we contemplate and nothing that we legislate on is more important than jobs and education.

□ 2130

And in our complex society jobs and education are inextricably interwoven. We cannot really hope to have a decent job in this complex society unless you do have an education.

When I came to Congress 13 years ago, I volunteered, and I wanted very much, to serve on the Education and Labor Committee. I thought that there would be a lot of competition for service on the committee which deals with education and jobs because in my district of course the most important thing that was clearly communicated to me by my constituents was a need for more jobs. We had one of the highest unemployment levels in the country concentrated in my district. People wanted jobs, they needed jobs, and of course, in order to qualify for some of the better jobs, they needed an education. I saw that right away. I wanted to serve on the Education and Labor Committee, and that was the name of the committee at that time, because of the fact that was the way I felt I could give the greatest amount of service to my constituents.

To my great surprise I found there was no great amount of competition for service on the Education and Labor Committee. The smarter members of the freshman class when I came in all told me that the Education and Labor Committee is a graveyard. You cannot get any contributions for our campaigns by serving on the Education and Labor Committee, and, true to form, I found that it was easy for me to get a place on that committee, and I, of course, still wanted a place, but there were many vacancies on Education and Labor, and year after year there were vacancies, and people came on that committee only after they could not find any other place.

But I think it was a great mistake on the part of those who chose that course. Nothing is more important than jobs and education. Nothing that we do is more important than what we do in order to encourage an economy which produces jobs and an economy which makes it possible for people to work and earn decent wages under conditions that are not life-threatening, under conditions that do not destroy the health of workers, and of course closely added to that is the need for education systems that allow people to qualify for these jobs, allow people to be able to operate and earn their own way in our complex society, and allow people also to meet other requirements in our very complex society.

So jobs and education are very important. They are very important, and in the Congressional Black Caucus alternative budget the only area that we propose great increases in the budget, although we were under the mandate to show a balanced budget over a 7-year period, and we met the mandate, and we balanced the budget over a 7-year period, we were not able to give increases elsewhere, but we did increase the education budget by 25 percent. We recognized that function 500, which is education and job training, was the area that had to be given priority.

It was quite pleasant to note that the President, President Clinton, when he decided to announce his own 10-year budget, chose to emphasize and to clearly make education and job training as a priority. The President proposes to increase over a 10-year period by more than $40 billion the education and job training budget. So we clearly have set that priority.

We are quite distressed by the fact that the overall Republican budget cuts in domestic spending call for a 4-percent cut over the 4-year period. Most programs will be cut only 4 percent if you average it all out. However the Republican appropriations bill shows that education has the lowest possible priorities because education is cut by 16 percent, not 4 percent, but by 16 percent, or $3.9 billion is cut out of funding for training and education and an additional 24 percent is cut out of other programs in function 500, labor programs, an additional $2.7 billion.

Now what does this mean in terms of the contract for America, the contract on America, some of us say the contract against America? What is the vision of the people who are in charge? The Republican majority want to do what in the future? They want to do what in the present? They want to do what in the future which leads them to believe that education and job training should be assigned the lowest possible priorities? The Republicans have clearly said that they want to remake America. We are going to remake America. They are going to remake America this year largely through the appropriations process. They are not able to muster the kind of votes in the Senate that are going to allow them to remake America through an authorization process where committee by committee and bill by bill they would be able to pass a bill which—bills which pass the House, so they are going to do it through the appropriations and budget process.

What do they do with jobs and education? Immediately they communicate to us that in the action taken by the Appropriations Committee the jobs and education are assigned a very low priority. The future of America, as envisioned by the Republicans in control of the House, is a future that does not need to have programs which provide the best possible education for the most people in America. The Nation does not need the best possible education system.

Yes, it is true that the Federal Government does not run the education system in America. Everybody knows that we all agree that only about 7 percent of the total education budget is money that comes from the Federal Government. The Federal Government plays a minor role in education. But it is a very pivotal role, and it is a role that needs to be expanded, and not cut off, and not diminished.

We have always prided ourselves on leaving education to the States and to the local school districts. Perhaps we have gone overboard. I think we have gone overboard and allowed too much to be left to the States and the local school boards over the years. We are not like France, or Great Britain, or Japan, or Germany. We do not have a highly centralized Department of Education running education for the whole country. We have never had that; there is no danger of us ever falling into that anytime soon in the next 100 years, I assure you, but we go to the other extreme. Instead of not only not having the highly centralized, centralized, overbearing direction of education from a central point, we are out of the picture too much, and the Federal Government has played too small a role, and for that reason our Nation has fallen behind in terms of the competence and productivity of its workers in terms of the reproduction of a labor force that is going to be able to meet the complexities of the future. We are in deep trouble because we have not played enough role. If the Federal Government were merely to get involved a little more, it would not hurt.

In fact, we could easily go to the point where the Federal Government is supplying instead of the present 7 percent of the total education funding, it can supply 25 percent. In fact, we should move toward that goal where at least 25 percent of the total education funding in America is supplied by the Federal Government, and then we would have 25 percent of the decisionmaking power. Even if we had 25 percent of the decisionmaking power, 75 percent of the decisionmaking power would still be left to the States and to the local governments. So there would be no domination of the Federal Government of education.

We do not need to lessen and diminish our role in education. We need to increase our role in education. It is quite dangerous, any vision of America which says that education is not important. Well, that is the vision that is being offered by the present Republican majority.

Perhaps it is because they are people whose mind-set is shaped by their philosophy that only an elite group can run America and only an elite group needs to get an education. I call them the elite minority that chooses to oppress the majority. Now that is a very difficult phenomenon in a democracy, and the great question is, Will the elite minority that controls the House now and controls the Senate, will an elite minority be able to stampede the great majority of Americans out there into accepting this oppression, accepting this denial of opportunity through education programs, accepting this large cut in job-training programs? Will the elite minority be able to stampede America, and divert their attention and get them interested in so many other things like abortion, and affirmative action, and voting rights, and various other immigrant-bashing, various other diversionary tactics, allow them to downgrade education, abandon job training, at the same time win votes? That is a great question; we do not know what the answer is going to be.

I assume that the majority of Americans will clearly recognize the threat, the danger, to their own well-being of that kind of philosophy and an elitist group which wants to govern only for that small group. It is a danger to the majority. The majority certainly will have at their disposal the instruments for dealing with that kind of philosophy now that it is clearly revealed.

It was not part of the Contract With America. Whether you like the Contract With America or not, in the Republican Contract With America they never stated we are going to downgrade the Federal involvement in education. They never stated we are going to give less money to job training, and less money to schools, and less money for drug-free schools and safe-schools programs. They never stated that. They never said we are going to cut school lunch programs. They never stated that. They never stated we are going to have fewer job training programs. In fact the impression was given that one of the things they definitely wanted to do was have everybody assume personal responsibility for themselves. The great emphasis was on reforming welfare, taking up the call of the President to change welfare as we know it.

They certainly in the Contract With America said they would do something about welfare in terms of making people move from welfare to jobs, and yet the very area which allows people to move from welfare to jobs is the area of education and job training, and that is the area which the Republicans have chosen to cut the most, the most. Sixteen percent they are cutting in education, 24 percent in other labor and job-training programs, 16 percent, 24 percent, in areas where people need the greatest amount of help in order to become self-sufficient in order to be able to get off welfare, in order to, those not on welfare, to be able to go on and get the kind of training they need for the kind of highly specialized and complex jobs that are opening all the time. We cannot have an America that is moving forward if we do not have every possible opportunity to upgrade the work force, every possible opportunity for people to help themselves.

Are Americans better off now than they were before the Contract With America started? Now that the Contract With America has been completed, are you better off now than you were before, or is the Republican concept of a Contract With America now out of control? Have they gone into areas where the contract never intended to go because certain people want to get revenge on labor? Certain people want to experiment with their own ideas about education? Certain people see the Federal Government in a way of local experimentation that might be more advantageous for people who want to privatize the schools or who want to pursue certain elitist agendas that cannot be pursued if you have a Federal Government which is trying to set some standards.

Goals 2000 is zeroed out. They do not want anything to do with Goals 2000. Goals 2000 is now zeroed out by the Republican majority, but Goals 2000 was conceived of by a Republican President following the lead of another Republican President. The whole movement toward reform of the public school education began under Ronald Reagan with the report of "A Nation at Risk." It was continued under George Bush when he set forth America 2000 and held a conference where he set forth six goals for American education.

President Clinton was at that Governors' Conference which set those six goals. President Clinton has followed through from America 2000 to Goals 2000. If you like Goals 2000 and America 2000 side by side, you are going to find they have more in common, they have more similarities, than they have differences. One of the big differences of course in America 2000 President Bush was proposing vouchers and greater privatization of schools, and President Clinton removed that completely from Goals 2000, but in spirit the whole idea of establishing standards where every school system could use those standards as a model, not—there is nothing mandated about it, there is nothing—the Federal Government does to force anybody to do anything, but the Republicans want to move away from the establishment of those standards. There was great bipartisan agreement on the establishment of the standards.

Goals 2000 went forward. It was passed, authorized, and funded with bipartisan support. Suddenly this new majority. The people who want to give us a contract have set off on a different course. They want to revolutionize in the wrong direction. Revolution is always a dangerous course. You know revolution is sometimes a necessary evil. You cannot change things any other way except by having a revolution.

But even the best revolutions go wrong. Revolutions are inherently destructive. They move too fast so rapidly, they try to do so much, that inevitably they will do a lot that is wrong. Why? Why have a revolution in an area where we do not need a revolution, where we have an evolution, a steady progress. Slow but steady movement in the right direction is evolution.

□ 2145

We have a pretty rapid evolution in education, an improvement of education. So why throw in a revolution which cuts off the Federal involvement by cutting off all the funds for Goals 2000 and by also rolling back other programs like chapter 1. Been funded for more than 25 years. Started under Lyndon Johnson to help poor school districts. Chapter 1, title I is now being cut drastically by the Republicans, an almost $1 billion cut.

Head Start for the first time. No Republican President or Democratic President has ever cut Head Start, but Head Start is now being cut by $200 million by the majority, by the Republican majority in the latest proposals to come out of the subcommittee on the Labor, HHS, and Education appropriations. That is what we are up against.

This Contract With America is out of control. The vision that the Republican majority has has to be examined and reexamined, because it is dangerous if it is a vision which sees education as being a low priority.

The assault on education and labor certainly was not openly contemplated or stated as part of the Contract on

America, Contract With America. The contract said nothing about moving not only to downgrade education and to cut off job training programs but also to attack the workplace.

There is an assault on the protection of workers in the workplace. There is an assault on the Occupational Safety and Health Administration and all of the laws that they have promulgated to help protect the safety of workers.

Much of this does not cost any money. Small amounts of money are involved, but the appropriations and budget process is being used in order to cut and destroy the effectiveness of these safety and health programs.

They cannot pass bills and get them through the legislative process and get them signed by the executive branch. So in the absence of being able to pass authorizing legislation and get it signed into law, they are using the back-door approach of the budget and appropriations process.

They have cut off large amounts of funding for OSHA, the Occupational Health and Safety organization. They have cut off money for the Mine Safety Health Administration. They have cut off money for the National Labor Relations Board.

The largest cut of organizations and entities designed to help workers has been NLRB. Thirty percent has been cut. These big numbers might be hard to follow, but just consider your budget for your House for a week, and if it took a 30 percent cut, you know what 30 percent means, if you take your salary for 1 month and you take a 30 percent cut, I have some idea what 30 percent means.

These are relatively small agencies of the Federal Government, the OSHA, Occupational Safety and Health Administration, the Mine Safety Administration, the research arm of OSHA called NIOSH, all very small pieces. Even the National Labor Relations Board, as comprehensive as it is and as important as it is to labor relations, it is still a small part of the overall executive budget.

So when they make these cuts they do great damage. They make it almost impossible for the agencies to function, and they know that. They are legislating through the appropriations process, crippling the agencies. It is an assault on workers.

And you might say, well, who cares about workers? Well, when we say workers, we do not mean people who are out there digging ditches necessarily, people who haul garbage. Workers are wage earners. Anybody who earns a wage is clearly a worker in the category of what we are talking about, and the vast majority of Americans are people who earn hourly wages or they earn salaries on the basis of hourly wages. They have salaries, but they pretty much work on the same basis as hourly workers. If they work over 40 hours, they want overtime, et cetera.

So you have a vast number of people employed by other people who are wage earners or workers. If you want to call them, working class, middle class, or you can even reach out, include some small entrepreneurs. There are a lot of people with small businesses. They earn less than the average hourly wage earner, but they like the independence.

In fact, one of the things that came out when we were doing the studies on health care last year in preparing health care legislation was that a large percentage of the small business owners of America have no health insurance. A large percentage of those people are independent, and they have their own business, and they deprive pleasure from that, and they contribute greatly to our economy, and we need more of them. They cannot afford to even pay for their own health insurance.

So if you are talking about people working every day and they cannot afford to be without a week's worth of earnings, then you could include large numbers of small businesspeople in the same category.

When you get through adding the hourly workers and the salary people who are really working on an hourly basis and you add to them the entrepreneurs and the small business owners, you are talking about two-thirds of America. You are talking about working conditions and earnings for two-thirds of America. So it is two-thirds out there, at least, that we are talking about when we say that the Contract With America has chosen to assault working people, assault the working class.

The middle class is a working class, anybody who is in those categories I mentioned before.

This assault is about more than money. Yes, the balancing of the budget has been touted as one of the major goals of the Republican majority, and it has been conceded by the White House and a lot of other people that maybe we should be unlike all of the other industrialized nations. Maybe this Nation should work toward a balanced budget. A balanced budget might be a good idea.

It may not be absolutely necessary because there are a lot of other industrialized nations like Germany, France, Britain, Holland, that do not have balanced budgets, and they have larger national debts than we do, and they function pretty well, but let us break ground and lead the other industrialized nations into a situation where we have national balanced budgets.

It might be good idea to save money on interest which is mounting all the time. All of it is worth experimenting with. We will accept the need for a balanced budget.

The President makes much more sense than the Republican majority and the Congress. He says let us do it over a 10-year period. Let us not glorify suffering and pain. Let us try to minimize the suffering and pain. Let us not sit comfortably from our vantage point in the elite upper group expecting a tax cut while we let people suffer in the other two-thirds of the economy. Let us try to balance the budget in a way which is fair and spreads the burden to all of us. Maybe we should even balance the budget slowly and look for new sources of revenue.

In the Congressional Black Caucus alternative budget, we proposed that we move toward an increase in the burden, the proportion of the burden of revenue of taxation that is borne by corporations. You know, we have in this country a strange phenomenon where since 1943 the amount of money—the percentage or the proportion of the overall tax burden borne by families and individuals has gone from 27 percent to 44 percent. Individuals and families now bear 44 percent of the total tax burden.

Corporations went in the other direction. They bore almost 40 percent of the total tax burden in 1943. They went from almost 40 percent of the total tax burden down to 11 percent. At one point it got as low as 8 percent of the total tax burden.

Stop and think about that. Every American who is angry out there ought to think about what he is angry at.

You have got good reason to be angry. You have been swindled. Over the years, the Committee on Ways and Means has been owned by corporations. Over the years, the Committee on Ways and Means has allowed itself and the Congress, yours truly included, have sat paralyzed when Ways and Means bills are brought to the floor. You cannot amend them. You cannot do anything about them. And we have not fought vigorously enough and exposed what is going on to a great enough degree to make the American people understand. We have been swindled.

At this point, after adjustments made by the Clinton administration, corporations are carrying about 11 percent of the total tax burden, while individuals and families are paying 44 percent of the total tax burden. And again, under Ronald Reagan it went as low as 8 percent. Corporations were paying as low as 8 percent. So there is good reason to be angry.

But let me come back to my major point here. In the attack on workers, the budget is not of great concern. The numbers and the money is not of great concern. The attack on workers is an attempt to destroy a certain segment of our society, a certain segment of the political infrastructure, a certain segment that does not cater to the philosophy of the elite minority that is in charge now.

That is what we are up against. This assault is designed to destroy the

voices and the ability to participate in the political process of two-thirds of the Nation's people. It is assigned to wipe out any influence and any effectiveness that organized labor has. Because organized labor is a very small percentage of the total voting population out there, 16 million and going down, but they have a consolidated solidarity that allows them to have much more influence than the numbers would indicate, and they are one of the few organized forces that is not already controlled by the elite minority that is seeking to change, remake the government of America. They are not under the control of the people who are perpetrating the Contract With America. So they must be destroyed, and that is what this is all about.

The assault on organized labor does not necessarily save money. But it accomplishes another purpose of wiping out the opposition. Couple the two, the assault on education with—an assault on education and job training with an assault on the instrument, the voice, the mechanism by which people can fight for more jobs and better jobs and fight for better education, and you have an indication of what the grand design of the elite minority is.

They have a vision of the future. Their vision of the future and their vision of what America should be is an America that has no room for two-thirds of the people. We are not going to share the great wealth of America with two-thirds of the people. We are going to govern, according to the vision of the elite minority, govern in order to enhance the advantages and refurbish the luxuries of a small elite group, and that is what this grand design was all about.

Turning to education for a minute, let us take a look at some of the cuts that were taken in the education area. Education for disadvantaged students, and Title I program, which supports tutoring and remedial education services for low income children and others who are falling behind in school, the House bill cuts the program by $1.1 billion. That is 17 percent. This is in one year. We are talking about the cuts in that 1-year period, not over the 7-year period; 1.1 million educationally disadvantaged students will be out of the program, 1.1 million students around the country.

The House appropriations bill destroys the drug free schools—the drug free and safe schools program. It cuts it 60 percent, eliminating services to 23 million school children.

Adult education programs support literacy training and basic education for adults. The House bill gouges $25 million out of the program, denying services in this small program to 125,000 adults.

It goes after Head Start, as I stated before. Head Start will have 50,000 fewer children than before. We were proposing that Head Start be increased. George Bush increased Head Start programs. Ronald Reagan increased Head Start programs. For the first time, we have a cut in Head Start programs, after both parties have continually agreed that this was a program that works. It is a program where the funding—and youth employment and training programs, the House bill cuts total training for disadvantaged youth by 54 percent.

To the youth of America, here is the message: Youth of America who are not in school, the programs are cut more than half. If you are in school, we are only cutting 16 percent.

□ 2200

If you are in school, we are only cutting 16 percent, but we care not about the future of the youth of America. We care about putting them in prison, we care about more money for prisons and more money to make certain that law enforcement operations round them up, but we are not interested in educating the youth of America.

To the youth of America we are saying that the summer jobs program, which is already inadequate and funds too few youngsters, will be totally eliminated. It funds about 600,000 youngsters throughout America during the summer months. They get a job if they are low-income youth and they qualify. That is going to be eliminated totally, completely, zero funding is there. For year-round training programs for low-income youth, the cut will be 80 percent. That almost wipes it out. That leaves only 20 percent. Just stop and think, your monthly paycheck or your weekly paycheck, if you cut 80 percent out of it, if you take $8 out of every $10, what do you have left? You can understand how this is a destruction of a program. It does not exist anymore if you make that big a cut in the program.

Training for dislocated workers, people who lose their jobs by having large defense plants close. We said they would be a priority. We promised them, we had a contract with them that as we cut back on the expenditures for defense, workers in those plants would have an opportunity to be relocated, to be retrained, and we had special programs to do that. Now we are suddenly going to cut those programs 34 percent, $446 million. This will mean that 140,000 worker who are in the program already will be dropped out and no new workers of any substantial amount can come in.

Training for low-income adults, those people on welfare that we yell we wanted to get off welfare and get a job, that will be cut by $225 million, denying assistance to 74,000 that we now give assistance to to get off welfare, we are going to have that many fewer who will have the opportunity to get jobs and to get off welfare. This is what we mean when we say we are going to reform welfare, change it as we know it.

It is really not necessary to decimate education and training in order to balance the budget. The issue is how we go about reaching the balanced budget and what programs should be given priority as I said before. The Republicans have clearly decided that education is not a priority. Their budget would cut education spending by $36 billion over the next 7 years. The Congressional Black Caucus, as I mentioned before, has put forward a detailed budget which would, like the Republican plan, eliminate the deficit over 7 years. We have told them how to do it. But our budget doubles the spending for education and training and other human investments. We make education our first priority. We make education our first priority, and President Clinton has also proposed in his 10-year balanced budget plan to make education the first priority. His budget calls for a $140 million over a 10-year period.

It is important that the American people understand that this attack on education and training by the present Republican majority is unprecedented. Every single Federal education training and education program on the books, all that exist now, were enacted with bipartisan support. We had both Republicans and Democrats agreeing. Former Vice President Dan Quayle, not a liberal Republican, not a moderate Republican but proudly a very conservative Republican, he wrote the Job Training Partnership Act, which is the principal job training program in existence now. When he was a Senator, Dan Quayle wrote the Job Training Partnership Act. Now the Republicans are trying to rewrite history and they attack the same Job Training Partnership Act as a failed Democratic program and they want to destroy it. We have always proceeded on a bipartisan basis with every education and training program since I have been in this Congress. We have taken exhaustive painstaking steps and we have made every effort, even when it was quite annoying, to achieve consensus on every bill that we brought forward to the floor. Neither Republicans nor Democrats were happy with every provision of each bill that we passed over the last 13 years, but in their entirety each bill commanded overwhelming bipartisan support.

At the start of this Congress, many believed that this bipartisan approach would continue under the Republican majority. At least in the area of education and job training, we thought we could continue the bipartisan support. After all, education and job training had not been mentioned in the so-called Contract With America. That turned out to be purely wishful thinking. There has been no moderation and no bipartisanship. Our Committee on

Economic and Educational Opportunities has turned into an unrelenting attack dog for the radical right, intent on dismantling and disemboweling each and every education and training program which serves the American people. They even took the first step immediately to change the name of the committee. It has always been called the Committee on Education and Labor. But instead of Committee on Education and Labor, they chose to rename it Committee on Economic and Educational Opportunities, leaving out Labor. The word labor is not contained in the name of the full committee, and the word labor is not contained in the name of any of the subcommittees. The attack on labor, the ideological obsession with destroying labor began with the renaming of this committee.

Since January, the Committee on Economic and Educational Opportunities has taken some of the following actions. We have gutted the school lunch program, as everybody knows. We have told the children of America, the Nation needs your lunch. It is not enough to feed all the hungry. If the money runs out before the end of the year in the case of block grants to the States, children will have to just go hungry. We have to, after all, maintain the money in the budget in order to give a tax cut of more than $200 billion over a 7-year period to the richest Americans. We must save money. The Nation needs the lunch of school children in order to transfer those much-needed funds to the wealthiest Americans who need a tax cut. That is the plan of the controlling Republican majority.

They have repealed Federal child abuse prevention programs, also. Most of our State laws and programs designed to prevent and prosecute child abuse originated with a series of Federal laws enacted during the 1970's. These set out model laws, guidelines and programs and provided States with funds to implement them. By all accounts, it has been an extremely successful Federal-State partnership, improving the detection, the prosecution and the prevention of child abuse. Inexplicably and without a single hearing, the Committee on Economic and Educational Opportunities has gutted all of these laws and taken away the assistance that is provided to States and community-based and parent organizations. Before we adjourn in August for recess, there are indications that this committee will add substantially to this already impressive catalog of carnage.

One of the bills that the committee proposes to act on is the elimination of the Department of Education. In 1995 in America at the end of the 20th century as we go toward the 21st century, they insist on pursuing this agenda of eliminating the Department of Education.

As I said before, our Nation does not have a strong and over centralized Department of Education to begin with. We have too little direction from the Federal level in education.

Now the Republicans are proposing to eliminate that. They will try to do it through the budget process, since they are not able to get agreement with the other body that they can eliminate it right away through an authorization process.

They want to eliminate all small programs. The committee also plans to repeal nearly every remaining elementary and secondary education program on the books. They want to replace them with a lump sum, unrestricted block grant.

The Republicans argue that many of these programs are too small to do any good and should be tossed out. The logic is bizarre. If a program is small and does not require much funding, if it is not hurting the balanced budget process, it is still tossed out. It is still destroyed because it is too small. You are either too large or too small.

B–2 bomber programs, programs to fund the B–2 bomber, on the other hand, are gigantic programs. I guess it is their size, the size of the B–2 bomber program, is what makes it attractive. We can see nothing else attractive about the B–2 bomber program; the B–2 bomber program, which will absorb about $30 billion over the life of the program to build a bomber that nobody needs, that the President says he does not want, that the Secretary of Defense says he does not need, that the Air Force says they do not want.

Nobody wants the B–2 bomber, but the House of Representatives insists on including it in the budget, maybe because it is such a large program that the size of it, the gigantic nature of it, is attractive by itself. Small programs are considered evil, useless, they must be eliminated. But a gigantic program that nobody wants, that will cost $30 billion or more, that at all costs we seek to retain. This is a kind of individual action that results from a vision of America which is distorted to begin with, a vision of America which is front-loaded to deal with the one-third elite population.

If you are going to be concerned with the elitists, then you insist that there be a tax cut of more than $200 billion. If you going to be concerned with the elitists, you insist on the funding of a B–2 bomber. Who makes the profits on a B–2 bomber? The company that manufactures it, the district that is lucky enough to get it as a plant where the planes or parts of it are going to be manufactured. You are playing to a very small group.

If you took the same $30 billion and were to spend it in the civilian sector, you could create twice as many jobs. There are many studies that have been conducted and they all agree: Every dollar spent for military hardware would yield twice as many jobs if you spent them in the civilian sector. We could spend the B–2 bomber money any other way in the civilian sector and create jobs for twice as many people as are created by funding the B–2 bomber.

The assault on education is an assault which is partly driven by a concern for money, the desire to save money by cutting back on the Title I program, the Head Start program, the school lunch program. All the money you save by cutting these programs can be used to fund the more than $200 billion tax cut for the rich, so we understand that that assault is driven by the need to get money to pay for the tax cut for the rich.

The assault on labor is not saving tremendous amounts of money. That is an ideologically driven assault, an assault which shows that the Contract With America is out of control. There are certain people who want to get revenge on labor. There are certain people who think that you can silence a large segment of America if you destroy organized labor which is at the core of the opposition.

So they have mounted this assault on labor unrelentingly starting with the Striker Replacement Act under the Democratic-controlled Congress. We twice passed a striker replacement act, which I call a right to strike act, because the provision in American labor law which allows employers to permanently replace workers, which is unlike any other industrialized nation except South Africa, that is a provision which takes away the right to strike. If you can be permanently replaced, then you really don't have the right to strike.

We passed a bill twice in the House of Representatives under Democratic control. We did have a President who signed it. Now we have a President who has taken the initiative. The President has ordered that in the area of government contracting, they will not contract with any employer who practices the permanent replacement of strikers. Any company that engages in the permanent replacement of strikers cannot do business with the Federal Government under the Executive order issued by the President of the United States.

That Executive order now has been challenged. Our committee, as part of its attack on labor, has proposed a bill to nullify the executive order on striker replacement. It was reported to the House by the full committee as H.R. 1176 on June 14, 1995.

Those of us who are on the committee, of course, we fought the passage of it. But the Republican majority has the numbers. So the President's order, his Executive order which says that no contractor with the Federal Government would be allowed to practice the permanent replacement of strikers, that order is now under attack, and the committee has reported to the full

House now a bill which will strike down and nullify the executive order of the President.

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That is an unprecedented step, by the way. Congress very seldom takes steps to nullify an Executive order of a President.

Another bill that they have passed out of the full Committee on Economic and Educational Opportunities, which used to be called the Education and Labor Committee, as part of the attack on labor, we passed what we call the Team Act. The full committee ordered H.R. 743, the Team Act, favorably reported on Thursday, June 22.

The Team Act can be called more accurately the Company Union Act. The Team Act sets up a situation where companies can establish their own union. Nothing is more dangerous for unions than to have the employers, the management, be able to pick the people they want to bargain with and who they want to work with. The Team Act could be called the Company Union Act, and that is passed as part of the assault on labor. It has come out of the committee and has been reported to the floor.

The OSHA reform, the Occupational Safety and Health Administration, as I said before, is under attack. The OSHA reforms that have been proposed by the chairman of the subcommittee, Mr. BALLENGER, he has introduced a bill, which is H.R. 1834, entitled, "A Comprehensive Reform of OSHA," which could be better described as a death and injury act. It really guts the enforcement of OSHA and makes OSHA into an agency which has no viability. They cannot enforce any of their rules or their standards if they follow the procedures that are established in this act by Mr. BALLENGER and the subcommittee. That has been introduced and is still in the process of holding hearings.

The Fair Labor Standards Act reform is also under the Workforce Protection Subcommittee chaired by Mr. BALLENGER, and they are proposing, first of all, to gut the overtime provisions of the Fair Labor Standards Act. Child labor sections of the act will be dealt with later. They are starting by gutting the most important provisions related to workers, and that is the provision for overtime. That is part of the assault on labor that has gone forward.

Minimum wage. They refuse to deal with minimum wage at all. It is a negative assault on labor. By refusing to consider minimum wage or allowing any legislation to be considered which increases the minimum wage, they are assaulting two-thirds of the population out there suffering from increases in cost of living, living under an obsolete minimum wage standard.

The President and the Democratic leadership of the Congress are sponsoring an increase in the minimum wage of 90 percent over a 2-year period. That is our answer to the assault on the wages of workers.

The Davis-Bacon Act and the Service Contract Act, Davis-Bacon Service Contract Act protect workers when they are on government contracts. They must be paid the prevailing wages of a given area while they are working on a government contract program.

This was a program that was developed by Republicans. Mr. Davis was a Republican; Mr. Bacon was a Republican. It has been legislation always supported by Republicans previously. But now this revolutionary Republican majority wants to wipe out totally, repeal the Davis-Bacon Act.

Fortunately, they have not been able to do this through authorization, so one of the appropriations bills, the Transportation Subcommittee, has placed in the appropriations bill a provision cutting off all funds for the enforcement of Davis-Bacon on projects related to transportation. That is part of the assault on labor.

On and on it goes. The assault on labor, the assault on education, the two primary programs necessary for two-thirds of Americans to survive those are unrelenting, and it must be stopped. It is quite tragic that the vision, the vision that is driving the Republican majority is a vision which is a danger for two-thirds of the population.

Any vision for the future that caters to only a small percentage and refuses to endorse the principle of sharing the riches of our Nation, any such elite, selfish vision is a danger to the America of the future.

Oh, beautiful and spacious skies and acres and miles of rich, productive farmland, this is America which God has been quite good to. God is good to America, and America should be good to its people by sharing the great wealth. Hills and mountains full of gold, silver, copper, and uranium for energy; nature yields so much to America.

This is a land where democracy flourishes, a land with a written Constitution that establishes the framework for law and order, and the peace that comes as a result of that law and order makes rapid, unbroken progress possible. With all of the flaws and faults of our American system, we still have the best government that man has ever conceived.

America with political freedom and a free marketplace, a land where science and technology expand with infinite possibilities. This great America, preserved and protected by thousands of nameless soldiers who fought the tyranny of Tojo in Asia and the tyranny of Hitler in Europe; this America made available to all of us by God, nature and the accidents of history; this America protected and perfected by so many from George Washington, Thomas Jefferson, and millions of unpaid slaves who helped to build it. Abraham Lincoln, Franklin Roosevelt, and all of the soldiers known and unknown, who fought to hold on to our freedoms and our opportunities. This America belongs to all of us.

This is the America which we have to envisage; this is the America which you have to fight to keep; this is the America that the elite minority wants to destroy: The workers, the wage-earners, the salary workers, the small business people, the executives, the owners. This America does not belong to any one group, this belongs to all of the Americans.

The elite oppressive minority shall not prevail. This America belongs to all of us, and we will fight to keep it. We must fight the assault on education; we must fight the assault on labor. We must fight to preserve the America for all Americans.

The SPEAKER pro tempore (Mr. MCINNIS). Under the Speaker's announced policy of May 12, 1995, the gentleman from Pennsylvania [Mr. FOX] is recognized for 60 minutes.

Mr. FOX of Pennsylvania. Mr. Speaker, I appreciate the opportunity to share a dialog with my colleagues on issues that are very important.

We have talked to a great extent this evening and throughout the week about reform issues. One of the issues that I think is the most exciting that has taken place this week is one where Congressman SMITH from the State of Washington has introduced landmark legislation today, which is in fact going to help revolutionize and improve the credibility, I believe, of campaigns nationally, and I hope that she is successful.

I would ask you, Congresswoman SMITH, if you could tell us the background of why you have brought this legislation forward, and what you hope to accomplish.

Mrs. SMITH of Washington. Mr. Speaker, first I want to thank the gentleman from Pennsylvania [Mr. FOX] for being one of the first people to stand up and say, this makes sense and I want to sign on the bill, and the gentleman is an original sponsor and a brave man in this place to make this change.

This particular change is revolutionary. The reason it had to happen is this is a new Congress. We are doing business different. We are cleaning house, we have changed procedures. We had a major audit of everything going on, and now we need a new way of running campaigns. The old way just will not work any more.

Mr. FOX of Pennsylvania. If the gentlewoman will yield, I think that is what the public said last November. They stated that they not only wanted the Congress to run better, be more accountable, spend less taxes and also

spend less money, but they also said, what about cleaning up campaigns so that it is returned to the people and not controlled by special interests.

Please tell us a little bit more about the background, if you would.

Mrs. SMITH of Washington. Mr. Speaker, in Washington State, in 1992, after 4 hard years, we finally passed campaign reform, similar to what I am introducing here, and that many of our Members are already rallying around. What it did is it says, no money from outside your State. It limited PACs severely to where they are there, but they do not talk a lot with money. It eliminated gift places, they were called, office funds, but it is where lobbyists gave gifts so you could buy stereos and fancy clothes and things like that, and it said, no fund-raising while the legislature is in session. If you are voting, the money for your campaign should be contributed far, far away from voting. Therefore, it said no fund-raising. We are only in session there a few months, but it said, no fund-raising during the month before or the month after. So it sterilized.

Mr. Speaker, what this does is about the same. It says, no money from outside your State. No more PAC money, no more D.C. fund-raisers. You go back home, you campaign at home; no more gifts, no more trips.

We are going to change the culture. We are not going to ask all of the people here to jump in and change with their opponents, running back home and playing under the old set of rules. We are going to call unilaterally to disarm at a time certain to where everybody changes the rules and returns campaigns home.

Mr. FOX of Pennsylvania. Is it not true, Congresswoman SMITH, that you are going to level the playing field so that it will not be just incumbents that get reelected, it will be actually the best candidate winning based on merit and not who has the biggest war chest?

Mrs. SMITH of Washington. Definitely. And I think what is going to be hard for this place to get used to is some of the folks have been here 20, 30 years, and some more than that. They have homes established here. Good people. They raised their children here. They have not had to spend as much time in their districts. They go back, they represent their people, but they do not spend much time there, or have to spend much time there. This will force them to go home.

Then in the election year, if your opponent is out there in the streets going door-to-door and they are going out and saying, elect me, it will probably mean this Congress is not in session as much, and those people will have to spend more time in their States, which I think is really effective.

Mr. FOX of Pennsylvania. If the gentlewoman will yield, they have to be more accountable back to the people.

Mrs. SMITH of Washington. Yes. But it will be kind of scary.

This is revolutionary, but I think just like in Washington State, both sides of the aisle, both parties, everybody fought it for a long time. When they finally decided, some of them before it was passed, and some after, that it was OK, now they love it. Because no money can talk while they are voting. Lobbyists can talk with persuasion instead of their checkbooks. Now you will find that most people in Washington State jut cannot imagine going back under the old money system.

Mr. FOX of Pennsylvania. If the gentleman will yield, what has been the rate of growth as your staff and you have brought these facts together for the House, both Republicans and Democrats? What is the total PAC contributions to House campaigns that the gentlewoman has charted here for us tonight?

Mrs. SMITH of Washington. I just happened to bring a chart to show the gentleman.

Mr. FOX of Pennsylvania. That is good.

Mrs. SMITH of Washington. As the gentleman will see, in 1984, just 10 years ago, a little over, there were $80 million a year given by PACs, and now it is $132 million. I think what is significant about that is, and I should have another chart, it is four-to-one to incumbents. So what has happened, except for the little blip last year where some of us were, as I was, a write-in candidate, but some folks really had to take on an incumbent, and it was rare that an incumbent could go out even under a really good challenge. Because first of all, the incumbent had unlimited mailing, which we limit in this and do not let them mail 90 days before the primary and 90 days after.

Mr. FOX of Pennsylvania. If the gentlewoman will yield, what is the House rule now?

Mrs. SMITH of Washington. It is 60 days, and we are going to tighten it down so that it is even tighter.

Mr. FOX of Pennsylvania. So what you have going to be able to do now is make sure that the newsletters or any other communications from an incumbent will actually be related back to governmental work as opposed to those items which are just being sent out in an attempt to be reelected.

Mrs. SMITH of Washington. That is right. If you are trying to level the playing field and you are driving campaigns home and you do it all, but you leave the unlimited franking or reasonably unlimited franking, what happens is the incumbent has these great ideas about twice a week to send out to their colleagues to build their idea. If the idea is that great, it certainly is good in the first year of your term and not just extra good in the last. What we have found is that most of the franking is spent in the latter part of the term instead of the first part.

Mr. FOX of Pennsylvania. If I understand correctly, not only is your legislation going to limit the time period by which franked mail can be sent, but as a result of your efforts and the other reformers that have worked with you in the House, we have now cut by one-third the amount of mail that can be franked generally for House Members.

Mrs. SMITH of Washington. That is right. It will work really well, because we will still be able to communicate, even ask people to come to town halls with fliers and things like that. They will not need as much in the next year, because we are going to cut out what they would mail when this passes. Therefore, it changes politics as usual in the year of the election, but still lets you work with your constituents and communicate with them.

What we will see is what we saw in Washington State: campaigns dropped in cost by a third in one election cycle after the campaign measure passed, and it did not come from people. People's contributions went up, in fact. They realized they were really players.

It came out of the 15 big. Those are the big corporate, the big labor and the big trial lawyer groups, real estate agent groups. all of those groups. All of a sudden they could not give like they could before, and it dropped campaign costs by a third. It dropped campaign costs for all candidates, so there was an equal playing field.

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Mr. FOX of Pennsylvania. With regard to the political action committees, or PAC's, as you discussed what percentage have they been of incumbents' campaigns as relates to other expenditures?

Mrs. SMITH of Washington. I have just got 1994, but this seems to be pretty consistent. Incumbents were getting 53 percent of their contributions from individuals and 44 percent from PAC's and less than 3 percent from parties. Challengers, on the other hand, were getting 11 percent from PACs.

When you take a look at this, obviously PAC's really weighed in heavily for incumbents and not near as heavy for challengers. If you want to win as a challenger, you had to get a lot more individuals, but this will change. In Washington State it just changed substantially.

Mr. FOX of Pennsylvania. As far as the charts there, this is the 1994 figures, the most recent campaigns then. You found, based on what happened in Washington State, that you had a dramatic change in the culture there? Is that right?

Mrs. SMITH of Washington. Yes.

Mr. FOX of Pennsylvania. What happened in Washington State that you are saying today to the American people we think is going to change for Congress as well?

Mrs. SMITH of Washington. We returned campaigns to people. Instead of

the legislature operating with fundraisers and evening events and worrying about lobbyists' contributions, they were able to get about business. Instead of having the first few weeks right before the session started with dozens of campaign fundraisers every day, they were able to plan an agenda, because they could not raise money. Instead of the incumbent mass mailing in the last year to be sure they were reelected, they had to get out and get amongst people because they could not do it anymore. It did what we wanted to do. We had to return these campaigns to people and get them away from PAC's.

Mr. FOX of Pennsylvania. Part of the reform effort we have seen in the freshman class as a Republican has been the gentleman from Kansas [Mr. BROWNBACK]. I would ask him to enter our colloquy and give us what he thinks is going to be really the next step.

Mr. BROWNBACK. Thank you very much for the gentleman yielding. I associate my comments with the gentlewoman from Washington and her comments about campaign finance reform, the excellent work she has done in the State of Washington. I think that can carry over to Washington, DC. We need to get this sort of reform taking place. I think the first step about being able to do that is bringing these sort of facts and figures out and bringing to the American people how campaigns are financed, how the system so much favors the incumbent. That is why a number of us support term limits. For one reason, the system so favors incumbents, this is the only way you can get at the system is through term limits.

Another thing, another key portion of it is the campaign finance system. You can see the difference between incumbents and challengers on the chart the gentlewoman from Washington [Mrs. SMITH] puts forward.

I want to say this is a very, very important thing to look at. The American people, on November 8, 1994, said to us, "Look, clean your own House up. Make the government smaller. Get that place under control. Return the people's House to the people." That to me is a lot of what this is about, returning the people's House to the people, having them fund it, having them finance it, having them see and be the focus of our point.

When I go back to eastern Kansas where I represent and where I ran during the campaign, the people kept saying all the time during the campaign, "Don't forget us, don't forget us." It seemed like an odd question to me. "Why do you think we'd forget you?" Then you start getting around the system and how it is built and how it is funded, how it operates, you see pretty quick why the people are scared we are going to forget them. I think the gentlewoman from Washington [Mrs. SMITH] is on target. I applaud her efforts.

Mr. FOX of Pennsylvania. I wanted to ask the gentlewoman further, your legislation does more than change the culture with regard to campaigns and how they are run and leveling the playing field for challengers, but this gift ban where we actually have lobbyists give lunches or golf and things like that, which the public does not appreciate nor understand, what would your bill do in a forward way?

Mrs. SMITH of Washington. You know, I think you keep saying my bill. This is several of our bills, yours, the gentleman from Kansas [Mr. BROWNBACK], but the gift ban section come from an earlier bill that we introduced, the three of us, the gentleman from Kansas [Mr. BROWNBACK], myself, and you earlier in session, and I think either one of you could explain just as well as I can. But it obviously just abolishes gifts, but I would certainly yield to the gentleman from Kansas [Mr. BROWNBACK] to probably explain that just as well as I can, probably better, because he has championed this issue.

Mr. BROWNBACK. The gift ban is pretty simple. It is a "just say no" gift ban. That is just simple, saying "no" to gifts. The American people in many respects think the institution is bought and paid for sometimes by very small gifts and trinkets, other times by very big things, and the gift ban legislation says "just say no," do not accept it, you do not need to take it, why have it. We are paid a reasonable salary, and we get reasonable pay for what we do here. Why do we need to have all of these gifts, plus why are we given gifts in the first place? Is there something going on untold that takes place? Some people think it is, some not.

Mrs. SMITH of Washington. It could be you are so handsome, both of you, but I think it is something else.

Mr. FOX of Pennsylvania. It has more to do with what we are voting on.

Mrs. SMITH of Washington. That is right. I do have something I want to ask you. We have both got pressure on it from other Members. There is a lot of concern about the provisions that eliminate all trips from special interests or any group wanting to lobby this place. Address that, and why we all made that decision, because some of our colleagues are real concerned about the change, away from, to no trips.

Mr. BROWNBACK. To me, the reason for it is very clear and very simple, and that is that frequently institutions or groups will seek to fly somebody as a Member of Congress to a particular place to be able to catch his ear for a longer period of time. I do not think people here are bought and sold for a trip. That does not take place. They get then additional time for the ability to influence a particular Member of Congress on a particular point of view. The people we represent do not get the same chance to do that. That is the idea with this. I do not think Members should be particularly scared about this provision at all, that this is something that we are saying if it is a reasonable trip, if it is worthwhile, we have travel accounts that are associated with this. If there are things that can be used that way, that that is the way that he ought to go with it, but it goes back to the people not trusting what takes place in the House of Representatives. This is their House. We are the people. We are the freshest from the folks. They are saying they do not trust it. Here is another way to try to say, OK, there are some institutional flaws with it. Let us get rid of those. Let us get about our job and let us move on down the road. I think we can operate a very strong House of Representatives without these gifts being given.

Mr. FOX of Pennsylvania. Another reason why I think this makes sense is no one really comes here with the idea, "I want to be in Congress to have a trip or a gift," and no one would come for that purpose, no one would stay for that purpose. Let us get rid of them, restore the confidence and credibility of the institution, along with the other kinds of reforms that are institutionally being made, whether it be legal reform, welfare reform, regulatory reform, all the things that help make the country work better, make sure that Government is more responsive by leading by example within this institution on the gift ban and reforms of campaigns; you are going to attract some quality people who never would have run before.

With term limits, they will all follow us in Congress, revitalize it and make it a stronger, more accountable place.

Mr. BROWNBACK. On that point, that is absolutely true, and plus one thing I would add, in a representative democracy, it is critical that people have trust and faith in the representative and the representative system. They have lost that faith. We have got to do what we can to restore that.

Mrs. SMITH of Washington. Well, you could not have said it any better. I have been wrestling with ways; a lot of amendments, a lot of the bills that have come forward on ethics in campaign and gifts have come from well-intentioned people, and they try so hard to get a bill that will make the people here happy and, and you go through the exceptions, and they might have some logic to them for some person, but when you put them all together and each of these bills that have come before us have exceptions, then there is still the problem of the appearance of evil. We know that most of our colleagues here are pretty honest people. Only a few break rules or are dishonest. They are here to do a good job.

But the American people look at it and go, "Just change," and I think that we cannot any longer just mickey with the system. I think we just have to change it to show them we are really a new Congress, a clean Congress.

Mr. FOX of Pennsylvania. In terms of the legislation filed today and discussed before the press corps of Washington, where do you see the next step? How is it going to be passed? Many people who are entrenched in Washington do not want to see it. How will passage come besides having our support? Where do you think it is really going to have a maximum effort?

Mrs. SMITH of Washington. It is going to come from the American people. It is going to come from the American people. Our plan, as you know, is to go to large groups of Americans, organized groups and small groups, and bring them together and make sure that they lobby their legislator and tell them what they want. If they do not deliver the votes on this, this time next year we will be having the same debate because this place will not change itself. One thing we know after November, this place is really interested in what the voters think. We know they put us in, watching us, and I know they can take us out, and they are not going to accept the old. We have given them a taste of the new, of the change, of the clean Government. We have audited this place. We have reduced staff. We have opened up doors and blown out cobwebs that have never been there before, and they now know we can do it, and I do not think they are going to accept anything else but a cleaning.

Next month the gentleman from Kansas [Mr. BROWNBACK] and myself will be speaking to the United We Stand conference in Dallas, with nearly 10,000 activists from around the Nation. You will be contacting groups, I say to the gentleman from Pennsylvania [Mr. FOX], and we will each individually divide up the Nation and get people to work this bill. People will deliver it, or it will not happen. We are going to do our part. I am going to do my part, and you both are.

But it will take people.

Mr. FOX of Pennsylvania. Like what you did in Washington State, I say to the gentlewoman from Washington [Mrs. SMITH]; that is how we will succeed here.

Mrs. SMITH of Washington. The people let us not.

Mr. FOX of Pennsylvania. One at a time. The people will make a difference. I could reflect also on another item today where reforms like yours being introduced, in fact, we came to fruition, one of the major items that we talked about on day one was to have a House audit so we could find out what the books were like and what the finances were of our own House for the first time ever. I would ask the gentleman from Kansas [Mr. BROWNBACK] for his force reflections on where we are at this point, what has been discovered, and where we go from here.

Mr. BROWNBACK. On day one of this new Congress, we said there were a number of reforms we would pass. One of those things on day one we said we would do was audit the House of Representatives for the first time in the history of this institution, long overdue, particularly when you consider this is the place that has had a House post office scandal, a bank scandal, a restaurant scandal, and any other number, and yet we did not need to have an audit. Well, yes, it needed an audit and we have had an audit released today.

We told people on that opening day, and we told the auditors, "Follow your noses. See what you find in this particular audit, in this situation." Price Waterhouse, a private major accounting firm in this country, had over 100 auditors auditing the House of Representatives for the past, since that time, since January 4 when we passed that, and they only looked back at the past 15 months for as far as when we took over in November 1994, they looked back 15 months, so they are just talking about a time period from the middle of 1993 to November 1994, and auditing this institution back through that period of time. I think they need to go back further and look more thoroughly at this.

But today they released this report, and it was a scathing indictment of the institution and the institutional failures, so much so that these auditors could not issue an opinion as to the fiscal soundness or the financial situation of the House of Representatives. They could not even issue an opinion. They said the records are so bad, they said we had two sets of books during this time period. Now, this is under the old Congress. This is under the Congress that was controlled by one party for 40 years in a row, so two sets of books. We could not find the audit trail sufficiently to be able to tell you what the financial conditions of the House of Representatives is today. They said that if this was a private business, you could not get a loan, because we could not say if your books were solid or not and, furthermore, you would be bankrupt.

They said if you were a governmental institution, which this place is, you would have violated the law since 1990. We are on cash basis accounting. The whole Government went to accrual basis accounting the year I was born except for the House of Representatives.

Now, this is itself a massive indictment of what took place financially in this institution, and this is just a 15-month window that we have examined, and that is coming out today.

Mr. FOX of Pennsylvania. I also noticed in my copy of the report, which went to each Member, and it was a bipartisan initiative, it showed that actually bills had not been paid, equipment was not accounted for, and there were security problem with the computer system, within the internal system. I was happy to see at the end of the day, and I am sure you were as well, that every single Member of this Chamber voted to have the inspector general do the followup work required, hopefully with your help and the gentlewoman from Washington [Mrs. SMITH] we will be able to go backward in time sufficiently suitable enough so we can get the other information we need so we do not see these institutional errors continue.

Mrs. SMITH of Washington. If the gentleman will yield, you know, I looked at this, and again I am an optimist. I thought how great we have the opportunity to change it, and this is a Congress that will. You know we can look back and spend a lot of time on being made, but we can look forward and we can say we know what is wrong and we can make changes.

But also I felt really good because many of the things recommended when it came to Government costs in this is too much, barbershops, beauty shops, all of those things we had already started fixing, the printing costs, all of those. I felt good we had already started changing. I felt good we could see where we could change, and that I believe we can move forward. And I also felt good that we are not as partisan as I have seen in the past and in other layers of Government. We are giving it to an outside counsel to look at. We are not playing around with it. We are not holding our own hearings on it. We are just saying, "Here, you take it, and you followup on this," and I was proud of us for doing that. I think that was a very wise move for this institution to take, to not politically make this a football.

Mr. BROWNBACK. If the gentlewoman would yield for just a moment, I think those are absolutely appropriate comments, and that is what the American people want us to do. They want us to clean our own house up first. They want us to produce a smaller Federal Government, clean up the House of Representatives, and return to the basic values that built the country, and we are getting a good start on doing those things.

I am just amazed that when I ran for Congress, and I ran a lot saying, "We're got to change Congress," I did not comment about—enough about how bad the institution had——

Mrs. SMITH of Washington. Did not even know.

Mr. BROWNBACK. Yes, I guess I didn't realize it, but to never have been audited, to have this sort of lack of ability to even be able to render an opinion, I mean the financial situation just stinks.

What I am happy to see is we have blown the lid off of that. OK; it is no longer just this hidden little dirty secret that is only known around Washington.

Look, here is the audit. I have got some summaries here. The audit is inches thick that we have released out today. Here is what it is, folks. Let us get to the bottom of this, and at least we have blown open the lids on the Capitol, and given the people's House back to the people, and to me this is part about reestablishing the faith of the American people in representative democracy which we absolutely have to do to continue to make the tough choices for the future of our great Nation, which I was just home in Kansas, and I was down in Pittsburg, KS, this past weekend, and people there are saying:

"I'm scared for our Nation."

"I'm scared for our future."

What's going to take place in the future of this country?"

Because they are just fearful we are going to be self-serving, we are not going to take care of the real business we need to, we are not going to clean up the House, and this is a further statement:

"No, we are."

It is a start. We passed the audit bill. Here is the first installment. We are going to continue on it, and we have got to get the bad odor out of the place that we are finally started on.

Mr. FOX of Pennsylvania. Mr. Speaker, I think it is a fact that what is really clear here is that not only are we talking about reforming Government, and that is downsizing, privatizing, consolidating, eliminating agencies which have become bloated or duplicating what is in local governments, much with your work with the New Federalists, Congressman BROWNBACK and Congresswoman SMITH, but what we are also doing is, like you said earlier, the institution itself has become so inbred with the problems of the books having two systems, of having no change, kind of the status quo was maintained. We have a new sign on this House, said the status quo no longer lives here. Everyone is allowed to question everything.

In fact, Mr. Speaker, the Speaker and the leadership is saying to freshmen, "Please question the system," and that goes for the American public. If they got something they think where the Federal Government is off base, we are here as Representatives in Congress and the Senate so we can make those fundamental changes in the institution, in the Federal Government. We want to be more responsive, more accountable, spend less money, do more to help businesses grow, produce, and hire, give individuals to be all they can be as well, and by listening to the American public, going back as often as you do to Kansas and LINDA does, Congresswoman SMITH, to Washington, we will start hearing those kinds of suggestions which will be institutional as well as governmental.

Mr. BROWNBACK. If the gentleman would yield, the gentleman from Minnesota [Mr. GUTKNECHT] that is also in our class, he has a saying that he uses from his grandmother. It says: "If you always do what you always done, you'll always get what you always got."

It is her statement, and what I am so pleased about is that we are not just doing what we always done. The standard thing to do would be to say, OK, when you take over, "Well, let's not really look at the books, the audits. You might get at your own Members. You might get at some people you don't want to."

No, no, we are going to audit the place. The thing we have to do now is be vigilant and make sure that this sticks, that the next time the auditors look at this place, and we do an annual audit, and they look at an audit, they can issue an opinion where the House of Representatives is, and they will not say this place stinks, which is what the auditor said today basically.

I was in the committee where they released the information, and they were saying they cannot compare this to any other institution they have ever audited previously. I mean it has its own set of records, and it seems to serve its members more than be interested in accountability. It was the auditors' own statement. Well, that is a staining indictment on the system. I am glad to say that that system is being thrown out——

Mr. FOX of Pennsylvania. As far as I am concerned, we got a breath of fresh air coming through the Congress today not only with the audit, but with the legislation of the gentlewoman from Washington [Mrs. SMITH] to get a new perspective. This may be a catalyst for change in government reform, political campaign reform, in gift ban, and I was just speaking to a taxi driver earlier this evening. He said:

"You know, I like it the way the place is being questioned now." He said, "I'm reading more books on history. I'm looking into what the Government's doing. I'm glad that you freshmen are questioning things that I always thought should be questioned, and you're doing it, and whether you're a Republican or Democrat in this 104th Congress, things will get better, you'll be more accountable, and you're listening more to the folks back home.

I think they want to make sure we continue doing it.

Mr. BROWNBACK. Yes, and if the gentleman would yield, that is the key to representative democracy, and they feel like all they have had is more of an imperial Congress than a representative democracy. We have got to continue. That is why campaign finance reform, gift ban, the continuation of the audit. Let us continue to looking forward and backward at what is taking place. We have got to reinstill that trust and faith in the American people and this institution.

Mrs. SMITH of Washington. Mr. Speaker, if the gentleman will yield for a brief statement, I think though that we have to remember that we will only be able to do it if the American people are behind us and pushing. This place still have rooms that need to be cleaned, and it gets to be real hard for the oldtimers when they see so much happening, and so the American people are going to have to call and say, "We want the Brownback-Smith-Fox or the Fox-Smith-Brownback Clean Campaign Act." They have to do that. They have to say, "We want the Clean Campaign Act." They need to call their Members and tell them that, if they do not do that, it will not happen because this is going to be a tough change.

When we get into this audit, they need to commend us for doing it, not point fingers at all of us for cleaning it up, and we need the support of the American people. This is going to be a tough job, and we cannot do it by ourselves.

Mr. FOX of Pennsylvania. Well, I want to thank the gentlewoman from Washington [Mrs. SMITH] and the gentleman from Kansas [Mr. BROWNBACK] for their participation in this special order tonight which dealt with reforming the Congress, and for keeping the revolution alive, and we thank them for their efforts and leadership.

LEAVE OF ABSENCE

By unanimous consent, leave of absence was granted to:

Mr. CRANE (at the request of Mr. ARMEY) from 2:30 p.m. today through Wednesday, July 19, on account of the death of his father.

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. FATTAH) to revise and extend their remarks and include extraneous material:)

Ms. KAPTUR, today, for 5 minutes.

Mr. OLVER, today, for 5 minutes.

Mr. DEFAZIO, today, for 5 minutes.

Mr. RUSH, today, for 5 minutes.

Ms. MCKINNEY, today, for 5 minutes.

Ms. BROWN of Florida, today, for 5 minutes.

(The following Members (at the request of Mr. HAYWORTH) to revise and extend their remarks and include extraneous material:)

Mr. BALLENGER, today, for 5 minutes.

Mr. BROWNBACK, today, for 5 minutes.

Ms. SEASTRAND, on July 20, for 5 minutes.

Mr. JONES, today, for 5 minutes.

Mr. FORBES, today, for 5 minutes.

Mr. HAYWORTH, today, for 5 minutes.

Mr. BRYANT of Tennessee, today, for 5 minutes.

(The following Member (at her own request) to revise and extend her remarks and include extraneous material:)

Mrs. MEEK of Florida, today, for 5 minutes.

EXTENSION OF REMARKS

By unanimous consent, permission to revise and extend remarks was granted to:

(The following Members (at the request of Mr. FATTAH) and to include extraneous matter:)

Mr. SKELTON in five instances.

Mr. STARK in two instances.

Mr. FAZIO.

Mrs. COLLINS of Illinois

Mrs. SCHROEDER.

Mr. RAHALL.

Mr. ANDREWS.

Mr. RUSH.

(The following Members (at the request of Mr. HAYWORTH) and to include extraneous matter:)

Mr. SENSENBRENNER.

Mr. CRANE in two instances.

Mr. WATTS of Oklahoma.

Mr. GILLMOR.

Mr. PACKARD.

Mr. WOLF.

SENATE BILLS REFERRED

A bill of the Senate of the following title was taken from the Speaker's table and, under the rule, referred as follows:

S. 457. An act to amend the Immigration and Nationality Act to update references in the classification of children for purposes of United States immigration laws; to the Committee on the Judiciary.

SENATE ENROLLED BILL SIGNED

The SPEAKER announced his signature to an enrolled bill of the Senate of the following title:

S. 523. An act to amend the Colorado River Basin Salinity Control Act to authorize additional measures to carry out the control of salinity upstream of Imperial Dam in a cost-effective manner, and for other purposes.

ADJOURNMENT

Mr. FOX of Pennsylvania. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 10 o'clock and 52 minutes p.m.), the House adjourned until tomorrow, Wednesday, July 19, 1995, at 10 a.m.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

1219. A letter from the Acting Director, Defense Security Assistance Agency, transmitting the Department of the Air Force's proposed lease of defense articles to the Taipei economic and cultural representative in the United States [TECRO] (Transmittal No. 29-95), pursuant to 22 U.S.C. 2796a(a); to the Committee on International Relations.

1220. A letter from the Assistant Legal Adviser for Treaty Affairs, Department of State, transmitting copies of international agreements, other than treaties, entered into by the United States, pursuant to 1 U.S.C. 112b(a); to the Committee on International Relations.

1221. A letter from the Auditor, District of Columbia, transmitting a copy of a report entitled, "Review of the Award and Administration of Parking Ticket Processing and Delinquent Ticket Collection Services Contracts," pursuant to D.C. Code, section 47-117(d); to the Committee on Government Reform and Oversight.

1222. A letter from the Deputy Director for Operations and Benefits, District of Columbia Retirement Board, transmitting the financial disclosure statement of a board member, pursuant to D.C. Code, section 1-732 and 1-734(a)(1)(A); to the Committee on Government Reform and Oversight.

1223. A letter from the Chairman, Federal Election Commission, transmitting a copy of a report entitled, "Impact of the National Voter Registration Act of 1993 on the Administration of Elections for Federal Office, 1993-1994," pursuant to 42 U.S.C. 1973gg-7; to the Committee on House Oversight.

1224. A letter from the Deputy Associate Director for Compliance, Department of the Interior, transmitting notification of proposed refunds of excess royalty payments in OCS areas, pursuant to 43 U.S.C. 1339(b); to the Committee on Resources.

1225. A letter from the Deputy Associate Director for Compliance, Department of the Interior, transmitting notification of proposed refunds of excess royalty payments in OCS areas, pursuant to 43 U.S.C. 1339(b); to the Committee on Resources.

1226. A letter from the Deputy Associate Director for Compliance, Department of the Interior, transmitting notification of proposed refunds of excess royalty payments in OCS areas, pursuant to 43 U.S.C. 1339(b); to the Committee on Resources.

1227. A letter from the Acting Assistant Secretary for Territorial and International Affairs, Department of the Interior, transmitting a draft of proposed legislation entitled, "Pacific Insular Fisheries Empowerment Act of 1995"; to the Committee on Resources.

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. SHUSTER: Committee on Transportation and Infrastructure. H.R. 714. A bill to establish the Midewin National Tallgrass Prairie in the State of Illinois, and for other purposes; with an amendment (Rept. 104-191, Pt. 1). Ordered to be printed.

Mr. SHUSTER: Committee on transportation and Infrastructure. H.R. 1943. A bill to amend the Federal Water Pollution Control Act to deem certain municipal wastewater treatment facilities discharging into ocean waters as the equivalent of secondary treatment facilities (Rept. 104-192). Referred to the Committee of the Whole House on the State of the Union.

Mr. LEACH: Committee on Banking and Financial Services. H.R. 1858. A bill to reduce paperwork and additional regulatory burdens for depository institutions; with an amendment (Rept. 104-193). Referred to the Committee of the Whole House on the State of the Union.

BILLS PLACED ON THE CORRECTIONS CALENDAR

Under clause 4 of rule XIII, the Speaker filed with the Clerk a notice requesting that the following bills be placed upon the Corrections Calendar:

H.R. 1943. To amend the Federal Water Pollution Control Act to deem certain municipal wastewater treatment facilities discharging into ocean waters as the equivalent of secondary treatment facilities.

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. LONGLEY:

H.R. 2049. A bill to designate the Federal building located at 33 College Avenue in Waterville, ME, as the "George J. Mitchell Federal Building"; to the Committee on Transportation and Infrastructure.

By Mr. BAKER of Louisiana:

H.R. 2050. A bill to amend the Internal Revenue Code of 1986 to restore the deduction for interest on higher education loans and to permit penalty-free withdrawals from qualified retirement plans to pay for higher education expenses; to the Committee on Ways and Means.

H.R. 2051. A bill to amend the Internal Revenue Code of 1986 to restore the deduction for the health insurance costs of self-employed individuals, to provide incentives for certain medical practitioners to practice in rural areas, to provide for the creation of medical savings accounts, and for other purposes; to the Committee on Ways and Means, and in addition to the Committees on Commerce, and the Judiciary, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. BEILENSON (for himself and Mrs. MORELLA):

H.R. 2052. A bill to amend the Foreign Assistance Act of 1961 to establish and strengthen policies and programs for the early stabilization of world population through the global expansion of reproductive choice, and for other purposes; to the Committee on International Relations.

By Mr. BEREUTER (for himself, Mr. HAMILTON, Mr. ARCHER, Mr. GIBBONS, Mr. CRANE, Mr. MATSUI, Mr. GALLEGLY, Mr. JOHNSTON of Florida, Mr. THOMAS, Mr. ROEMER, Mr. KOLBE, Mr. DREIER, Mr. BENTSEN, Mr. LIGHTFOOT, Mr. SHAW, Mr. CASTLE, Mr. ENGLISH of Pennsylvania, Mr. BROWNBACK, and Mr. ROTH):

H.R. 2053. A bill establishing United States policy toward China; to the Committee on International Relations, and in addition to the Committees on Ways and Means, and

Banking and Financial Services, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. DICKS (for himself, and Mr. MCDERMOTT):

H.R. 2054. A bill to amend the Internal Revenue Code of 1986 to apply the rehabilitation credit to historic ships, aircraft, and other vessels; to the Committee on Ways and Means.

By Mr. GOODLING:

H.R. 2055. A bill to amend the General Educations Provisions Act expanding the exemption for the release of student records to comply with certain State statutes; to the Committee on Economic and Educational Opportunities.

By Mr. MARTINEZ:

H.R. 2056. A bill to amend the Older Americans Act of 1965 to provide for Federal-State performance partnerships, to consolidate all nutrition programs under the act in the Department of Health and Human Services, to extend authorizations of appropriations for programs under the act through fiscal year 1998, and for other purposes; to the Committee on Economic and Educational Opportunities.

By Mr. TEJEDA (for himself, Mr. BONILLA, Mr. GONZALEZ, and Mr. SMITH of Texas):

H.J. Res. 102. Joint resolution disapproving the recommendations of the Defense Base Closure and Realignment Commission; to the Commission on National Security.

By Mr. ARMEY (for himself and Mr. GEPHARDT):

H. Res. 192. Resolution providing for additional auditing by the House Inspector General; considered and agreed to.

MEMORIALS

Under clause 4 of rule XXII, memorials were presented and referred as follows:

132. By the SPEAKER: Memorial of the Legislature of the State of Nebraska, relative to the Western Area Power Administration; to the Committee on Resources.

133. Also, memorial of the House of Representatives of the State of Kansas, relative to the 10th amendment to the Constitution of the United States; to the Committee on the Judiciary.

134. Also, memorial of the House of Representatives of the State of South Dakota, relative to memorializing the Congress of the United States to enact legislation to provide for medical savings accounts; jointly, to the Committees on Economic and Educational Opportunities and Commerce.

135. Also, memorial of the House of Representatives of the State of Alabama, relative to urging the U.S. Senate to approve legislation returning reasonableness to the environmental regulatory process; jointly, to the Committees on Commerce, Transportation and Infrastructure, and Science.

ADDITIONAL SPONSORS

Under clause 4 of rule XXII, sponsors were added to public bills and resolutions as follows:

H.R. 60: Mr. GOODLING, Mr. FUNDERBURK, and Mr. STOCKMAN.

H.R. 65: Mr. DICKS and Mr. STUPAK.

H.R. 103: Mr. GILMAN.

H.R. 123: Mr. TAUZIN, Mr. HERGER, Mr. WILSON, and Mr. WATTS of Oklahoma.

H.R. 218: Mr. DICKEY.

H.R. 303: Mr. DICKS and Mr. STUPAK.

H.R. 359: Mr. SHUSTER and Mr. TORKILDSEN.

H.R. 373: Mr. STOCKMAN.

H.R. 394: Mr. SAM JOHNSON, Mr. PETERSON of Minnesota, Mr. PAXON, Mrs. KELLY, and Mr. SOUDER.

H.R. 713: Mr. SCHUMER, Mr. BONIOR, and Mr. FOGLIETTA.

H.R. 858: Mr. HEFNER, Mr. LUTHER, Mr. THOMPSON, Mr. JEFFERSON, Ms. RIVERS, Mr. ROSE, and Mr. HORN.

H.R. 887: Mr. LUTHER.

H.R. 922: Mr. FIELDS of Louisiana, Mr. PETERSON of Minnesota, and Mr. PICKETT.

H.R. 927: Mr. ENGLISH of Pennsylvania.

H.R. 941: Mr. SCHUMER, Ms. MCKINNEY, Ms. VELAZQUEZ, Mr. OWENS, and Mr. COLEMAN.

H.R. 994: Mr. CONDIT.

H.R. 995: Mr. SHAYS, Mr. LEACH, Mr. SAXTON, Ms. LOFGREN, and Mr. LIPINSKI.

H.R. 1000: Mr. WYNN.

H.R. 1020: Mr. BARR, Mr. ALLARD, and Mr. WATT of North Carolina.

H.R. 1043: Mr. NEY.

H.R. 1119: Mr. CRAPO, Ms. ROYBAL-ALLARD, and Ms. ESHOO.

H.R. 1127: Mr. KASICH, Mr. FRELINGHUYSEN, Mr. SHUSTER, Mr. HUNTER, Mr. MCINTOSH, Mr. CASTLE, Mr. GUTKNECHT, Mr. BASS, Mr. LATOURETTE, Mr. TRAFICANT, Mr. COBURN, Mr. MANZULLO, Mr. MICA, Mr. HILLEARY, Ms. NORTON, Mr. WAXMAN, Mr. BARRETT of Wisconsin, Mr. GOSS, Mr. WAMP, Mr. STOCKMAN, Mr. DOOLITTLE, Mr. GUNDERSON, Mr. HOUGHTON, Mr. SAM JOHNSON, Mr. TALENT, and Mr. LOBIONDO.

H.R. 1143: Mr. MARKEY.

H.R. 1144: Mr. MARKEY.

H.R. 1145: Mr. MARKEY.

H.R. 1203: Mr. BILBRAY, Mrs. CUBIN, and Mr. LATHAM.

H.R. 1204: Mr. LUTHER.

H.R. 1301: Mr. JOHNSON of South Dakota.

H.R. 1309: Mr. EVANS, Mrs. MORELLA, and Mr. KLINK.

H.R. 1444: Mr. BONIOR and Mr. HINCHEY.

H.R. 1513: Mr. DEFAZIO.

H.R. 1579: Mr. STARK.

H.R. 1611: Mr. PICKETT.

H.R. 1627: Mr. TANNER.

H.R. 1631: Mr. HILLIARD.

H.R. 1678: Mrs. ROUKEMA, Mr. KIM, Mr. BARRETT of Nebraska, and Mr. FOX.

H.R. 1803: Mrs. WALDHOLTZ.

H.R. 1833: Mr. HASTINGS of Washington, Mr. LIGHTFOOT, Mr. PORTMAN, Mr. HAYES, Mr. DIAZ-BALART, Mr. CRAPO, Mrs. WALDHOLTZ, and Mr. PAXON.

H.R. 1853: Ms. MCKINNEY and Mr. REYNOLDS.

H.R. 1872: Mr. SKAGGS.

H.R. 1884: Mr. LIPINSKI.

H.R. 1950: Mr. DEFAZIO, Ms. MCKINNEY, Mr. KENNEDY of Rhode Island, and Ms. NORTON.

H.R. 1963: Mr. SENSENBRENNER.

H.R. 1981: Mr. CREMEANS, Mr. ENSIGN, Mr. STEARNS, and Mr. EWING.

H.R. 1985: Mr. SKEEN, Mr. JOHNSON of South Dakota, Mr. REYNOLDS, Ms. VELAZQUEZ, Mrs. LOWEY, and Mr. BARTLETT of Maryland.

H.R. 2013: Mrs. THURMAN, Mr. HYDE, and Mr. TANNER.

H.R. 2026: Mr. FROST, Mr. BORSKI, and Mr. HOKE.

H.J. Res. 89: Mr. DEAL of Georgia, Mr. BACHUS, Mrs. SEASTRAND, Mr. BISHOP, Mr. CALVERT, Mr. HANCOCK, Mr. CUNNINGHAM, and Mr. BUYER.

H. Con. Res. 8: Mr. HOKE.

H. Con. Res. 42: Ms. PELOSI, Mr. POMBO, Mr. SALMON, and Mr. FALEOMAVAEGA.

H. Con. Res. 50: Mr. MANTON.

H. Con. Res. 78: Mrs. THURMAN, Mr. HINCHEY, Mr. MCDERMOTT, Mr. LEVIN, Mr. BOUCHER, Mr. VENTO, and Mr. BEVILL.

H. Con. Res. 79: Mr. LIPINSKI and Ms. ESHOO.

H. Res. 174: Mr. ACKERMAN, Mr. FILNER, Mr. BROWN of Ohio, Mr. MATSUI, Mr. REED, Mr. OLVER, Mrs. LOWEY, Mr. SABO, Ms. LOFGREN, Mrs. MINK of Hawaii, Mr. SCHUMER, Mr. ABERCROMBIE, Mr. BROWN of California, Mr. PALLONE, Mr. FLAKE, Mr. SMITH of New Jersey, and Mr. POSHARD.

AMENDMENTS

Under clause 6 of rule XXIII, proposed amendments were submitted as follows:

H.R. 1976

OFFERED BY: MR. CAMP

AMENDMENT NO. 47: Page 13, line 24, strike "$31,485,000" and insert $31,930,000".

Page 14, line 2, strike $98,810,000" and insert $98,365,000".

H.R. 1976

OFFERED BY: MR. CASTLE

AMENDMENT NO. 48: Page 25, line 20, strike "$805,888,000" and insert "802,888,000".

Page 31, line 19, strike $629,986,000" and insert $612,986,000".

Page 40, line 10, before "for loans" insert "(plus $200,000,000)".

Page 40, line 20, before ", of which" insert "(plus $40,000,000)".

Page 57, line 20, strike "$821,100,000" and insert "801,100,000".

H.R. 1976

OFFERED BY: MR. CONDIT

AMENDMENT NO. 49: Page 25, line 20, insert before the colon the following: "reduced by $300,000)".

Page 3, line 3, insert before the period the following: "(increased by $300,000, which shall be available for the operation of the Office of Risk Assessment and Coast-Benefit Analysis of the Department)".

H.R. 1976

OFFERED BY: MR. DE LA GARZA

AMENDMENT NO. 50: On page 41, line 3, strike out "$390,211,000, of which $377,074,000" and insert "$385,889,000, of which $372,897,506"; and

On page 46 after line 7 insert the following paragraph:

"RURAL DEVELOPMENT LOAN FUND PROGRAM ACCOUNT

"For the cost of direct loans as authorized by the rural development loan fund (42 U.S.C. 9812(a)) for empowerment zones and enterprise communities, as authorized by title XIII of the Omnibus Budget Reconciliation Act of 1993, $4,322,000, to subsidize gross obligations for the principal amount of direct loans, $7,246,000.".

H.R. 1976

OFFERED BY: MR. DURBIN

AMENDMENT NO. 51: Page 71, after line 2, insert the following new section:

SEC. 726. None of the funds made available in this Act to the Department of Agriculture may be used (1) to carry out, or pay the salaries of personnel who carry out, any extension service program for tobacco; or (2) to provide, or to pay the salaries of personnel who provide, crop insurance for tobacco for the 1996 or later crop years.

H.R. 1976

OFFERED BY: MR. MILLER OF CALIFORNIA

AMENDMENT NO. 52: Page 54, line 7, strike "the program." and insert in lieu thereof "the program: *Provided further*, That none of

the funds in this account shall be available to any State that does not use the competitive bidding process for the procurement of infant formula as required by the Child Nutrition Act as of July 18, 1995."

H.R. 1976

OFFERED BY: MR. MILLER OF FLORIDA

AMENDMENT NO. 53: Insert before the short title (page 71, after line 2) the following new section:

SEC. 726. None of the funds appropriated or otherwise made available in this Act may be used to administer any price support program for sugar beets or sugar cane under section 206 of the Agricultural Act of 1949 (7 U.S.C. 1446g) or other authority or to establish or administer marketing allotments for sugar and crystalline fructose under part VII of subtitle B of title III of the Agriculture Adjustment Act of 1938 (7 U.S.C. 1359aa–1359jj), unless such administration is in response to a violation of such laws occurring before the date of the enactment of this Act.

H.R. 1976

OFFERED BY: MR. SANDERS

AMENDMENT NO. 54: Page 56, line 16, strike "$123,520,000" and insert "$123,020,000".

Page 60, line 15, strike "$904,694,000" and insert "$905,194,000".

H.R. 1976

OFFERED BY: MR. SANDERS

AMENDMENT NO. 55: Page 56, line 16, insert before ", of which" the following: "(reduced by $500,000)".

Page 60, line 15, insert before ", of which" the following "(increased by $500,000)".

H.R. 1976

OFFERED BY: MR. SANDERS

AMENDMENT NO. 56: Page 60, line 15, strike "$904,694,000" and insert "$904,194,000".

Page 61, after line 22, insert the following:

SYNTHETIC BOVINE GROWTH HORMONE RESIDUE TEST

For the development of a test to show whether synthetic bovine growth hormone (BGH) (also called bovine somatotropin (BST)) is present in milk and to make the test commercially available to dairy producers, processors, and public health and agriculture agencies of the United States, and for the preparation of a report on the impact of the introduction of synthetic bovine growth hormone on small farms in America, $500,000.

H.R. 1976

OFFERED BY: MR. SANDERS

AMENDMENT NO. 57: Page 60, line 15, insert before "of which" the following: "(reduced by $500,000),".

Page 61, after line 22, insert the following:

SYNTHETIC BOVINE GROWTH HORMONE RESIDUE TEST

For the development of a test to show whether synthetic bovine growth hormone (BGH) (also called bovine somatotropin (BST)) is present in milk and to make the test commercially available to dairy producers, processors, and public health and agriculture agencies of the United States, and for the preparation of a report on the impact of the introduction of synthetic bovine growth hormone on small farms in America, $500,000.

H.R. 1976

OFFERED BY: MR. SANDERS

AMENDMENT NO. 58: Page 71, after line 2, insert the following:

SEC. 726. After April 1, 1996, none of the funds made available in this Act may be used to pay the salaries and expenses of the Food and Drug Administration unless it is made known to the Federal disbursing official concerned that a test has been developed to show whether synthetic bovine growth hormone (BGH) (also called bovine somatotropin (BST)) is present in milk, that such a test is being developed by the FDA as quickly as practicable, or that, despite the input of all interested persons, the development of such a test is impossible at this time.

H.R. 1976

OFFERED BY: MR. SANDERS

AMENDMENT NO. 59. Page 71, after line 2, insert the following:

SEC. 726. After April 1, 1996, none of the funds made available in this Act may be used to pay the salaries and expenses of the Food and Drug Administration unless it is made known to the Federal disbursing official concerned that a report has been completed on the impact of the introduction of synthetic bovine growth hormone on small dairy farms in America.

H.R. 1976

OFFERED BY: MR. SCARBOROUGH

AMENDMENT NO. 60. Page 56, Line 16, strike "$123,520,000" and insert "$117,853,000".

H.R. 1976

OFFERED BY: MR. SMITH OF MICHIGAN

AMENDMENT NO. 61. Page 25, line 20, strike the pending dollar amount ($788,388,000) and insert "$793,898,000".

Page 30, after line 13, insert the following new section:

GENERAL PROVISIONS

SEC. 101. Each amount appropriated by this title under the following headings is hereby reduced by 5.02 percent:

(1) "Office of the Secretary".

(2) "Chief Economist".

(3) "National Appeals Division".

(4) "Office of Budget and Program Analysis".

(5) "Chief Financial Officer".

(6) "Office of the Assistant Secretary for Administration".

(7) "Departmental Administration".

(8) "Office of the Assistant Secretary for Congressional Relations".

(9) "Office of Communications".

(10) "Office of the General Counsel".

(11) "Office of the Under Secretary for Research, Education and Economics".

(12) "Economic Research Service".

(13) "National Agricultural Statistics Service".

H.R. 2002

OFFERED BY: MR. FILNER

AMENDMENT NO. 3: Page 17, line 8, strike "$18,000,000,000" and insert "$17,990,000,000".

Page 23, line 14, strike the colon and all that follows through "1996" on line 15.

Page 23, after line 15, insert the following:

In addition, for the cost (as defined in section 502 of the Congressional Budget Act of 1974) of new loan guarantee commitments under section 511 of such Act, $10,000,000.

H.R. 2002

OFFERED BY: MR. FILNER

AMENDMENT NO. 4: Page 23, line 14, strike the colon and all that follows through "1996" on line 15.

Page 23, after line 15, insert the following:

In addition, for the cost (as defined in section 502 of the Congressional Budget Act of 1974) of new loan guarantee commitments under section 511 of such Act, $10,000,000.

Page 24, line 24, strike "$628,000,000" and insert "$618,000,000".

Page 24, line 25, strike "$336,000,000" and insert "$326,000,000".

H.R. 2002

OFFERED BY: MR. NADLER

AMENDMENT NO. 5: Page 36, after line 13, insert the following caption:

(INCLUDING RESCISSION)

Page 54, after line 24, insert the following:

SEC. 346. Amounts made available for improvements to the Miller Highway in New York City, New York, which are not obligated before the date of the enactment of this Act are rescinded.

H.R. 2002

OFFERED BY: MR. NADLER

AMENDMENT NO. 6: Page 54, after line 24, insert the following:

SEC. 346. None of the funds made available in this Act may be used to carry out any project for improvements to the Miller Highway in New York City, New York.

H.R. 2002

OFFERED BY: MR. NADLER

AMENDMENT NO. 7: Page 54, after line 24, insert the following:

SEC. 346. None of the funds made available in this Act may be used to carry out any project for improvements to the Miller Highway in New York City, New York, except to the extent that such funds are for liquidating obligations incurred before the date of the enactment of this Act.

H.R. 2020

OFFERED BY: MR. HOKE

AMENDMENT NO. 10: Page 84, after line 17, insert the following new section:

SEC. 628. The amounts otherwise provided in this Act for the Internal Revenue Service for the following accounts and activities are hereby reduced by the following amounts:

(1) "Processing, Assistance, and Management", $171,476,000.

(2) "Information Systems", $188,706,000.

H.R. 2020

OFFERED BY: MR. SANDERS

AMENDMENT NO. 11: Page 2, line 23, strike "$104,000,500" and insert "$103,000,500".

Page 3, line 10, strike "$29,319,000" and insert "$30,319,000".

H.R. 2020

OFFERED BY: MR. SANDERS

AMENDMENT NO. 12: Page 84, after line 17, insert the following new section:

SEC. 628. None of the funds appropriated by this Act may be used for salaries or expenses of any employee, including any employee of the Executive Office of the President, in connection with the obligation or expenditure of funds in the exchange stabilization fund.

EXTENSIONS OF REMARKS

INTRODUCTION OF H.R. 2043, THE NASA AUTHORIZATION ACT FOR FISCAL YEAR 1996

HON. F. JAMES SENSENBRENNER, JR.

OF WISCONSIN

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 18, 1995

Mr. SENSENBRENNER. Mr. Speaker, on July 17, 1995, Representative WALKER and I introduced the National Aeronautics and Space Administration Authorization Act for Fiscal Year 1996 in order to continue the process of prioritizing NASA's missions and programs for the remainder of this century. The multiyear space station authorization bill, which the Subcommittee on Space and Aeronautics and the full Science Committee endorsed by wide margins with strong bipartisan support, placed the space station at the top of NASA's list of priorities and provided the programmatic stability NASA needs to reduce costs. The bill builds on this strategy to focus NASA on the goal of becoming the leading R&D agency it once was. By moving NASA away from operating large, expensive programs such as the space shuttle and Mission to Planet Earth, this authorization act will enable NASA to focus on those activities which the agency does best, namely space science and technological research. At the same time, the bill preserves U.S. national interests in the space shuttle and Mission to Planet Earth by laying the foundation to privatize the space shuttle and bring the emerging commercial remote sensing industry into Mission to Planet Earth.

By taking these steps, we bring new revenue streams and capital assets from the private sector into Government space missions. More importantly, we introduce market efficiencies into the large operating systems that NASA created but was never intended to run. In this manner, Congress enables NASA to leverage its resources against those space activities that the private sector cannot perform.

As needed as these measures are, this bill is also important for what it does not do. The Fiscal Year 1996 NASA Authorization Act does not force the precipitous closing of any NASA field centers. While we have encouraged NASA Administrator Daniel Goldin to more aggressively to streamline and consolidate the NASA bureaucracy, Congress must ensure that this process proceeds logically and with long-term programmatic goals in mind. NASA's ongoing zero-based review is the first attempt to restructure the agency without affecting its programs. While this is a commendable effort, congressional action to prioritize NASA programs will also have an impact on the agency's structure. The authorization bill Chairman WALKER and I introduced begins this process by focusing first on NASA's priority programs and then calling for an assessment of Government assets that match those priorities. This assessment will enable the NASA Administrator to identify those elements of NASA that are crucial to its future and then empower the President to work with Congress on those bureaucratic adjustments deemed necessary to bring the agency into line with national priorities. Our bill complements the intention of the VA/HUD/Independent Agencies Appropriations Subcommittee to have the NASA Administrator report his intentions for bureaucratic streamlining to Congress prior to any action, but does not empower the Administrator to close any NASA field centers without first studying the implications of and seeking congressional approval for such an action.

In the end, this bill will help us build a new NASA that once again can lead the United States into a sound economic and technological future.

TRIBUTE TO THE CITY OF BLAKESLEE ON THE OCCASION OF ITS 100TH ANNIVERSARY

HON. PAUL E. GILLMOR

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 18, 1995

Mr. GILLMOR. Mr. Speaker, it gives me great pleasure to rise today and pay tribute to an exceptional city located in Ohio's Fifth Congressional District. This year, the city of Blakeslee, will celebrate the 100th anniversary of its founding.

Blakeslee is located in Williams County in northwest Ohio. The area has a rich history dating back to earliest settlements in the Ohio Territory. Its position above the St. Joseph River made it a favorite for pioneers traveling West. The city itself dates from its incorporation in 1895.

Today, Blakeslee is a community renowned for its civic pride and commitment to service. Throughout its history there has never been a lack of enthusiasm or volunteer labor for its many projects. The citizens have continually displayed the Ohio tradition of neighborliness and caring for others.

Mr. Speaker, anniversaries are a time to reflect upon past accomplishments. They are also a time to look toward new horizons. I ask my colleagues to join me today in recognizing the history and achievements of the city of Blakeslee and encouraging its citizens to continue to uphold its impressive legacy.

JAPAN APOLOGIZES TO COMFORT WOMEN

HON. PATRICIA SCHROEDER

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 18, 1995

Mrs. SCHROEDER. Mr. Speaker, during World War II, the Japanese military was quite brutal in its conquests. They raped and pillaged their way across Asia. At some point the Japanese became concerned that the rapes would provoke a backlash against Japanese troops. Therefore, the military established comfort stations, wherever they went—from the Korean peninsula to the Burmese mountains—to provide sexual services to their soldiers. Over 100,000 young women, mostly Korean, were taken from their homes and forced to serve in these camps as comfort women. They were repeatedly raped, often by dozens of soldiers per day.

As a result of their bondage, many suffer long-term effects of venereal diseases and psychological disorders. In these cultures, rape and prostitution carry such a stigma, that many of the comfort women may never come forward due to the shame associated with the degradation. Those who came forward did so after many years and risked ostracism by their families to do so.

Until 5 years ago, Japan flat out denied the existence of these comfort women. Even after 1992, when they owned up to these war crimes, the Japanese Government denied any legal responsibility to the women involved. Last week, however, Japanese Prime Minister Tomiichi Murayama reached out to these women, announcing that Japan will send official letters of apology to the surviving Korean victims, make financial reparations, and provide medical care for the abuse that they endured. I commend the Japanese Government for taking such strong action on behalf of these women. I hope that Japan's acknowledgement of their responsibility will aid the healing for the victims.

JAPAN TO APOLOGIZE TO "COMFORT WOMEN"—PRIME MINISTER PLANS LETTER TO WWII VICTIMS

(By T.R. Reid)

TOKYO.—Facing serious political trouble in a national election 10 days away, Japan's pacifist Prime Minister Tomiichi Murayama has made a daring decision: He plans to send official letters expressing "humble apologies" to hundreds of victims of Japanese brutality during World War II.

Chief Cabinet Secretary Kozo Igarashi said the unusual plan would be announced next week—just before the July 23 election for the upper house of the national Diet, or parliament—as part of a broader plan of aid and compensation for so-called "comfort women" in several Asian nations.

"Comfort women" is the term used here to describe the hundreds of thousands of women

who were forced to serve as sex slaves for Japanese soldiers fighting in various Asian nations during the war. About 800 to 1,000 of these women are believed to be alive today, and each one will receive a personal letter from the prime minister, Igarashi said, as well as cash and medical care.

If Asian nations accept the step as a sincere Japanese apology, the letters might help alleviate lingering bitterness toward Japan in the region. The forced prostitution—which Japan has only acknowledged in the past five years—is one of the cruelest memories of Japan's harsh colonial rule over much of east Asia in the 1940s.

In domestic political terms, though, the move is a gamble, because any form of apology for World War II has proven controversial here.

But it is something Murayama—long a bitter critic of Japan's aggression in the war—believes in personally. And the prime minister is in such hot water politically that a dramatic move may be worth a try.

The coming election will choose 126 members of the Diet's upper house. Because the upper house has only limited powers, the elections for half its seats every three years are often meaningless. For Murayama, however, this one could prove momentous.

Polls and pundits suggest that Murayama's Socialist Party could lose up to three-quarters of the 41 seats it has at stake. In normal times, Japanese political tradition would demand that the chairman of the losing party resign to take responsibility. And if Murayama were to step down as party leader, he would give up the prime minister's spot as well.

Even if voting day turns into disaster for the Socialists, Murayama might avoid the worst-case scenario. The grandfatherly 71-year-old heads an unlikely liberal-conservative coalition government. The parties can't seem to agree on a possible replacement, so Murayama clings to his job despite meager approval ratings.

Still, a big loss on election day would presumably weaken him even more.

There are some 20 parties competing in the election campaign. They range from major political forces like the Liberal Democratic Party—the most conservative of the major parties—and the reform-minded New Frontier Party to tiny, ad hoc groupings such as the UFO Party, the Refreshing New Party and the Sports and Peace Party, headed by a pro wrestler.

The campaign has failed to grab the attention of the public; voter apathy is so broad that many experts think the turnout will drop below 50 percent for the first time in a national election.

All parties seem to be presenting similar, if vague, plans to revive the sputtering economy. The issue agenda is so blank that more than two dozen of the candidates around the country are TV, movie or sports personalities hoping to trade on their famous names.

In those circumstances, it could make good political sense for Murayama to offer his bold proposal on the comfort women.

Igarashi said the government will announce next week the creation of a fund-raising campaign called "The Asian Peace and Friendship Fund for Women," which will collect private donations plus government money to provide compensation and treatment for any survivor of the sex-slave platoons.

When these funds are distributed to the surviving comfort women, they will be sent with a letter, signed by the prime minister, expressing "humble apologies" for the suffering the Imperial Japanese Army caused the women half a century ago. The apology, Igarashi said, will be expressed in highly respectful, subservient language—a linguistic form of groveling.

The proposal for a fund-raising campaign was set forth tentatively last month. Some of the surviving women praised the idea, as did the government of South Korea, the nation where the largest number of survivors live. Others said the plan was inadequate.

But the idea of a personal letter from Japan's head of state has not been broached here previously. Igarashi revealed it today in a meeting with foreign reporters. His goal may be to have the proposal for a "humble apology" letter reported widely overseas, giving the letter some quality of a fait accompli.

But Murayama and his political advisers may have decided that a battle with conservatives on this point could be a political plus in the days before the national election.

Last month, when Murayama pushed for passage of a formal parliamentary resolution of "deep remorse" for Japan's aggression, his efforts seemed to shore up his standing with the public. Although veterans' groups and nationalist conservatives are bitterly opposed, opinion polls here repeatedly show that most people agree Japan should apologize for its role in the war.

The need for an apology is more broadly accepted in the case of the comfort women than for other Japanese actions. But there are still some politicians who say Japan's use of sex slaves was not different from what other armies tend to do.

CHINA'S BROKEN PROMISES

HON. FORTNEY PETE STARK

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 18, 1995

Mr. STARK. Mr. Speaker, I would like to share with you a recent article which appeared in the magazine The Economist which illustrates the dangers of China's weapons proliferation. Since China's nuclear missile promotion threatens every country, it is imperative that the United States adopt policies which promote peace and not appeasement. Following is a text of the article:

CHINA'S BROKEN PROMISES: THE WORLD NEEDS TO MAKE IT KEEP THEM

When it comes to establishing a workable order out of the post-cold-war chaos, there are few more frustrating—or more important tasks than to bind China into the international game. Proud, prickly and, of late, worryingly pugnacious, China has always seen itself as an outsider. In the days when two superpowers, the United States and the Soviet Union, competed to be the top dog, China could bend or break the rules with impunity, playing one off against the other. But now, whether it is smothering regional conflicts, or controlling the spread of missiles and weapons of mass destruction, cooperation, more than competition, is the name of the big-power game. Meanwhile, China is emerging as a more muscular power, in Asia and beyond. For both reasons, China needs to be encouraged to drop its finger-in-your-eye habit.

For a while, it seemed as though China might be preparing to do just that. Three years ago, it did a U-turn and signed the Nuclear Non-Proliferation Treaty (NPT). It has since committed itself, along with the other four undeclared nuclear powers, to reach a comprehensive test ban in 1996. And last year it promised America that it would henceforth observe the guidelines of the Missile-Technology Control Regime (MTCR), which seeks to prevent the spread of those missiles (along with the technology and equipment to build them) whose range and payload make them capable of carrying a nuclear warhead. But look at what China does, not what it says: after seeming to accept these rules, it has bent, or broken, all of them.

In an effort to bolster the authority of the NPT, and to put pressure on the handful of countries that remain outside it, the other main nuclear suppliers now refuse to sell parts and materials to countries that do not accept full international checks on their nuclear industry. As a consequence, India, one of the NPT hold-outs suspected of having the bomb, had been finding it hard to get the enriched uranium it needed to refuel one of its nuclear reactors—until China sold it the stuff. The Indian deal may be a one-off, but China has long kept band nuclear company; it has worked closely with Pakistan, another NPT refusenik that has the bomb, helped fend off action by the U.N. Security Council against North Korea, which is thought to have cheated on its NPT promises in order to get one, and is expanding cooperation with Iran, which wants one.

In a similar vein, when the NPT was extended indefinitely this year, and the nuclear powers, including China, promised the "utmost restraint" in nuclear testing, China waited barely four days before setting off its next underground blast. China is by no means the only nuclear power equivocating over its test-ban promise, but its peculiar determination to have the right to conduct "peaceful nuclear explosions" (indistinguishable from nonpeaceful ones) could yet sink the proposed treaty.

Not all of this behavior has contravened the letter of the international rule book, though at times China seems to have willfully undermined its spirit. However, when it comes to the promise to abide by the restrictions of the MTCR, there is gathering evidence that China has systematically and deliberately broken its promises. China is not yet a member of the MTCR, but it agreed last year in a joint statement with America that it would not, in the future, contravene the MTCR's guidelines. This promise of correct behavior enabled America to lift some commercial sanctions on China's space industry. These had been imposed because, despite public denials, China had sold the parts for MTCR-busting missiles to Pakistan, and possibly others. Now evidence is accumulating that more Chinese missile parts are going to Pakistan; missile-guidance systems and clever machine-tools for making sophisticated missiles are also thought to be going to Iran. As always, it will be hard to come up with cast-iron proof that the agreed rules have been broken. But the evidence gathered so far is strong enough—and worrying enough—for China to be asked by America to explain itself. Once the proof is in, American law dictates that sanctions be applied forthwith.

The missile issue could not have reappeared at a more awkward moment. Relations between China and America are badly strained over President Clinton's decision earlier this year to allow the president of Taiwan—which China regards as a rebellious province only temporarily out of its control—to pay a private visit to the United States. Indeed, the two issues may yet become more dangerously entangled: at times

in the past China has shown its displeasure when America has tilted towards Taiwan by deliberately stepping up military sales to the world's outlaw states, and may do so again.

Yet, however damaging the missile issue may seem, the greater harm would come from trying to duck it. The world has too much to lose by turning a blind eye to missile proliferation promoted by any country, let alone one the size of China. And this kind of proliferation, like the nuclear kind, is a threat to all. It should be dealt with by as many countries as possible, not just America. When America first imposed sanctions on China for its missile sales, European companies were among those competing to pick up the business that American companies were being asked to forgo. If, once again, it comes to sanctions on Chinese industries, Europe and Japan should lean just as hard on their companies as America does on its, to ensure that everyone toes the line against proliferation.

TRIBUTE TO THE CITY OF MONTPELIER ON THE OCCASION OF ITS 150TH ANNIVERSARY

HON. PAUL E. GILLMOR

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 18, 1995

Mr. GILLMOR. Mr. Speaker, it gives me great pleasure to rise today and pay tribute to an exceptional city located in Ohio's Fifth Congressional District. This year, the city of Montpelier will celebrate the 150th year of its founding.

Located in northwest Ohio along the banks of the St. Joseph River, the city dates from 1845 when Jesse Tucker and J.K. Bryner submitted the original plat map. The vision at its founding 150 years ago was to be a village where people live and work together and opportunities abound.

The same vision is true today. Montpelier is renowned throughout Ohio. The village voters have consistently supported the municipal park system and residents now enjoy a park that is the center of summertime activity. Also, the community has provided students in the Montpelier schools with three outstanding new athletic facilities in the past several years.

Montpelier is visited by thousands of tourists who come to enjoy theatrical productions of the Williams County Playhouse. The theater provides top quality entertainment in a setting that includes newly renovated seating and air-conditioning.

The friendly and caring attitude of the residents is shown in many, many ways. The community supports charitable activities through the annual United Fund campaign. The Montpelier Area Foundation is a growing trust fund that provides for improvements affecting the quality of life of its residents.

Mr. Speaker, anniversaries are a time to reflect upon past accomplishments. They are also a time to look toward new horizons. I ask my colleagues to join me today in recognizing the history and achievements of the city of Montpelier and encouraging its citizens to continue to uphold its impressive legacy.

BURMESE NOBEL PEACE PRIZE WINNER FREE AT LAST

HON. PATRICIA SCHROEDER

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 18, 1995

Mrs. SCHROEDER. Mr. Speaker, on July 10, 1995, Aung San Suu Kyi stepped outside her house for the first time in 6 years. Since July 1989, Aung San Suu Kyi, leader of the National League for Democracy [NLD] and a 1991 Nobel Peace Prize winner, has been held incommunicado under house arrest by the military government, the State Law and Order Restoration Council [SLORC] of Mynamar, formerly known as Burma.

Aung San Suu Kyi's detention was part of a persistent and ongoing pattern of human rights violations committed by the SLORC since they took power in 1988. When the SLORC took over, they imprisoned thousands who protested against the single-party government on charges of violating martial law.

Aung San Suu Kyi spent almost a year before her arrest campaigning tirelessly for democracy, nonviolence, and human rights with former defense minister Tin Oo, under the rubric of the National League for Democracy. Aung San Suu Kyi's house was raided by the SLORC on July 20, 1989, and she was arrested for "endangering the safety of the state." She has been held these last 6 years without formal charges, unable to communicate even with her family in England. In spite of her imprisonment, her party, the NLD, won 81 percent of the seats in the government. The military government did not acknowledge the election results.

She is now free to resume her fight for democracy. I hope she continues her struggle the same way she began it: Selflessly, tirelessly, and with complete dedication to bringing democracy and respect for human rights to her people.

THE $36-BILLION-DOLLAR MAN

HON. FORTNEY PETE STARK

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 18, 1995

Mr. STARK. Mr. Speaker, by detaining Harry Wu and charging him with crimes punishable by death, China shows that its government can be arbitrary and cruel as Mr. Wu's research indicates. For those who are considering trade with China, they should be fully conscious of the human rights violations by their potential trading partner.

If you are planning to trade with the People's Republic of China, you should see or read about the so-called, state-secrets Mr. Wu is accused of stealing from them. These state secrets are actually horrendous human rights violations. Mr. Wu has exposed the true conditions and purposes of the Chinese prison system. Mr. Wu spent nearly two decades in the Chinese gulag. He has traveled back to China at great personal risk and has collected photos and anecdotes revealing the brutal treatment the prisoners receive and the illegal human organ trade which proliferates in the camps. The BBC, CBS, and NBC television have all aired documentaries based on Mr. Wu's research.

All America was moved by the movie, "Schindler's List." Mr. Wu's work is a reminder that "Schindler's List" is not some dusty old historical tale. We today face the same moral challenge. We know that there are Chinese concentration camps. We know that the camps produce goods for sale. Like most German businessmen during Hitler's reign, we can go along and profit from what is happening. Or we can take a stand and say that we won't wallow in this sea of blood for the sake of profits.

GOP PUTTING THE HURT ON SENIORS

HON. CARDISS COLLINS

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 18, 1995

Mrs. COLLINS of Illinois. Mr. Speaker, as big business and the wealthy in this country gather in their boardrooms and backyards to salivate over the massive tax breaks included in the Republican budget proposal, millions of our Nation's seniors sit at home in fear of losing a great portion of their health care coverage due to the $270 billion in cuts to the Medicare program that my colleagues on the other side of the aisle are ramming through this body.

Just what kind of priorities does the majority have? They want to gut Medicare to provide a $245 billion tax cut to those who least need it at a time when we can least afford it. Their answer to the Federal health care challenges facing this country seems to be a quick phone call to Dr. Kevorkian.

There is no doubt that the Republicans are planning to balance the budget on the backs of seniors and then hand them the check when the bill comes due. In fact, the Washington Times recently reported that the GOP leadership has agreed to "offer seniors more choices in the private health care market as an alternative to Medicare," and are set to "raise premiums or reduce reimbursements" for seniors drastically.

Talk about a sham, Mr. Speaker. The GOP obviously doesn't believe in any contract with older Americans. If they did we wouldn't be having this debate.

TRIBUTE TO PARADISE OAKS QUALITY CARE NURSING AND REHABILITATION CENTER ON THE OCCASION OF ITS 25TH ANNIVERSARY

HON. PAUL E. GILLMOR

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 18, 1995

Mr. GILLMOR. Mr. Speaker, it gives me great pleasure to rise today and pay tribute to an outstanding organization located in Ohio's Fifth Congressional District. On August 27, 1995, the Paradise Oaks Nursing and Rehabilitation Center will celebrate their 25th anniversary.

The center serves residents from the counties of Putnam, Paulding, Allen, Van Wert, Defiance, Lucas, and Sandusky. Under the leadership of Administrator Deborah Russ, and the center's dedicated staff of professionals and volunteers, it has steadfastly served northwest Ohio for 25 years.

Selecting a nursing facility for a loved one can be an extremely difficult decision for anyone. Paradise Oaks understands this and strives to make the decision-making process as smooth and gentle as possible.

Mr. Speaker, anniversaries are a time to reflect on past accomplishments. They are also a time to look towards new horizons. The staff at Paradise Oaks has made it their responsibility to serve those in need by keeping pace with the ever increasing challenges facing mankind. I ask my colleagues to join me today in recognizing the achievements of the Paradise Oaks Quality Care Center and encouraging them to continue to uphold what has become the standard for service in Ohio.

PERSONAL EXPLANATION

HON. PHILIP M. CRANE

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 18, 1995

Mr. CRANE. Mr. Speaker, due to the death of my father, today I am requesting a leave of absence after 2:00 p.m. I am also requesting a leave of absence for Wednesday, July 19.

ENDANGERED SPECIES ACT

HON. RON PACKARD

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 18, 1995

Mr. PACKARD. Mr. Speaker, for decades the liberals in Congress have distorted the original intent of the Endangered Species Act to further their extreme agendas. In November, the voters cried foul and asked Republicans to restore rationality to our environmental laws.

Our reform proposal stops the radical environmentalists in their tracks. They will no longer ride roughshod over our property rights. Instead, Republicans will protect our natural resources as well as our freedoms.

In its current form, the Endangered Species Act creates perverse incentives for landowners to destroy habitat which could attract endangered species. Once these animals migrate there, landowners lose their property rights to the snails, birds, or rats who happen to move in. In essence, the ESA, as currently written discourages the very practices which will ultimately protect endangered species habitats. Instead, we need to ask landowners to participate in preserving our natural resources. Property owners are not villains. Everyone wants to preserve our resources.

In addition, Federal bureaucratic administration and enforcement of the Endangered Species Act is tantamount to Federal zoning of local property. State and local officials have no say in how the ESA is implemented and enforced in their States and communities. State and local officials need to have greater control. They know what is best for their communities.

Mr. Speaker, Congress passed the Endangered Species Act more than 20 years ago. Originally intended to protect animals, this act hurts humans. It is time to give human needs at least as much consideration as those of birds, fish, insects, and rodents. The time has come for a change. Private, voluntary, incentive-driven environmental protection is the only effective and fair answer to this controversial law.

TRIBUTE TO MARVIN D. "SWEDE" JOHNSON

HON. IKE SKELTON

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 18, 1995

Mr. SKELTON. Mr. Speaker, many Missourians, especially young Missourians, mourn the passing of Marvin D. "Swede" Johnson of Tucson, AZ. He was best known as a former grand consul of the Sigma Chi Fraternity. He was a friend and an inspiration to those who knew him and worked with him through the years.

Marvin D. Johnson, vice president of public affairs for Coors Brewing Co. for the past decade, died of complications from pulmonary fibrosis. He was 66. Johnson was an academic administrator for 35 years at the University of Arizona and University of New Mexico before joining Coors in 1985. He was renowned as a community leader and raised millions of dollars for charities.

Born November 2, 1928, in Willcox, AZ, Johnson worked as a youth at his father's ranch and feed store and earned 17 athletic letters at Willcox Union High School. He received a scholarship at the University of Arizona and made the football team as a walk-on. After graduating from Arizona, Johnson stayed on 27 years as an administrator. He started out in a temporary position, then became director of the student union before being promoted to vice president for university relations. From 1977 to 1985, Johnson was vice president of student affairs at the University of New Mexico in Albuquerque and served as chairman of the Western Athletic Conference. He moved to Coors in 1985.

At Arizona, the alumni foundation was named the Marvin D. "Swede" Johnson Building in 1993, when he also was awarded an honorary doctorate degree by the university. Johnson considered his greatest career achievement the lobbying effort he directed to establish a medical school at Arizona. He also was international grand consul of the Sigma Chi Fraternity from 1983 to 1984, and national chairman for the Council for the Advancement and Support of Education in 1980. He received the New Mexico Distinguished Public Service Award in 1982, the same year he was elected to "Who's Who in America."

He is survived by his wife, Stella; two daughters, Lynn Engel of Foster City, CA, and Karen Riebe of Tucson, AZ; a grandson, Marshall Riebe; and a sister, Ann Johnson McPherson of Houston. Many Members of this body had the opportunity to know Swede through the years, He was an outstanding leader, an inspiring example, and a good friend. Those who knew him will truly miss him.

80TH ANNIVERSARY OF THE FOUNDING OF MAGNOLIA

HON. ROBERT E. ANDREWS

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 18, 1995

Mr. ANDREWS. Mr. Speaker, I rise today to recognize an outstanding community, the Borough of Magnolia. On May 12, 1915, a special election was held to create the Borough of Magnolia. This year the borough recognizes its 80th anniversary. In this year of celebration, I commend the people of Magnolia for their commitment to their heritage and their community.

The history of Magnolia begins with the Lenni-Lenape Indians, who inhabited Magnolia over a hundred years ago. At the time, the Indians lived and hunted in the forests of what is today known as Magnolia. The name "Magnolia" originated from a beautiful Magnolia tree which grew on the Alhertson property at 610 W. Eveshan Avenue. Prior to this, Magnolia was known both as Fredersville and Greenland, and was located in old Gloucester Township.

Magnolia was originally divided into two townships, each one having its own specialty. Commerce was the dominant industry in one of the townships. In 1914 Assembly Bill No. 45 was drawn up to create a new township in the County of Camden. On May 12, 1915, the Borough of Magnolia was established. As the township grew, new forms of government were established. On July 27, 1915, a special election was held to vote for a mayor and to establish a council as the residing local government. Harry B. Wolohan became the first mayor of Magnolia.

As the small community began to grow many changes took place. A train stop in the heart of Magnolia brought many people into this community. It was these people that gave Magnolia its small town character. Families such as the Barretts, the Marshalls, the Speegles, the Millers, and other civic minded families made Magnolia what it is today.

With the help of the entire community Magnolia is making significant steps forward. Progress can be seen in better roads, and a more extensive transportation system. An invigoration of environmentally aware citizens is also taking place. These civic minded citizens are becoming interested in preserving the town's environment and heritage for future generations.

In this anniversary year, I commend the town and people of Magnolia for their progress and accomplishments. With continued civic involvement by all residents, Magnolia will continue to grow and thrive. I would also like to recognize Mary F. Martz whose extensive research of Magnolia I have relied upon heavily for these remarks. Happy anniversary.

INTRODUCTION OF THE INTERNATIONAL POPULATION STABILIZATION AND REPRODUCTIVE HEALTH ACT

HON. ANTHONY C. BEILENSON

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 18, 1995

Mr. BEILENSON. Mr. Speaker, on behalf of myself and Mrs. MORELLA, I am introducing a bill today to address the rapid growth of the world's population in a comprehensive manner. Our bill, which has also been introduced in the Senate by Senators SIMPSON and BINGAMAN, would make the goal of population stabilization, along with the improvement in health of women and children, a primary purpose of U.S. foreign policy.

We are introducing this legislation because we believe strongly that the United States must take determined action to address what is without a doubt the most urgent crisis facing humanity: The rapid rate of growth of the human population and its dire consequences for the environment, for food supplies, for overcrowding, for immigration pressures, for political stability, and for our own national security.

Global population is now nearly 5.7 billion, and it is growing by almost 100 million every year—by 260,000 every 24 hours. Future prospects, moreover, are even more staggering. If effective action is not taken in the next few years—as today's 1.6 billion children in the developing world under the age of 15 reach their childbearing year—the Earth's population could nearly quadruple to 20 billion people by the end of the next century.

In much of the developing world, high birth rates, caused largely by the lack of access of women to basic reproductive health services and information, are contributing to intractable poverty, malnutrition, widespread unemployment, urban overcrowding, and the rapid spread of disease. Population growth is outstripping the capacity of many nations to make even modest gains in economic development, leading to political instability and negating other U.S. development efforts.

The impact of exponential population growth, combined with unsustainable patterns of consumption, is also evident in mounting signs of stress on the world's environment. Under conditions of rapid population growth, renewable resources are being used faster than they can be replaced. Other environmental consequences of the world's burgeoning population are tropical deforestation, erosion of arable land and watersheds, extinction of plant and animal species, and pollution of air, water and land.

Overpopulation, however, is not a problem for lesser developed countries only. Rapid population growth in already overcrowded and underdeveloped areas of the world has given rise to an unprecedented pressure to migrate, as workers seek decent, and more hopeful lives for themselves and their families. According to a recent report by the United Nations Population Fund [UNFPA], over 100 million people, or nearly 2 percent of the world's population, are international migrants, and countless others are refugees within their own countries. Many of the world's industrialized nations are now straining to absorb huge numbers of people, and in the future, as shortages of jobs and living space in urban areas, and resources such as water, agricultural land, and new places to dispose of waste grow even more acute, there will be even greater pressure to emigrate.

For those of us from Los Angeles and other coastal urban areas that are magnets for immigrants, world population growth is not an abstract issue—it is one that, quite literally, has been laid right at our doorstep. Communities in Los Angeles County, when enormous numbers of both legal and illegal immigrants are settling, are being overwhelmed by the burden of providing educational, health, and social services for the newcomers. And the problem will get bigger: Largely because of immigration, California's population is expected to grow from 31 million, where it stood in 1990, to 63 million by the year 2020.

Time is of the essence. How quickly we provide worldwide access to family planning and reproductive health services is crucial. Like compound interest applied to financial savings, high fertility rates produce ever-growing future populations. For example, if a woman bears three children instead of six, and her children and grandchildren do likewise, she will have 27 great-grandchildren rather than 216. Likewise, if Nigeria, which now has 109 million people, reaches replacement fertility by 2010 rather than 2040 (as currently projected), its eventual population would be 341 million, rather than 617 million. Thus, what we achieve in the way of making comprehensive family planning and reproductive health services available in this decade will determine whether world population stabilizes at double today's level or at triple that level—or more.

Population growth is an enormous problem, but one we can solve—if we make a determined effort to do so. For almost 30 years, population assistance has been a central component of U.S. development assistance and, in that time, has been remarkably successful in lowering birth rates. In many parts of Asia, Latin America and Africa, fertility rates have decreased, often dramatically. Couples are succeeding in having the smaller families they want because of the greater availability of contraceptives that our assistance has made possible.

Today, approximately 55 percent of couples worldwide use modern methods of contraception, compared with 10 percent in the 1960's. But despite this impressive increase in contraceptive use, the demand for family planning services is growing, in large measure because populations are growing. Indeed, over the next 20 years, the number of women and men who wish to use contraception is expected to nearly double.

Similarly, population assistance has contributed to the significant progress that has been made in reducing infant and child mortality rates. Child survival is integrally linked to women's reproductive health, and specifically to a mother's timing, spacing and number of births. But despite substantial progress, a large proportion of children in the developing world—particularly in sub-Saharan Africa and some Asian countries—still die in infancy.

And, while many countries in the developing world have succeeded in reducing maternal mortality rates, the incidence of maternal death and disability remains unacceptably high, constituting a serious public health problem facing most developing countries. According to the World Health Organization, an estimated 500,000 women die every year as a result of pregnancy and childbirth.

At the International Conference on Population and Development [ICPD], held in Cairo last year, the United States was instrumental in building a broad consensus behind a comprehensive Program of Action, which was signed by almost all of the 180 countries that participated in the conference, and which will help guide the population and development programs of the United Nations and national governments into the next century.

The International Population Stabilization and Reproductive Health Act is consistent with the goals and the recommendations of the ICPD: It lays the foundation for focusing U.S. foreign policy on a coordinated strategy that will bring about the widespread availability of contraceptive services and women's and child health programs, as well as educational, economic, social and political opportunities necessary to enhance the status of women.

The bill we are introducing today sets specific health objectives, program descriptions, and funding targets to guide U.S. population programs, and expands U.S. efforts for the treatment and prevention of AIDS and other sexually transmitted diseases.

This legislation also increases the U.S. commitment to providing for universal access to basic education, with an emphasis on eliminating the gap between female and male literacy levels and school enrollment, and promoting equal opportunities for women. Initiatives to increase infant and child survival, as well as to ensure the health and safety of pregnant women, are included as a critical component to achieving the bill's goals.

In addition, our bill expresses support for the United Nations Forward Looking Strategies for the Advancement of Women, as adopted in 1985 by the United Nations Conference ending the Decade of Women, and for the ratification of the United Nations Convention on the Elimination of All Forms of Discrimination Against Women, which was signed by the United States in 1980.

Mr. Speaker, our Nation's interest is clear. There can be no doubt that combating rapid population growth is one of the most humane,

farsighted and economically effective efforts we can undertake. Every additional dollar spent on these programs will save many times this expense in future U.S. foreign assistance. According to UNICEF, "family planning could bring more benefits to more people at less cost than any other 'technology' now available."

For all these reasons, we believe that population assistance should be a central feature of U.S. foreign policy, and we urge our colleagues to join us in supporting this legislation for that purpose.

INTRODUCTION OF THE INTERNATIONAL POPULATION STABILIZATION AND REPRODUCTIVE HEALTH ACT

HON. CONSTANCE A. MORELLA

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 18, 1995

Ms. MORELLA. Mr. Speaker, I am pleased to join with my colleague TONY BEILENSON in introducing the International Population Stabilization and Reproductive Health Act.

There has been a growing realization over the last 10 years that population growth is not a neutral factor in economic development but is a critical factor in environmental degradation and sustainable development programs. It is also increasingly evident that any successful efforts to address these problems must include steps to empower women, providing them with the ability to exercise control over their own lives by assuring access to reproductive and other health services and access to educational opportunities.

In the developing world, the inability of women, especially poor women, to access basic family planning services and information undermines women's efforts to determine their own destiny, increases illness and mortality rates of women and their children, contributes to environmental degradation, and inhibits the ability of families to lift themselves out of poverty.

The impact of human population growth, combined with widespread poverty, is being demonstrated by the mounting signs of stress on our environment, such as tropical deforestation, erosion of arable land and watersheds, extinction of plant and animal species, global climate change, waste management, and air and water pollution.

After more than 25 years of experience and research, the actions needed to rapidly reduce birth rates are well documented. The ability to exercise reproductive choice must be expanded, through the broader dissemination and choice of family planning services which involve the community, especially women, and which meet the needs and values of those who use them.

The International Population Stabilization and Reproductive Health Act will establish accessibility to family planning services and information as a principle objective of U.S. foreign policy.

In addition, the bill recognizes the importance of improving the health, social, and economic status of women as essential for any country's economic progress, and notes that women who participate in the social, economic, and political affairs of their communities are more likely to exercise their choices about childbearing than those who do not.

Of vital importance, this legislation makes the point that comprehensive population efforts which include both family planning services and economic development activities achieve lower birth rates and stimulate more development than those which pursue these objectives independently. It highlights issues such as education and literacy, infant and child survival, and gender equality as the most powerful long-term influence in reducing birth rates, and authorizes funding for support of basic health, nutrition, and education services for children and women.

This legislation represents a compromise among a number of interested parties, including population, women's health, and environmental groups, as well as Democratic and Republican legislators. The bill represents a huge step forward from the policies and attitudes of the 1980's and will help to restore U.S. leadership on this vitally important issue.

TRIBUTE TO BERYL WEBB

HON. IKE SKELTON

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 18, 1995

Mr. SKELTON. Mr. Speaker, I pay tribute today to Beryl Webb of Oak Grove, MO. Mr. Webb, who served three terms as mayor of Oak Grove, passed away at the age of 93 on July 8, 1995.

Mr. WEBB, a friend of long standing, was well respected by all who knew him. He was known for his commitment to the community of Oak Grove, especially its school system. He served as a member of the Jackson County Sports Authority, the Silver Haired Legislature, the Jackson County Coordinating Council on Aging, and the Board of Equalization. He was a member of the U.S. Chamber of Commerce, the Oak Grove Historical Society, St. Mary's Auxiliary, and was also a Paul Harris Fellow.

So my colleagues I ask you to join with me in remembering an outstanding Missourian. Mr. Webb is survived by his wife, Thelma, two brothers, and four nephews.

TRIBUTE TO MS. DELISHA REESE CONGRESSIONAL BLACK CAUCUS INTERN FOR ILLINOIS' FIRST CONGRESSIONAL DISTRICT

HON. BOBBY L. RUSH

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 18, 1995

Mr. RUSH. Mr. Speaker, I rise today to give praise and to acknowledge one of my Congressional Black Caucus summer interns, Ms. Delisha Reese. Mr. Reese represents a continuum of outstanding Congressional Black Caucus Foundation interns serving my office and this body.

During the past several weeks, Ms. Reese has been an integral part of my staff, assisting with case work and other office duties. In her short tenure in my office, Ms. Reese performed her tasks admirably, and in doing so she has done an outstanding job of representing the Congressional Black Caucus Foundation Intern Program.

Ms. Reese is a constituent from my district, and I am delighted to have had her work to serve her friends and neighbors. Now Ms. Reese will be leaving to pursue other endeavors. As she departs, I wish to take this opportunity to ask my colleagues to join me in wishing Ms. Reese our sincerest best wishes for a bright and successful future.

I am pleased to enter these words of commendation for Ms. Delisha Reese into the RECORD.

TRIBUTE TO TED GRIFFIN

HON. IKE SKELTON

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 18, 1995

Mr. SKELTON. Mr. Speaker, today, I pay tribute to Theodore A. Griffin of Jefferson City, MO, who passed away on July 6, 1995.

Mr. Griffin graduated from the School of Journalism at the University of Missouri in Columbia, after serving in the U.S. Navy during World War II. He worked in radio during his college years, and in 1950, he started at KFEQ in St. Joseph, MO, where he worked his way to becoming general manager. He was appointed executive vice president of the Missouri Broadcasters Association in 1971 where he served until 1994.

Mr. Griffin served as chairman of the Red Cross Regional Blood Program, the St. Joseph Chamber of Commerce, heading the legislative liaison group with State government, on the board of the Missouri Broadcasters Association, and was a member of the Missouri Society of Association Executives.

Mr. Griffin was associated with many organizations including the Boy Scouts, Cub Scouts, and Junior Achievement in the St. Joseph area.

He will be missed by all who knew him, both as a friend and as an outstanding Missourian. He is survived by his wife, Dorothea, 4 children, and 10 grandchildren.

INTRODUCTION OF THE OLDER AMERICANS ACT AMENDMENTS OF 1995

HON. MATTHEW G. MARTINEZ

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 18, 1995

Mr. MARTINEZ. Mr. Speaker, I rise today to introduce the Older Americans Act Amendments of 1995, which is the Clinton administration's proposal for the reauthorization of this critical legislation.

The Older Americans Act celebrates its 30th birthday this year.

In May of this year, 2,300 delegates to the 1995 White House Conference on Aging endorsed the Older Americans Act and stressed

the importance of this reauthorization in preparing the aging network for the 21st century.

This bill builds on the successes of the Older Americans Act—while moving the administration of the act toward the reinvention program established under Vice President GORE's director.

The bill moves toward sensible consolidation of programs and streamlining of processes, while providing greater freedom of action by the State units on aging and the area agencies on aging.

However, I should point out that I am not in full agreement with all of the provisions of this bill, and I would hope that, during the markup in the Economic and Educational Opportunities Committee to strengthen any bill in a bipartisan way, to preserve what is now perhaps the most successful Government program ever devised.

I am especially concerned that the bill include provisions that encourage local input to annual plans and to the performance objectives process, including the holding of open hearings at which local providers and local service recipients are encouraged to provide input.

It is the grassroots nature of these programs that is the strength of the Older Americans Act, and any bill we pass must ensure that the kind of input now provided in the law is maintained.

Local input has resulted in programmatic improvements throughout the life of the Older Americans Act.

Local input ensures that those charged with program implementation are constantly aware of the need to meet the needs of people, not the whims of bureaucrats in Washington, the State house, or city hall.

I look forward to this reauthorization effort and call upon my fellow Members on both sides of the aisle to read and consider this important bill, and, if they agree, to cosponsor this bill.

Thank you Mr. Speaker.

MARINE CORPS CHANGE OF COMMAND

HON. IKE SKELTON

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 18, 1995

Mr. SKELTON. Mr. Speaker, the change of command address when Gen. Carl Mundy relinquished command to Gen. Chuck Krulak was delivered by the Honorable John E. Dalton, Secretary of the Navy. Secretary Dalton states the contributions of General Mundy and the challenge for General Krulak in this speech. I commend it to the Members of this body:

THE MARINE CORPS' CHANGE OF COMMAND

Secretary White, distinguished members of Congress, General Shalikashvili and the members of the Joint Chiefs of Staff, Marines, ladies and gentlemen.

I am proud to serve as the Secretary of the United States Marine Corps. And, I am deeply honored to participate in the change of command of an institution that sets the standards for military leadership around the world.

Today is an important day in the lives of these two great men, General Carl Mundy and General Chuck Krulak. But, they would be the first to tell you that today belongs not to them, but to the Corps.

Their selfless attitude is seen clearly in Carl Mundy's insistence that he not be recognized with any personal decorations at this ceremony.

However, I think you all should know that on behalf of the Department, I have awarded the Navy Distinguished Service Medal to General Mundy. Similarly the Secretary of Defense and each one of our sister services have awarded him their Distinguished Service Medal.

General Mundy, you have served with honor, courage and commitment in a manner befitting the Commandant of the Corps. Our allies thank you, America thanks you and above all your Marines thank you for a lifetime dedicated to the defense of freedom.

Carl's many accomplishments and honors would not have been possible without the love and support of his family; especially his devoted wife, Linda. For nearly four decades Linda has served as a Marine wife and mother. During the past four years she has endeared herself to everyone she has touched and has established a special place in history for herself as the First Lady of the Marine Corps. It was an honor for me to recognize her achievements with the Department of the Navy's Distinguished Public Service Award.

The past four years have been challenging ones for the Navy and Marine Corps team. Amidst the drawdown in force structure, shrinking defense budgets and expanding global commitments, General Mundy has led the Corps to new levels of excellence, efficiency and effectiveness. By encouraging closer integration with the Navy, you have created a Marine Corps with enhanced capabilities that is prepared for every eventuality.

It is this spirit of closer integration between the Navy and Marine Corps that will be a legacy of Carl Mundy to our Naval Service. Such integration and interoperability ensure that the Navy and Marine Corps team will be prepared for the challenges and battlefields of the next millennium.

General Mundy's inspiring leadership, bold courage, and extraordinary vision have perpetuated a dynamic and innovative Corps and have put in place the mechanism to ensure that the Corps will continue to flourish.

Today is another step in the continuing evolution of the Corps—one of America's true national treasures. Today we witness the change of command, the passing of responsibility and acceptance of accountability for the United States Marine Corps.

General Krulak, you now take up the standard for the most elite fighting force in the world. May you command our Corps with strength, vision and the same commitment to core values that marked the leadership of the Commandants who precede you. The Corps will be blessed with the unfailing support of your delightful wife Zandi. On Tuesday of this week the 31st Commandant and his lady celebrated their 31st wedding anniversary.

Today is important not only for Marines, but also for every American, and especially those who have worn a military uniform. It is a special day for us to remember the Corps' heroic past and to celebrate its bright future.

The fundamental military values of honor, courage and commitment are as much a part of the Marine Corps today as they were at its birth in 1775. Marines today understand that these values represent an ideal . . . an ideal worth fighting for.

Fighting for ideals is what the Corps is all about. And, the strength of today's Corps rests on a foundation of extraordinary heroism rising up from the bedrock of America's military history.

It is on that foundation of past heroism that the future of the Corps will be built. It will be a future filled with innovation, flexibility, resourcefulness and above all spirit. It is a spirit which comes from being the best. Marines know that when American interests are threatened or our friends need help . . . America calls the Corps.

Throughout the past four years, Marines have been called very often and, as throughout their history, they have responded with the utmost professionalism. Whether it was Haiti, Somalia, Bosnia or the Arabian Gulf, the Marines were always ready to get the job done * * * and to get it done right.

Whether as warfighters, peacekeepers, or rescuers; the Marines have proven time and time again that America can count on the Corps when there is a threat to our national security.

The Marine Corps of today is just the adaptable, flexible, and resourceful force America needs. In this unsettled and often confusing post Cold War world, the military mission is no longer as clearly defined. For this reason our military forces must adapt in order to succeed.

Adapting is what Marines do best. The Marines have been fighting America's wars for two centuries and continue to be the force of choice for either keeping the peace; or storming the beach.

In the past, Marines have done more beach storming than peacekeeping, but in the future it is clear that both missions will need to be performed. In my mind there is no force in the world more capable of handling the complicated military missions of the future than the United States Marine Corps.

The Corps has had many great Commandants, but none who has led through such a tumultuous period of internal change. Today the Corps has never been better trained, better led, or more ready. Only in this state would Carl Mundy even consider relinquishing command of the Corps.

That is your legacy, "a RELEVANT, READY and CAPABLE Corps of Marines" who embody the traditions of the past and who are ready to meet the challenges of the future. RELEVANT to meet the defense needs of the Nation tomorrow; READY to respond instantly as America's 911 Force to prevent and contain crises or fight today; and CAPABLE of meeting the requirements of our National Military Strategy.

Carl, your days in uniform may soon be over, but your service to the Corps will remain timeless. Your total devotion to the Corps has nurtured America's undying love for Marines. Your determined efforts have ensured that Marines will always be the first to fight in America's defense.

Yesterday afternoon, in the oval office, our Commander in Chief promoted Chuck Krulak to General. In that ceremony President Clinton pointed to Carl Mundy and said emphatically, "Of all the General Officers I have worked with, you were the one I knew was always telling me exactly what you believed. I want you to know how much I appreciate that." The President of the United States could not have offered higher praise.

For fifty years Iwo Jima has been a special place for the Marine Corps, and it was there atop Mount Suribachi that I had the privilege to announce the President's nomination for our 31st Commandant.

So as we consider the significance of this ceremony, a change of command of the Corps that these two Marines have devoted their lives to, I think it appropriate to recall the words of Chaplain Roland Gittelsohn when he dedicated the Fifth Marine Division Cemetery on Iwo Jima fifty years ago. This February, Rabbi Gittelsohn recalled his words at the ceremony commemorating that battle at the Iwo Jima War Memorial beside Arlington National Cemetery. He said:

"Here lie officers and men of all colors, rich men and poor men together. Here are Protestants, Catholics and Jews together. Here no man prefers another because of his faith or despises him because of his color. Here there are no quotas of how many from each group are admitted or allowed. Among these men there is no discrimination. No prejudice. No hatred. Theirs is the highest and purest democracy.

"Any man among us, the living, who failed to understand that, will thereby betray those who lie here . . . whoever lifts his hand in hate against a brother, or thinks himself superior to those who happen to be in a minority, makes of . . . their sacrifice an empty, hollow mockery.

"Thus do we consecrate ourselves, the living, to carry on the struggle they began. Too much blood has gone into this soil for us to let it lie barren."

Those words spoken in honor of fallen Marines and Sailors hold a living truth. The truth is that we, the living must carry on their struggle for liberty and freedom everyday, and in everything we do.

God bless you, and God bless the United States Marine Corps. Semper Fidelis.

IN MEMORY OF BOB HEINEY

HON. FRANK R. WOLF

OF VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 18, 1995

Mr. WOLF. Mr. Speaker, a close friend of mine has passed away. He was also a friend of other Members and staff on both sides of the aisle. His name is Bob Heiney and he worked for many years for the National Canners Association—now called the National Food Processors Association.

Several years ago I made a list of people who had made a major impact on my life. After members of my family, Bob Heiney was at the top of the list. He was a mentor, a teacher, and a positive role model to all who knew him. He was honest, decent, ethical, moral. When I think about the opportunities he gave me as a young man, it makes me realize the responsibility that we all have to help and encourage those just starting out in their careers. I shall always remember Mr. Heiney and be grateful for his life.

I would like to share his obituary as follows with my colleagues.

OBITUARY—ROBERT BEN HEINEY

Robert Ben Heiney of Plantation Village, Wilmington, N.C., died July 13, 1995, at Cornelia Nixon Davis Health Care Center.

Mr. Heiney was born in Huntington, IN, on September 16, 1909, the youngest child of Enos Boyd Heiney and Della Miller Heiney. He attended public school in Indianapolis and in Milwaukee, WI. In 1930, he began working for the National Canners Association in Washington, D.C., while a night school undergraduate at George Washington University. He earned a law degree from National University in 1935.

Mr. Heiney served as commanding officer of a Naval gun crew on board an Army cargo vessel in the Southwest pacific during World War II. After the war he returned to work in Washington for the National Canners Association—now called the National Food Processors Association—where he continued his career in government-industry relations as a legislative specialist. Prior to Mr. Heiney's retirement he was also a vice president and director of NCA's public affairs programs. During 37 years as a McLean, VA, resident he served as a volunteer fireman and as president of the McLean Citizens Association, had leadership roles in local PTA organizations, and was a Sunday School director and vestryman for Saint John's Episcopal Church.

Following 44 years of dedicated service with the National Canners Association, Mr. Heiney announced his formal retirement on September 30, 1974. He maintained an interest in the food industry and in political life as partner and private consultant with Frank R. Wolf (currently serving as a member of Congress from northern Virginia) in their firm, H AND W ASSOCIATES. In 1976, the Heineys moved to Lake of the Woods near Locust Grove, VA, where he worked in local church and Lions Club activities and enjoyed boating and golfing.

In 1989, the Heineys moved to Plantation Village in Wilmington, NC, where Mr. Heiney enjoyed gardening, woodworking, bowling and playing bridge. He also participated as a volunteer in the New Hanover County Schools and received a Governor's Award for his volunteer support for the Cornelia Nixon Davis Auxiliary program. Mr. Heiney was an avid reader and throughout his life he was a loyal supporter of both local and national Republican political organizations and their causes.

He is preceded in death by his beloved wife of 60 years, Margaret Laura Roth. He is survived by a son, Robert B. Heiney, Jr., of Portland, OR, and a daughter, Margaret Stouffer, of Virginia Beach, VA., seven grandchildren and one great grandchild. A memorial service will be held at Cornelius Nixon Davis Health Care Center on Monday July 17, at 2:00 p.m. Expressions of sympathy may be made as contributions to the Cornelia Nixon Davis Health Care Center Memorial Garden fund or to the CND Auxiliary.

COL. JOHN JOSEPH McNULTY III

HON. IKE SKELTON

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 18, 1995

Mr. SKELTON. Mr. Speaker, today I wish to congratulate Col. John Joseph McNulty III who will retire from the U.S. Army in August. Colonel McNulty faithfully served his country with the Army over the last twenty 29 years, and, due to his outstanding effort and ability, deserves recognition at this time.

Colonel McNulty enlisted in the U.S. Army on March 9, 1966. After completing basic and advanced training at Fort Dix, NJ, he entered OCS at Fort Knox, KY. Commissioned in March, 1967 as a second lieutenant of armor, he was posted to Fort Hood, TX, and the 2d Battalion, 13th Armor, 2d Brigade, 1st Armored Division as the S–2. Three months later he was given command to Headquarters Company, 2d Battalion, 46th Infantry and remained in command until April, 1968. Lieutenant McNulty was then given a second command, the Headquarters Company of 2/13 Armor. In late summer of 1968 he was assigned as the S–2/Asst S–3 of the 2d Brigade and remained in that position until July, 1969.

In August, 1969, having been promoted in March, Captain McNulty reported to the 11th Armored Cavalry Regiment (Black Horse) in Quan Loi, Vietnam, where he served as the commander of the Regimental Headquarters Troop until December. He returned to the United States and was released from active duty in order to return to college in Texas.

Captain McNulty returned to active duty in March, 1971, and in June returned to Vietnam and 1st Squadron, 1st Regiment of Dragoons (Blackhawk), 23rd Infantry Division (Americal). He served as the squadron motor officer until the squadron deactivated in April, 1972. He was selected to command the honor guard and escort the squadron's colors to Germany where the squadron was reactivated in May, 1972.

He returned to the United States, completed the armored officer advanced course in 1973, moved to Austin and graduated with honors from the University of Texas in 1975 under the Army's Degree Completion Program. Captain McNulty was subsequently assigned to Fort Bliss, TX, and the 3d Armored Cavalry Regiment (Brave Rifles). While there, he served as adjutant and commanded C Troop, First Squadron—his fourth troop/company command.

In 1978, Captain McNulty was assigned to the Seventh Army Training Command in Grafenwoehr, Germany. His task as chief of new equipment training was to design and prepare the training plan for the introduction of both the Abrams tank and the Bradley Fighting Vehicle to USAREUR units. Major McNulty, promoted in February, 1979, returned to the United States to attend the Command and General Staff College at Fort Leavenworth, KS, in summer, 1980. He graduated as a member of the centennial class in June, 1981.

In June 1984, Lieutenant Colonel McNulty assumed command of First Squadron, 3d Armored Cavalry Regiment at Fort Bliss, TX. During the next 25 months, he led the unit successfully through numerous field and gunnery exercises. Relinquishing command in July, 1986, he served as the assistant commandant of the Sergeants Major Academy until June, 1987. In July, Lieutenant Colonel McNulty attended the U.S. Army War College at Carlisle, PA, graduating in June, 1988.

Since June, 1988, Jay McNulty has been a member of OCLL. Initially assigned as the Chief of Special Actions Branch in the Congressional Inquiry Division, June 1989 saw him appointed as chief of that division.

Col. Jay McNulty is culminating his service as Chief, House Liaison Division. He effectively used his vast knowledge of the Army, his personal communication skills, and his management abilities to tell the "Army Story." He represented the Army, continuing his role of resolving complex and sensitive issues with every professional committee, and all 435 personal offices, and leadership offices in the U.S. House of Representatives.

He is indeed the quintessential officer. His selfless service, commitment to excellence, and caring professionalism have continually provided inspiration to those with whom he has served. This exceptional officer truly personifies those traits of courage, competency, and integrity our Nation has come to expect from our Army officers. He has served our Nation well and our heartfelt appreciation and his best wishes for continued success go with him as he prepares for his next endeavor.