HOUSE OF REPRESENTATIVES—*Friday, March 3, 1995*

The House met at 10 a.m.

PRAYER

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

May the glory of Your word, O God, be heard in every heart and every land; may that word bring gladness to people who seek hope and confidence and health in their daily lives; may that word remind of truth and integrity and honesty; may that word direct to the ways of peace and knowledge, and may that word of faith lift every person who yearns for justice and freedom. Bless us this day and every day, we pray. Amen.

THE JOURNAL

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

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

PLEDGE OF ALLEGIANCE

The SPEAKER. Will the gentleman from Indiana [Mr. ROEMER] come forward and lead the House in the Pledge of Allegiance.

Mr. ROEMER 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.

REPUBLICAN CONTRACT WITH AMERICA

(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, our Contract With America states the following:

On the first day of Congress, a Republican House will require Congress to live under the same laws as everyone else; cut committee staffs by one-third; and cut the congressional budget.

We kept our promise.

It continues that in the first 100 days, we will vote on the following items: A balanced budget amendment—we kept our promise; unfunded mandates legislation—we kept our promise; line-item veto—we kept our promise; a new crime package to stop violent criminals—we kept our promise; national security restoration to protect our freedoms—we kept our promise; Government regulatory reform—we are doing this now; welfare reform to encourage work, not dependence; family reinforcement to crack down on deadbeat dads and protect our children; tax cuts for middle-income families; Senior Citizens' Equity Act to allow our seniors to work without Government penalty; commonsense legal reform to end frivolous lawsuits; and congressional term limits to make Congress a citizen legislature.

This is our Contract With America, Mr. Speaker, and I just cannot say it enough; it is good policy, it is good government, and it is about time.

The SPEAKER pro tempore. The Chair will entertain 15 1-minutes on each side at this time.

A RESPONSIBLE WAY TO BALANCE THE BUDGET

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

Mr. SAWYER. Mr. Speaker, it does not make sense for a family to take out a bank loan just to pay for its weekly grocery bill. But if they are buying a house, it does make sense for a family to get a long-term mortgage. The groceries will be gone within a week. But the house will last for a long time.

It is the same way with the Federal budget. It does not make sense for our Government to take on debt for current consumption—to pay for the fuel and sailors that keep our Navy's ships at sea every day. But it does make sense to take on debt for long-range investments—to build the aircraft carrier that will last for a long time.

Yet under today's illogical budget rules, we treat consumption and investment the same way.

Today I am sponsoring a measure to create an operating budget and a capital budget. It would require the operating budget to be balanced by 2002. But it would permit borrowing for capital investments that will strengthen our future.

Our budget is in trouble because we fail to differentiate between consumption and investment. That outlook must change. My balanced-budget plan will help put our Nation's finances back onto a responsible footing.

CONSIDER WELFARE A LOAN

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

Mr. FRANKS of Connecticut. Mr. Speaker, I look forward to the day when as Members of Congress we are not debating the virtues of block grants versus entitlements for food, shelter, or child care programs. I look forward to the day, Mr. Speaker, when all able-bodied mothers and fathers and their extended families are carrying their own weight, a society where no one receives something that they have not earned.

Now, we all hit bumps in the road, and there should be ways to assist people at such times. But if one is given something without working or paying for it, it should be deemed as a loan that would be paid back or worked off, not as a bottomless pit of money distributed with no strings attached.

Everyone should be merely entitled to an opportunity to succeed. Yes, Mr. Speaker, I look forward to the day when the word "welfare" is used as frequently as the word "dinosaur."

SCHOOL NUTRITION

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

Mr. HOYER. Mr. Speaker, I am appalled by the devastating cuts in children's programs which the Republicans are pushing through the House.

There are many cuts to choose from—but none is more galling than the attack on child nutrition.

Over the next 5 years, the proposed Republican block grants will cut more than $2.3 billion from school breakfast and lunch.

And, as if that were not enough, the block grant increases the proportion of Federal school food funding that can be used from State administrative costs.

How can a hungry child hear a teacher over the growling of an empty stomach?

How can a malnourished child keep healthy enough to stay in school?

Republicans have been telling us that these cuts are necessary to reduce our deficit. Yesterday evening the Committee on Appropriations voted on cutting taxes and reducing the deficit. Democrats voted yes in every instance. Republicans voted no in every instance.

STATES MUST BE GIVEN A CHANCE TO SOLVE SOCIAL WELFARE PROBLEMS

(Mr. BALLENGER asked and was given permission to address the House

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for 1 minute and to revise and extend his remarks.)

Mr. BALLENGER. Mr. Speaker, freedom and responsibility. These are two of the most important goals of our welfare programs, and right now, these are the two goals we have not achieved.

For over 3 years the Federal Government has thrown more and more money into entitlements that just continue the cycle of poverty and dependence. Throwing more money at our problems just does not work. Our social safety net has become a black hole from which there is often no return.

Let us give the States a chance to solve their own social welfare problems on their own. Giving the States back the right to take care of their own people makes good sense. The welfare needs of Idaho or Wyoming are certainly different from those of New York.

Congress should learn to appreciate the diversity between States and let each one tackle poverty and hunger in its own unique way.

We have had our chance. Now let us have the States show us what they can do.

GUAM HARDEST HIT BY BASE CLOSINGS

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

Mr. UNDERWOOD. Mr. Speaker, I rise today to point out the schizophrenia being experienced at the Pentagon these days.

Under the Secretary of Defense's recently released list of base closures to be considered by BRAC, Guam is the hardest hit American community on the list. It targets Guam for more personnel cuts than large States such as California, Virginia, and New York. The reductions represent between 5 and 10 percent of the entire work force on Guam, and as much as a quarter of Guam's economy could be adversely affected. Let me repeat: Up to 10 percent of the entire work force will be thrown out of work. If this magnitude of cut were undertaken in California, almost 1.5 million jobs would be affected.

To compound this problem, the Navy is trying to have it both ways. They are closing down facilities, saying they do not need them, and at the same time holding on to all the ports, drydocks, floating cranes, and other equipment in case they need the harbor in the future. This schizophrenia will leave our community in a straitjacket without the tools for our own economic survival. The military has the schizophrenia and we suffer the consequences. We need our facilities back.

NUTRITION BLOCK GRANT PROPOSAL

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

Mr. GANSKE. Mr. Speaker, I rise today to ask a simple question of my colleagues across the aisle—Since when did the Government have the right to use the taxes of low-income people to subsidize families who live in $400,000 houses and earn $300,000 a year? I always thought they supported giving money to the needy and making the wealthy pay their fair share. Well, that is just what the Republican nutrition block grant proposal does. Eighty percent of the funds will be used to provide meals for low-income children.

Democrats have been ranting and raving for years that we should not subsidize the rich. Here is the perfect opportunity for them to offer bipartisan support to a proposal which does just that. An Omaha World Herald editorial drove the point home well. School lunch bureaucrats would have you believe that children from upper-income families are paying the total cost of the lunch. Wrong. Full price for these children means the Government is subsidizing their lunches 30 cents for each lunch.

I think upper-income children can afford this extra 30 cents. We do not need to subsidize middle- and upper-income school lunchers. We need to subsidize the poor.

The proposed changes in the nutrition programs are a way to make sure that those who can pay their way will, and those who cannot get help.

THE DIFFERENCE A SINGLE VOTE CAN MAKE

(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, what a difference a single vote makes. Due to the two-thirds requirement in the Constitution, the Senate failed to pass a balanced budget amendment. One vote. One vote per precinct elected John Kennedy. One vote in March 1995 may have saved Social Security.

The truth is, Congress, the Constitution cannot be mended with microwave legislation. Good legislation requires a two-thirds burn in that crock pot. There is an old saying, if you want to cook it right, cook it long. Social Security does not deserve a microwave treatment.

COMMONSENSE LEGISLATION TO PROTECT OUR CHILDREN

(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, the Democrats portray us as a cold, callous, and insensitive group. How can someone truthfully claim that? In the past 58 days, we have done more to ensure a brighter future for the citizens of this country and especially the children.

We have worked night and day to pass a comprehensive crime package, a slew of regulatory reform bills, a balanced budget amendment, and unfunded mandate reform with the intention of getting the Government back on track by transferring authority to State governments. We have increased funding and have allowed greater growth for the School Lunch Program than in past years.

We are conscious of the need to protect our children from an ever increasing crime rate and a debt-ridden Government, while in turn creating a comfortable and productive environment for them to learn.

We will continue to work hard by passing commonsense legislation for the benefit of our prized and most important resource—our children.

SCHOOL NUTRITION

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

Mr. DINGELL. Mr. Speaker, I rise to praise our Speaker, one of the foremost figures in the field of American literature, and one of our most famous authors. He has been making generous contributions to organizations which pay children $2 for every book they read. At the same time his colleagues on the Republican side of the aisle are taking money away from needy children who need subsidies for their lunch.

The teacher is teaching school children a lesson at this time. He is showing there is money to be made in book deals, perhaps enough to buy their own lunch. I would like to share some information that I find important in this callous regard to our children.

The leadership nutritional block grant would terminate all nutrition standards. Seven hundred thousand Michigan children eat school lunch every day. More than half qualify for free or reduced price lunches. Michigan will lose $107 million a year.

With one hand, the Speaker has offered school kids a book deal do encourage learning. With the other hand, he is taking away their lunch money which provides them with an absolute necessity for proper learning, and that is decent nutrition.

At the rate Republicans are taking money from kids, the kids are going to have to read an awful lot of books to stay fed.

PARLIAMENTARY INQUIRY

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

The SPEAKER pro tempore (Mr. DOOLITTLE). The gentleman will state it.

Mr. VOLKMER. Do the rules of the House permit Members to walk in the

well, be present in the well while a Member is speaking in the well?

The SPEAKER pro tempore. Members should not cross in front of Members while they are speaking in the well.

Mr. VOLKMER. Is it permissible to walk on the other side of the well while a Member is speaking in the well?

The SPEAKER pro tempore. Members should not walk between the Member speaking and the Chair.

Mr. VOLKMER. What I am trying to point out to Members on the other side, we have never done it on this side, is not to get your papers up and get ready to make your 1-minute while a Member is speaking in the well.

□ 1015

PRIVATE PROPERTY RIGHTS

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

Mr. COOLEY. Mr. Speaker, today we will again address private property rights. And there is only one issue: whether or not we will obey the fifth amendment.

For those who haven't read their constitution lately, I would like to quote these 12 profound words.

The final clause of the fifth amendment states the following: "* * * nor shall private property be taken for public use without just compensation."

This is a simple statement that requires little explanation. Just as a thief need not destroy the property he steals to be guilty, neither must the Government necessarily require a landowner to vacate his property for it to be taken for public use.

Mr. Speaker, without these 12 words, we would be little better than a socialistic society.

I, personally, subscribe to the axiom that if a man has done nothing wrong he has nothing to fear. Unfortunately, many law abiding citizens have a great deal to fear from the Federal Government.

Why? Because our environmental agencies create laws and regulations that destroy the value of their property.

In my district, millions of acres of timber lie unharvested because the government exercised its authority to save the spotted owl.

The Government has the authority to take my land. It also has the authority to save owls, but it does not have the right to do so without justly compensating you or me for it.

Mr. Speaker, let's reaffirm the fifth amendment, protect private property rights, and pass H.R. 925.

CAMPAIGN FINANCE REFORM

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

Mr. JOHNSON of South Dakota. Mr. Speaker, there has been a great deal of talk of reform and of change in this body over the past month. Some of it real; much of it for show; much of it cynical; and even some of it counterproductive, such as the current talk about cutting child nutrition programs not to reduce the deficit but to provide tax cuts for the very wealthy. But there has been one issue of change that there has been too much silence about, and that is the most fundamental need of all, and that is to reform our campaign spending laws in this country so that we have meaningful, real democratic elections rather than auctions, which is the direction this country is going now.

I am proud to join several of my colleagues in introducing legislation this week which would break the gridlock that currently exists over campaign spending reform by following the military base closure commission model in creating a bipartisan commission to recommend campaign reform legislation. In 1 year Congress would have to vote on its recommendations up or down, no excuses.

Let us clean up the political process and return it to the people of the United States.

THE REAL VICTIMS

(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 want to read something to my liberal colleagues on the other side of the aisle who profess so much compassion for America's children while defending the current welfare system.

This is from Bill Bennett's article in the current Commentary magazine, which I would recommend that all my colleagues read, Bennett writes:

> Between 1962 and 1992, welfare spending in the United States increased by over 900 percent in 1992 dollars. At the same time the poverty rate dropped by less than 5 percent—and illegitimacy rates increased over 400 percent. Children are the real victims of this national tragedy. They are being conditioned into the same habits of dependency they are surrounded by, resulting in an almost unbreakable cycle of welfare.

And yet, Mr. Speaker, we get one liberal Democrat after another parading to the well to tell us how wonderful the current system is and how much the children need it.

The liberal Democrats may need it, but the children do not.

REFORM AT THE EXPENSE OF SCHOOL LUNCH PROGRAM

(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, the Republican meat ax has fallen once again and this time not just on chicken and meat but on tomatoes, on beans, on carrots, on milk, and on orange juice. The latest target is the school lunch and breakfast program.

Now some of them are going to argue, we have not cut it. Ask them then why is there a 20-percent transfer out provision in the block grant? Ask them why is there no inclusion of price increases for food? Ask them why, why is there no inclusion of a recession or unemployment rates? Those are basic questions and, furthermore, ask them why is there not the provision for entitlement for a child in poverty to be eligible?

I am all for cutting billions, but let us cut billions from star wars and space stations and not nickel and dime our lunch programs to death.

WELFARE REFORM

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

Mrs. VUCANOVICH. Mr. Speaker, why do we call it welfare? Under the current welfare system, people do not fare well—not at all.

Our current system has created a number of welfare addicts, some who will do anything to stay on the public dole. Congress must intervene with some tough love which will stop the addiction and create a more useful, caring society. The welfare plan which is being put forth by the Republicans is the only proposal which has offered people on welfare a chance to improve their lives.

While opponents have termed this proposal mean-spirited, it is nothing of the kind. Under the legislation, spending for school meals will increase by 4 percent next year, work training will be offered in exchange for benefits, and abuses of the system will be eliminated. What is mean-spirited is an administration which keeps feeding the addiction of individuals who cannot help themselves because they are trapped. The Republican proposal offers people an opportunity to break the addiction.

Mr. Speaker, it is time for Congress and the American public to say farewell to our current welfare system so that people in our Nation may actually fare well.

HUNGRY CHILDREN AT RISK IN MOVE TO BLOCK GRANT THE SCHOOL LUNCH PROGRAM

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

Mr. BALDACCI. Mr. Speaker, block granting the School Lunch Program, as called for in Contract With America, places our Nation's most precious natural resource—its children—at risk.

We can and should look for ways to improve the School Lunch Program. But we cannot create a block grant, cut the funding, and expect the States to do more with less.

This is not, as some would have us believe, a deficit reduction issue. We need to balance the Federal budget. But we cannot do it on the backs of children. Helen Rankin, a school food service director in Maine, expressed this sentiment very eloquently to me. She said:

As an adult, I am willing to make sacrifices to reduce the deficit, but let us not begin by slashing funds for defenseless children who cannot speak for themselves and do not have the right to vote. As we look after the hungry children of the world, let us continue to protect our own.

This is an ill-considered and mean spirited proposal, and it should be soundly rejected by this Congress.

RESPONSIBILITY, FREEDOM, AND COMPASSION

(Mrs. MYRICK asked and was given permission to address the House for 1 minute.)

Mrs. MYRICK. Mr. Speaker, mean spirited and callous and heartless. These are the terms the Democrats use to describe the welfare proposals moving through the House currently. As a former mayor of Charlotte who has seen firsthand the damage done by the welfare system over the years, I prefer the words responsibility, freedom, and compassion. Responsibility to be allowed to work and freedom to get off of welfare, compassion, caring, helping.

We had programs in our city that were innovative and they allowed people to take pride in themselves once again. We can do that through the proposals being offered by the Republican system that is currently underway now. Self-sufficiency is the key, not dependency.

IS CONGRESS LOSING ITS SENSE OF PRIORITIES?

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

Mr. LUTHER. Mr. Speaker, a great American and fellow Minnesotan, Hubert Humphrey, once said that the moral test of government is how that government treats those who are in the dawn of life, the children; those who are in the twilight of life, the elderly; and those who are in the shadows of life—the sick, the needy, and the handicapped.

For decades there has been bipartisan agreement in Congress on the importance of providing school lunches, and millions of children have been well-fed and well-educated.

But I am concerned today that Congress may be losing its sense of priorities. Clearly, we need to balance the budget. But as we allocate our country's scarce resources, let us be sure to keep things in proper perspective.

Last week this Congress voted to increase defense spending and next week we will consider a proposal to cut funding for school lunches.

That is not what the American people sent us here to do. If we really care about those Americans in the dawn of life, our children, and we should, then we better get our priorities straightened out soon.

SCHOOL LUNCH

(Mrs. CUBIN asked and was given permission to address the House for 1 minute.)

Mrs. CUBIN. Mr. Speaker, it is a personal disappointment and affront to me that Members of the minority party persist in their attack on our plan to provide nutritious meals to the Nation's schoolchildren.

They claim that by block granting the nutrition programs thousands of children will starve. In plain English, that claim is a lie and they know it. Funding for the School Lunch Program will increase by 4½ percent per year, that rate is above inflation but below what liberal Democrats think it should be so they label it a cut. Using accounting methods like this has us headed for a debtor's prison without a get-out-of-jail-free card.

The only thing we will cut is a layer of Federal bureaucracy in the nutrition programs which will save money and allow the States to do what they do so well, take care of their citizens.

The basic difference in philosophies is all too clear on this issue, after 40 years, Democrats cannot bear the thought of independent States, I myself have all the faith in the world in the ability of our State and local officials.

LOBBYIST REFORM

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

Mr. MEEHAN. Mr. Speaker, the truth is that when that money was cut in committee, it did not take into account future enrollment figures. It did not take into account increases in food prices. They is why it is a cut. And how we can sit here and cut school lunches at a time when the same individuals who had an opportunity to cut lobbyists from paying meals for Members of Congress voted against it? The same Members who would vote to take away the school nutrition programs can be seen on a Tuesday or a Wednesday or a Thursday at the Capital Grill or at Morton's or La Colline or other restaurants around this Capitol having a free lunch paid for by lobbyists. It is a big thick steak.

Let us put that money back into the nutrition program and stop cutting around the issues. We are neglecting children in this country. Let us make investments where we ought to be making them.

WELFARE REFORM

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

Mrs. FOWLER. Mr. Speaker, the Republican welfare reform plan has been under attack from those who believe that bureaucrats in Washington know what is best for those in need. But after 30 years and $5 trillion, we know for sure that their way does not work.

No longer can we reward illegitimacy and nonwork. And no longer can we rely on the failed notion that we can just throw more money at the problem. The Personal Responsibility Act will help us end negative incentives and create a system that is leaner, more responsive and more truly compassionate.

The Republican welfare reform plan is based on the notion that giving States the flexibility to develop their own solutions means that we will be able serve those in need better with fewer Federal dollars. Experiments in States like Florida show that this is the approach we should be taking.

I urge my colleagues to take a stand for positive, commonsense welfare reform and support this legislation.

□ 1030

DEMOCRATS WANT WELFARE REFORM, BUT NOT EXTREMISM

(Ms. EDDIE BERNICE JOHNSON of Texas asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Ms. EDDIE BERNICE JOHNSON of Texas. Mr. Speaker, I have not heard anyone here on either side of the aisle defend the present welfare system. All of us want change. The difference is, on my side of the aisle, we do not want extremism. We do not want a system that is going to just punish and not find a way out for independence.

I am from Texas, and I can tell the Members that the child nutrition program has been helpful. Every report tells us that once the program started, children are attending school better, their attention span is longer, and they are achieving grades. We cannot, as a nation who cares, send our children through life without some kind of caring.

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Mr. Speaker, if we want to create 50 new bureaucracies by sending it to the States, then we will have more government than we ever bargained for. State's rights for poor children in Texas has never worked. One out of every nine children in Texas is now hungry. Almost half of the low-income families are now hungry.

Mr. Speaker, I can tell the Members that most of these families have at least one working person. Are we going to throw our children to the wolves to give a tax break for the rich? I hope not.

WELFARE REFORM: REAL CHANGE VERSUS FALSE HOPE

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

Mrs. KELLY. Mr. Speaker, I do not know what is more disheartening, the vicious cycle of dependency perpetuated by the current system of welfare, or the mindset on the part of some Members of this institution that a national welfare bureaucracy is the only way to help those in need.

The American taxpayer has not lacked in generosity. We have invested well over $5 trillion on welfare in this country since the mid-1960's, and welfare spending continues to rise.

And yet, despite this commitment, illegitimacy rates have risen, welfare dependence remains constant, and fewer recipients of assistance are working. Five million families received AFDC benefits in May 1993, up from 3.7 million in 1988, and over half of those families will remain dependent on welfare for over 10 years.

As working women and mothers, who among us does not remember earning their fist paycheck, meeting that first payroll, or the pride of seeing our own child bring home their first paycheck. It is this sort of restoration of self-esteem that we must achieve.

The Personal Responsibility Act of 1995 fundamentally restructures the way in which we think about welfare. It maintains a system of support for those in need, while restoring the notion that welfare recipients have an obligation to use this assistance to better themselves. We have an opportunity to accomplish real reform, and instill real hope in the lives of those caught in the welfare trap.

SAVINGS FROM REPUBLICANS' PLAN TO CUT CHILDREN'S SCHOOL LUNCHES WILL GO FOR TAX CUTS FOR THE WEALTHY

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

Mr. EVANS. Mr. Speaker, the Republican plan to decimate the school lunch program will penalize millions of America's kids, working families, and women, and the Republicans will use the savings to serve up a free lunch of tax cuts and tax concessions to millionaires and large multinational corporations.

Conservatives often say that the deficit will be passed on to our kids, but their approach to deficit reduction will mean that our kids will pay now and that they will pay with their potential. Their block grant proposal will block the future of 140,000 kids in Illinois alone.

The school lunch program is one of the most successful, one of the most cost-effective, and one of the most important programs that the Federal Government has ever administered.

I urge my colleagues to stop the Republicans from keeping this program and America's kids hostage to the Republican contract on America.

REPUBLICANS' WELFARE REFORM PLAN OFFERS A HELPING HAND-UP, NOT A HANDOUT

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

Mrs. SMITH of Washington. Mr. Speaker, according to the Congressional Research Service, welfare spending in 1992 reached an all-time high of $210 billion. This is nearly three times as much as we need to abolish all poverty in the United States.

What does the American taxpayer get for this? What do we have to show for it? I will tell the Members: a bureaucracy that is wasting our money. Even worse, we have higher crime, higher illegitimacy, family disintegration, low educational achievement, neglect, and moral confusion.

Mr. Speaker, I do not think the devil himself could have come up with a better scheme to destroy America and her children. Yet, the Democrats come here day after day to defend a system that has produced nothing but misery for America's poor, and the poor children. They have done this after controlling Congress for over 40 years, building this system of misery.

We have pledged to change the failed liberal welfare system, not by giving a handout, but by giving a helping hand up.

SCHOOL LUNCHES ARE IMPORTANT FOR OUR CHILDREN

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

Mr. BENTSEN. Mr. Speaker, the proposal to change the Child Nutrition Program into block grants will hurt the children of the 25th District in Texas. This week the Texas School Food Service Association visited me and explained the consequences of this proposal.

With the new block grant scheme, which in essence will give fixed sums to the States, Texas will lose big—close to a 30-percent reduction in moneys to the children of Texas. It is estimated for instance that the Houston Independent School District [HISD], one of many school districts in the 25th District, would lose $1.677 million next year to provide nutritious breakfasts and lunches for children.

I do not believe that HISD will fail to serve these children. Instead other educational programs will have to be cut. If we want our kids to learn and grow up to be productive citizens, we cannot expect them to starve in the process. In many cases, school meals are the only nutritious meals that children will receive each day.

This Republican proposal will actually create 50 new bureaucracies in 50 States. In addition, the new program will not have one national nutritional standard. Without a good meal, many children will have trouble learning. We need to invest in our children to ensure our future. The School Lunch Program today successfully feeds an average of 13 million children each day with a well balanced meal.

Mr. Speaker, as we say at home, don't mess with Texas. Mr. Speaker, don't mess with the kids' school lunch.

TRUE COMPASSION AND THE WELFARE SYSTEM

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

Mr. CHABOT. Mr. Speaker, the so-called political experts say do not respond to your opponents attacks, just ignore them. But in this case I just cannot sit idly by while I hear the whining and griping from the bitter defenders of the status quo who defend a welfare system that's bloated, scandal-ridden, and a huge waste of our hard-earned tax dollars.

Forty years of Democrat control of the House brought us this failed welfare system and now they are defending it with all of their might. The truth is they have turned their backs on those who are less fortunate and then they blame Republicans for trying to undo the damage that they took 30 years to create.

After spending billions of dollars on programs that have failed to work and after years of waging a phony war on poverty it is time for the defenders of the status quo to admit defeat and join us in creating a system that understands that true compassion is not measured in the number of our tax dollars spent on welfare, but in the number of Americans who are liberated from the grips of poverty.

CUTTING LIHEAP PROVES THE REPUBLICAN MAJORITY CONTINUES TO STREAMROLL SENIORS AND STRUGGLING FAMILIES

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

Mr. OLVER. Mr. Speaker, for 58 days now the Republican majority has had kids and seniors in their sights. Yesterday they hit both with one shot. LIHEAP, the Low-income Home Energy Assistance Program, is gone. LIHEAP helps almost 6 million families pay their heating bills in the winter.

The Republican majority is willing to trade the health of children and seniors for tax giveaways for the wealthiest 2 percent of Americans. The Republican majority will take away heat assistance from seniors on fixed incomes and families living on minimum wage or less to give another tax break to people making over $200,000 a year. Without LIHEAP, 144,000 families in my State of Massachusetts will have to skip meals to keep heat in their homes.

Mr. Speaker, we do not have a balanced budget amendment because Republicans would not protect seniors on Social Security. That is a shame. What is worse is the Republican majority continues to streamroll seniors and struggling families. Cutting LIHEAP proves it.

URGING MEMBERS TO SUPPORT THE PRIVATE PROPERTY PROTECTION ACT

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

Mr. SHADEGG. Mr. Speaker, today on this floor we will vote on the Private Property Protection Act. This is critically important legislation, and I urge each and every one of my colleagues to support it. The principle in America that private property cannot be taken from our citizens without paying them just compensation for that private property is at the heart of our form of government. It is, indeed, one of those values that we as American hold sacred.

Yet, yesterday Interior Secretary Bruce Babbitt called this legislation an attack on America's great natural resources. Absolutely nothing could be further from the truth. It is a sad day in America when officials of our national government openly advocate taking property from our citizens without compensating those who own that property.

We are all agreed that we must protect our natural resources, but we must not do that by stealing property from them or by nationalizing their resources. I urge my colleagues to support the Private Property Protection Act.

URGING MEMBERS TO JOIN IN CALLING FOR SPECIAL COUNSEL TO INVESTIGATE ALLEGATIONS AGAINST SPEAKER GINGRICH

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

Mr. VOLKMER. Mr. Speaker, last year Members of the present majority complained about the investigation by Special Counsel Robert Fiske. They claimed that Fiske was a friend of the White House and that his investigation of Whitewater was not going far enough.

I ask the Members of the House to consider these facts. The current chairman of the House Ethics Committee cast the deciding vote for the Speaker in the 1989 whip's race. The chairman of the Ethics Committee seconded the nomination for Speaker this year. The chairman of our Ethics Committee last year tried to help our current Speaker by closing the pending Ethics Committee complaint against him.

Two other majority members of the House Ethics Committee have had personal dealings with the personal PAC of the Speaker, GOPAC, one of them as a contributor, and another as a recipient for his reelection.

Given these facts, I am sure those who call for a replacement of Special Counsel Fiske will now join me in calling for a special counsel to investigate the allegations against Speaker GINGRICH, and it should not take 100 days.

PARLIAMENTARY INQUIRIES

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

The SPEAKER pro tempore (Mr. DOOLITTLE). The gentleman will state his parliamentary inquiry.

Mr. WALKER. Mr. Speaker, was not the entire speech of the gentleman from Missouri [Mr. VOLKMER], just a moment ago, out of order, because it was a direct reference to Members of this body?

The gentleman keeps reminding us of our obligations under the rules. The gentleman has a responsibility to the rules. My parliamentary inquiry is, was not his entire speech out of order?

The SPEAKER pro tempore. Members should not refer to pending Standards Committee investigations.

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

The SPEAKER pro tempore. The gentleman will state it.

Mr. WALKER. Beyond the pending ethics investigation, he also may have had personal references to the chairman of the Ethics Committee. Is that also not out of order?

The SPEAKER pro tempore. Members should not so refer to the Standards Committee or any Members thereof.

Mr. WALKER. A further parliamentary inquiry, Mr. Speaker: My understanding is that what the gentleman has just done in the House was a speech which was entirely out of order before the body: is that correct?

The SPEAKER. The Chair is responding in a general way to the proper debate in the House with respect to ethics investigations.

Mr. WALKER. I thank the Chair.

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

The SPEAKER pro tempore. The gentleman will state his parliamentary inquiry.

Mr. VOLKMER. Is the Chair ruling that it is improper for any Member to request a special counsel in an investigation being conducted by the Ethics Committee, which action has not been taken by the Ethics Committee?

The SPEAKER pro tempore. Members should not refer to pending Standards Committee investigations, or suggest courses of action within that committee.

Mr. VOLKMER. I thank the Chair.

PRIVATE PROPERTY PROTECTION ACT OF 1995

The SPEAKER pro tempore (Mr. DOOLITTLE). Pursuant to House Resolution 101 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. 925.

□ 1043

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. 925) to compensate owners of private property for the effect of certain regulatory restrictions, with Mr. SHUSTER in the chair.

The Clerk read the title of the bill.

The CHAIRMAN. When the Committee of the Whole rose on Thursday, March 2, 1995, pending was the amendment offered by the gentleman from California [Mr. MINETA]. Two hours remain for consideration of amendments under the 5-minute rule.

Is there further debate on the amendment?

□ 1045

Mr. MINETA. Mr. Chairman, I move to strike the requisite number of words.

The CHAIRMAN. Without objection, the gentleman from California is recognized for 5 minutes.

There was no objection.

Mr. MINETA. Mr. Chairman, the Mineta-Davis amendment is the bipartisan alternative to the Goss amendment which we considered and nearly approved last night.

When the Goss amendment was defeated by one vote, many members approached me—very concerned that a 10-

percent threshold was just not workable. That is why Mr. DAVIS and I developed the bipartisan alternative.

A 10-percent threshold is too inexact. It leaves the basic issue of whether you have rights under this bill with the fluctuations in appraisals which normally accompany any real estate evaluation. As my colleague has stated so well, such a margin of error is not reasonable.

The 10-percent threshold is so ill-advised that not only could the taxpayer be ripped off through variances in the appraisal process, claims which would be allowed under this bill—claims of the very developers and individuals which the proponents of this bill are claiming to protect—could be denied because the margin for error is just too slim.

Last night, 210 Members of this House agreed that a 10-percent threshold was too low, too inexact, and that 30 percent was preferable. When that was defeated, in the spirit of compromise, Mr. DAVIS and I developed the bipartisan alternative at 20 percent.

This amendment is the Goss amendment reduced from 30 percent to 20 percent. If you believed last night that 20 percent was better than 10 percent, if you are on record as voting to support 30 percent, there can be no explanation for not now supporting a 20-percent compromise.

Let me repeat, if you were one of the 210 who shared my concern and supported the Goss amendment at 30 percent, there can now be no good reason to not support the Mineta-Davis bipartisan alternative at 20 percent.

I urge an "aye" vote.

Mr. BONILLA. Mr. Chairman, I move to strike the requisite number of words, and I rise in opposition to the amendment.

Mr. Chairman, 10 percent can be a lot of money. Last night my friend, the gentleman from Texas [Mr. FIELDS], raised a question about an effort in San Antonio to control the water supply for several counties by declaring a snail that no one has ever seen endangered and put it on the list and threatening the entire economy of south Texas. Others have attempted to shut down five or six military bases in south Texas by using some bug or spider to declare the endangered species list. Think of what 10 percent of buying a metropolitan area with a million people in it would mean to the U.S. Government. There are many other examples around the country.

At this time I would like to yield to my friend, the gentleman from California [Mr. POMBO], to relate how 10 percent might affect the development of construction of a hospital, perhaps, because my understanding is that there are even flies on the endangered species list in California that are a big problem.

Mr. POMBO. I thank the gentleman for yielding. We in the past couple of years have had instances in California where in one specific example, eight flies stopped the construction of a $600 million hospital in southern California. Without any regard to what the use of that property was for, what the effect was on the citizens of that community, and with absolutely no regard at all for the well-being of the community, Fish and Wildlife came in and stopped the construction of a $600 million hospital.

They ended up having to mitigate their way out of it and give up, I believe it was 40 percent of their site to be permanent fly habitat on the grounds.

There are many instances where a little responsibility interjected into the actions of the agency would make a large difference.

Mr. BONILLA. The gentleman would agree that 10 percent of the cost of the hospital because of a fly or in the case of Texas, because of a snail or beetle could add up to millions of dollars and perhaps billions?

Mr. POMBO. Yes. We are talking about literally billions of dollars that are involved here. Recently in California we had the fairy shrimp listed. The fairy shrimp, I believe, will have a larger impact on California than anything that has been on the endangered species list or any proposal to the endangered species list that we have had yet. We literally have all the way from Bakersfield to Redding and now we are getting reports out of the Riverside and San Diego areas of fairy shrimp in those areas as well where any mud puddle that holds water for 14 days in the springtime is habitat for the fairy shrimp.

This definitely affects all farming and ranching activities. We have farmers who have fairy shrimp in their cow troughs, in their watering troughs, in their watering holes. We are looking at on the listing of the fairy shrimp alone billions of dollars that are affected in the State of California.

The fairy shrimp is a third of an inch long, an eighth of an inch across, an invertebrate that has been around for hundreds and hundreds of years, and there is absolutely no cost to the agency to go out and list this and declare all mud puddles habitat for the fairy shrimp.

What we are trying to do is instill a little common sense into the way the agency responds.

Mr. BONILLA. I appreciate the gentleman's remarks. Again to emphasize that we are trying to stop these shrimp, flies, snails, and spiders from costing people more money.

Mr. VOLKMER. Mr. Chairman, I move to strike the requisite number of words.

I will not take the full 5 minutes, but I just want to point out that this amendment is basically the same as the 30 percent, except instead of 30 percent, it is now 20 percent, but it is 20 percent of the total diminished value.

I would like to point out to the Members that what this amendment does in deference to what others do when they do a taking, as I have tried to point out to the gentleman from California where I consider the inconsistency between what he thinks is fair and what I think is fair.

If I have a 600-acre farm, Mr. Chairman, and the highway department, Missouri State highway department or commission comes along and takes 20 acres along the bottom of that for highway purposes and takes another 10 acres for right of way to abut the highway for an easement so there would not have to be any traffic in that area but they move it away from the farm, I get paid for every bit of that. No matter how much it diminishes in value that land, I get paid for the whole thing.

Under this amendment that we have pending before us, if I have that same 600-acre farm and if EPA or the Corps of Engineers or Fish and Wildlife find that there is a drainage ditch that runs through that farm with the same 20-acre amount and they say that that is swampland or that is wetlands, I cannot use it for farming anymore. It is no longer any use to me. I cannot do it. But under the present law, I get paid nothing for it. If I put my plow across it, I get fined. If I do anything to it, I get fined.

Under the bill, if that acreage, that 20 acres is diminished in value by 10 percent, then I am entitled to compensation.

Under the gentleman's amendment, my whole 600-acre farm has to be diminished in value by 20 percent. The likelihood of that happening is zero. What the gentleman's amendment is doing to most of my farmers out there who have small pockets in their fields that are now considered wetlands because they have an indentation and water has settled in there for a little while, no ducks have ever been on it, no geese have ever been on it, nothing has ever been on it, but they cannot touch it, they cannot use it, they are deprived of the use of it.

Under the present law, they get nothing. Under the gentleman's amendment, they will get nothing. At least under the bill, there is an opportunity or a chance that they will be at least compensated for that taking of their property.

Someone will say it is not a total taking, it is still theirs. What difference does it make, Mr. Chairman, if it is still yours and you cannot use it? If that is not a taking, I would like to know what a taking is when you are deprived of the use of it, for what if has always been used for. I speak in opposition to the amendment.

Mr. DOOLITTLE. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, if we go right to the wording of the U.S. Constitution and

the fifth amendment, it says, "Nor shall private property be taken for public use without just compensation." That amendment was put in there in order to protect people from having the government steal their property for the general benefit of all.

Sad to say, up until today, from the time the Constitution was drafted, this has been a right without an effective remedy, because in order to get the remedy, you had to be wealthy enough to go through years and years of litigation, 5 to 10 years on the average, and be able to expend $50,000 to $500,000 or more in attorney's fees. We all know that problems, with attorneys and their fees that we have in this society today, and I know sometimes we need to get attorneys. Like to pursue a takings claim. You need darned good attorneys. You need lots of money to pay them.

When I hear Members act like this is some great remedy that we have right now, I am here to say, it is not. That is why we need this piece of legislation.

This effect of this amendment is to allow the government to take 19.9 percent of the entire value of your property without any compensation. I know they are going to say in response, "Oh, yes. But we still allow you your fifth amendment right."

Some right.

This bill is designed to give efficacy to that right, to make it applicable to the average American. It is so important that we understand that. We are not talking about standing up for big corporations, for large landowners. They have the resources to hire the attorneys to fight this. We are talking about the little guy, everyone in this country who owns a piece of property, has worked hard to get that, and would like not to see it wiped out.

Why are Members so worried about protecting the Federal Government, Mr. Chairman? I am just amazed when I hear these expressions of concern. You would think the Federal Government was the weakest thing around. It has got enormous resources. These agencies behave with impunity in many cases and there are dozens, indeed hundreds of abusive examples of Federal agencies. That is why we have gotten to this point where there is now a ground swell of support to rise up and make a change.

Mr. Chairman, I would just observe in closing, George Washington, understood what government was and he knew it was not our friend. He said, "Government is not reasoned, it is not eloquence, it is force, and like fire it is a dangerous servant and a fearful master."

This bill represents an attempt to give meaning to the fifth amendment and protect our citizens.

Mr. TAUZIN. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, the amendment before us is as flawed as the amendment that was previously offered that would have changed the 10 percent of any affected portion criteria to 30 percent of the whole of the property.

It is flawed primarily because it refers to the whole of the property. The whole of the property is a variable sum. I can change the whole of my property tomorrow by simply selling off a portion. I can divide it. I can do a number of things to game this system when the percentage is applied to the whole of my property.

We heard an eloquent statement from the gentleman from Missouri [Mr. VOLKMER] about how farmers would be treated under this kind of an arrangement when the percent diminution was applied to the whole of their property. What farmers would have to do in order to qualify for compensation, under this plan, under this amendment, they would be forced to sell off parts of their farm to divide it up in ways to qualify under this amendment. No one should be forced to game a system in order to receive fair compensation, but that is what this amendment has done as it is constructed.

I am informed by managers of this bill and this is a very important announcement that I hope Members are paying close attention to in their offices, that if we defeat this amendment providing for 20 percent of the entirety of one's property as a criteria, we will immediately offer an amendment that will provide the criteria 20 percent of the affected portion. This will get for those Members who think 10 percent is too small a criteria change in the bill, that modifies it to 20 percent. But it will also make the bill workable. It will apply that 20 percent to the regulated portion of a person's property, not to the entirety of his property causing him and others to try to game the system.

In effect, let me say it again. If we are successful in defeating this amendment, which is inartfully drawn, as inartfully drawn as the 30 percent amendment was previously drawn, and apply instead the following amendment, we will reach the 20 percent criteria that some of the authors of this amendment want to achieve but we will do it correctly. We will apply it to the affected portion of the property regulated under the act.

I want to make a quick point.

□ 1100

In an editorial written by Sue Waldren, we find these words, and by the way this was January 2, 1994:

The third amendment to the Bill of Rights states that no soldiers can be quartered in any home without the consent of the owner. Somehow, though, it apparently never occurred to the Founding Fathers that we might someday need an amendment against the arbitrary quartering of endangered species on private land. Good thing the Founders did not see this day when property owners all over America were to be told to idle their land and effectively turn it into a wildlife refuge without compensation from the government.

But that is what the endangered species law does now to farmers all over America.

In California most of my colleagues remember, let me remind them of the story that appeared April 19, 1994, where a southern farmer was arrested and charged with the possibility of a year in prison and $200,000 fine for doing what, for plowing his field because five dead rats were found on his field after he finished plowing it. About the same time, another farmer in Fresno, CA was brought to court for doing nothing more than plowing his field and in order to avoid going to jail, reached agreement with the Fish and Wildlife Service to pay a $5,000 fine, to give them 60 acres of his 160-acre farm, to give it to them, ordered by the court, and to sell the remaining 100 acres. Why? Because he had plowed his field and there on his property was apparently some sort of a bluenosed lizard that the Fish and Wildlife Service deemed threatened or endangered.

That kind of story needs to end. This amendment needs to be defeated. Then we can adopt an amendment for 20 percent of the affected portion and we will so offer that amendment.

Mrs. CHENOWETH. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I come from a Western State where water is our lifeblood, where without water there is no production of agriculture at all, and without the systems of canals that were built beginning at the turn of the century, we would not be able to apply water to our land, and thus Idaho, whose largest industry is agriculture, would not be able to survive.

The prior appropriation doctrine, the legal water law in the 12 Western States, requires a proving up of beneficial use, which means that even if you had 100 acres to irrigate and you applied for a certain volume of water to irrigate that 100 acres, if you even paid for that water and there was more water that was left over, you would lose the volume of water that you paid for. In other words, if we do not use it we lose it. That is proving up of the beneficial use, which all of the 12 Western States must do.

If we were cut down to 20 percent of the whole, that would mean that 20 percent of our entire agricultural production in Idaho would be cut down, and I am so pleased to hear my colleague from Louisiana announce that there will be an amendment coming up which would require 20 percent of the value of the taking. That is much more acceptable but still not good enough for me.

I will support that amendment, however, but I do rise in opposition to this amendment.

Starting in the Warren court with Lynch versus Household Finance, the Supreme Court has historically backed up the fifth amendment. In Lynch versus Household Finance, the Warren court said that people have rights to use their property in its whole. It is not the property that has rights.

We have had a series of Supreme Court cases that have backed up the fact that we must reimburse people for their loss, the last one being the Dolan case out of Oregon in June 1994, which said there has to be a reciprocity in the exchange, which means equal value for equal loss.

Ladies and gentlemen, if this amendment succeeds, it is bound to be challenged in the U.S. Supreme Court because it is simply not just compensation.

Mr. CRAPO. Mr. Chairman, I move to strike the requisite number of words.

The CHAIRMAN. Without objection, the gentleman from Idaho [Mr. CRAPO] is recognized for 5 minutes.

There was no objection.

Mr. CRAPO. Mr. Chairman, I ask the gentleman from Louisiana if he would be willing to engage in a colloquy.

Mr. TAUZIN. If the gentleman will yield, I will be more than happy.

Mr. CRAPO. I thank the gentleman from Louisiana. Yesterday we were pressed for time and we had a short colloquy on a matter I think we need to clarify further. I am referring specifically to section 5 of the legislation that we are discussing, which is entitled exceptions, and it basically states there that compensation will not be made under this act with respect to an agency action, the primary purpose of which is to prevent and identify damage to specific property other than the property whose use is limited.

The concern I want to clarify as much as we can here on the record is that this language is not intended to create an exception for compensation when wetlands are being considered by final agency action. My concern is that wetlands could be argued to be referring to specific property other than the property whose use is being limited and I would just, following up on our private conversations, like to make it a matter of record as to what this language is and is not intended to reach.

Mr. TAUZIN. If the gentleman will yield, I suggest it would truly be an oxymoron for anyone to argue that the bill provides compensation for private property takings when the reason for that private property taking is wetland protection under 404 and under sodbusters, and then to argue that you do not get compensated because the wetlands regulation on your property is designed to protect somebody else's wetlands regulation, it would certainly be an oxymoron.

The purpose of that exception is not indeed to allow such an oxymoron to occur. The purpose of that exemption is to provide a specific exemption for those regulations which are not designed for wetland protection but designed for other purposes, specifically purposes to prevent one from creating a harm or a nuisance on your neighbor. That is further amplified when as you know under the Tauzin amendment, we specifically said that nuisance laws and zoning laws which similarly regulate the property for valid reasons other than wetland protection create an exemption from the act.

Mr. CRAPO. I appreciate that; and so to emphasize again this is talking about when a person is seeking to use their own private property in a way that could cause damage to someone else's property, and somehow final agency action becomes involved. And in those specific limited circumstances, the act is not intended to apply.

Mr. TAUZIN. Mr. Chairman, if the gentleman will further yield, if I can make it crystal clear, it is not the intention in that exception to say that you cannot be compensated for wetland protection regulations on your own property. It is not the intent of that exception to say that you will not be able to be compensated because the regulation is designed to protect wetlands on somebody else's property. The idea is to prevent harm or damage to the property itself of the neighbor, not to carry out further wetlands protection. Therefore, that exemption would not exonerate the government from liability for the wetlands protection regulations as 404 or swamp-busters that diminish the value of someone's property.

Mr. CRAPO. I thank the gentleman.

I would also like to address the committee with the remainder of my time with regard to the amendment that is before us. There has been a lot said about whether 10 or 20 percent is the right level of demarcation in evaluating when compensation should occur. But it is important, and again as the gentleman from Louisiana stated earlier he hopes those listening to this in their offices or elsewhere will pay close attention, because there is a very big difference in this bill in addition to the 10 to 20 percent change that must be understood. This bill also changes the property to which the standard applies from the affected property to all of the property owned by the property owner, and that change is why it dramatically changes the standard, increases the potential for harm to private property owners and increases the potential for private property owners who want to go around the act, to game the act by subdividing their parcels, and so forth.

We are going to be following this amendment with another one which does the specific change which seems to be the one which is relied upon so much by the supporters of this amendment, and that is simply changing the figure from 10 to 20 percent in the act, but not changing the entire focus of the act on the affected property, rather than on more broadly other property that is contiguous.

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

Mr. CRAPO. I am glad to yield to the gentleman from Louisiana.

Mr. TAUZIN. Mr. Chairman, I think we need to again make it crystal clear to the Members who are in their offices listening to this debate, when we defeat this amendment, which changes two provisions of the bill, it changes it from 10 to 20, but also from the affected portion to all of the property, we will offer an amendment that simply changes it from 10 to 20.

Mr. CRAPO. That is correct. With that clarification, I thank the gentleman.

Mr. FRANK of Massachusetts. Mr. Chairman, I move to strike the requisite number of words.

The CHAIRMAN. Without objection, the gentleman from Massachusetts [Mr. FRANK] is recognized for 5 minutes.

There was no objection.

Mr. FRANK of Massachusetts. Mr. Chairman, I was at a meeting and I did not get the welcome news bulletin we just got that apparently the Republican whip operation was not able to get 20 percent. I do not know if Members fully understood what we just heard but apparently the effort to persuade people who voted to go from 10 to 30, they would then vote to go from 10 to 20 was not successful, so apparently we have some concession.

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

Mr. FRANK of Massachusetts. I yield to the gentleman from Louisiana.

Mr. TAUZIN. Mr. Chairman, I should remind the gentleman that offer was made to the gentleman yesterday when this amendment was made. We immediately offered to do that. It was turned down.

Mr. FRANK of Massachusetts. I understand that. But that also does not contradict what I just said, which is if the whip organization had been able to turn it all around it would not have happened.

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

Mr. FRANK of Massachusetts. I yield to the gentleman from California, the author of the amendment.

Mr. MINETA. Mr. Chairman, I thank the gentleman for yielding. Mr. Chairman, it seems to me this is a significant list. These are people who voted yesterday on the Goss amendment and it seems to me Members ought to take a look at this list and see how they voted, if they voted "aye" on the Goss amendment for 30 percent, and again there are 210 Members who voted "yes" on the Goss amendment, then it seems to me that these are the same people

who ought to be voting "yes" on the Mineta-Davis amendment.

So, I am anxious to get this to a vote. And Members who would not yield to the arm twisting that is going on right now, they ought to vote their conscience, they ought to vote their constituency and vote "yes" on the Mineta-Davis amendment.

Mr. FRANK of Massachusetts. I thank the gentleman. Fortunate are those who can vote their conscience and their constituency at the same time. That is a great position to be in.

Let me say with regard to this whole 10 and 20 percent, one thing is very important to note. All of the horror stories we have heard, and many of them appear to be clear cases of abuse and misapplication of the statute, would be covered by the 20 percent, and the effort to restrict the number, the effort to defeat 30 percent and the effort to water down the 20 percent makes it very clear. This legislation is not aimed at alleviating those who have been the victims of horror stories, it is aimed at restricting the very operation of these laws as Congress intended them to operate, because if you were worried about the people who were cited in the very poignant examples we have heard, all of them would have been covered by the amendment that the gentleman from California has offered, because they were 100 percent disabilities of their property. Those were people who were told they could not live in their homes; those were people told they could not do anything at all. So the fight over the marginal number makes it very clear that this bill is aimed not at the occasional excess, but at the very heart of it today to correct the operations of these activities, and therefore, it is a very important amendment.

We get, by the way, as to 10 and 20, into the question of what is a de minimis level. Ten percent would mean that virtually every action taken by these entities would be litigated and administered.

I preferred 30 percent, but I think since that lost, the gentleman from California's amendment is a significant improvement. So take the two together, the insistence on a 10-percent threshold or 20 percent with the land so narrowly defined that it becomes far less than 10 percent to the whole property and what you see is this is not an effort, as I said, to prevent abuse of the statute. That is being done elsewhere when we rewrite the statute and deal with regulatory reform. This is an effort to severely hinder the operation of these statutes as written to say that there will be much less wetland regulation, that there will be much less environmental endangered species regulations because virtually every action that would be taken by these agencies would trigger such a thing.

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

Mr. FRANK of Massachusetts. I yield to the gentleman from Idaho.

Mr. CRAPO. I thank the gentleman for yielding. I just want to make it clear there has been some discussion here as to whether people are being pressured into voting for a different amendment. When we talked to the Members about what their concern was, it was exactly what has been debated on this floor; that is, the 10 to 20 percent. What the gentlemen just debated, many of them did not get an opportunity to vote for a pure 10- to 20-percent change and wanted that rather than the amendment which was put forth which changed it dramatically.

Mr. FRANK of Massachusetts. I thank the gentleman's interest in giving people that opportunity. I am touched by it. He is a soul of generosity. But I do know that last night when we were ready to go to vote at 9:35 on this and leave time for other amendments so we would chew up the whole 12 hours, the Republican leadership said no because they did not have the votes lined up yet.

□ 1115

So I have not said there was pressure. It does seem to me, though, there was some very intense persuasion going on.

Mr. COOLEY. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, as I listened to this debate all day yesterday and this morning as well, I think we are missing the point here. Let us go back to why we are really here. We are here to discuss the fifth amendment of the Constitution. Let us go back to the last phrase, "Nor shall private property be taken for the public use without just compensation."

We are starting now to dilute the Constitution by 10 percent, 20 percent, 30 percent. I do not think we should be doing it at all. But if we are going to do something, let us make it the lowest common denominator we possibly can. We should not be taking private property without just compensation at any level.

For some reason this body has violated the Constitution indirectly by passing environmental laws which have prohibited people from using their property, which have been a taking without any compensation. We in the West have suffered greatly from this action. We need to have relief from this action. This bill will do that.

I say to my colleagues on both sides of the aisle who voted for the change of 10, 20, 30 percent or whatever they want to talk about, if they really believe the Government should take their property without just compensation, next Monday when they go home let them donate 10, 20, 30 percent of their property to the Federal Government and let us help balance this budget.

I mean let us get right down to what the people really believe in. We do not want Government taking away our constitutional rights, and they have done this indirectly through legislation over the last 20 and 30 and 40 years and, some said, since the beginning of the Constitution.

We need to go back to that. We need to restore private property rights. This country was founded on private property rights. We were taught in high school and in grade school that the pilgrims came here for religious freedom. But they came here for another reason. They came in here to own property. What our Founding Fathers did when they put the Constitution together, the fifth thing on their mind was private property rights because they did not have that in the countries from which they came.

Since that time we have diluted this constitutional right. This is the first time in 207 years we went back to address that, to give back private property to the citizens and take away this horrible situation that government, both local and State, have infringed upon constitutional rights of the public.

So I urge my colleagues on both sides of the aisle, if they really believe that the Government should have the right to take their property, let them donate their property to the Government and help us balance this budget.

But I think we need to turn back to the Constitution and, therefore, return full property rights to the citizenry.

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

Mr. COOLEY. I yield to the gentleman from Louisiana.

Mr. TAUZIN. I want to thank the gentleman from Oregon [Mr. COOLEY] for an excellent statement. That is exactly what we are talking about. Nobody in this room, I hope, believes that the Government has the right to come and take 10, 20, percent, any amount of your property. If you really believe that—the gentleman makes the point—how many people are willing to donate 20 percent of their homes to the Federal Government? But when the Government comes and takes it, clearly that requires the Government to pay compensation. That is what this fight is all about.

I want to make another point. The debate we are on right now, whether to accept the amendment offered by the gentleman from California [Mr. MINETA], will not only change it from 10 to 20 but will now involve all of the property of the owner, not just the affected regulated portion.

The court, in Florida Rock, said that is wrong. It said the fifth amendment prohibits uncompensated taking of private property without reference to the owner's remaining property. We defeated this amendment, and then we offered an amendment to change it from 10 to 20.

Mr. COOLEY. I concur with the gentleman.

Mr. HAYWORTH. Mr. Chairman, I move to strike the requisite number of words

Mr. Chairman, I rise in strong support of the remarks of the gentleman from Oregon [Mr. COOLEY] and in strong opposition to the amendment as offered.

I think we have seen here today, those who happen to be viewing across the Nation, we have seen good, strong bipartisan support for a reasonable action to be taken.

I could not help but note with interest today's headlines. In fact, I just came from the other side of this building where a Member of the new minority party has decided to join the new majority party on the very issue that has been characterized, at least in my portion of the country, as a war on the West. And as my friend from Louisiana points out, although we may call it the war on the West, the gentlewoman from Idaho would certainly concur, in essence, what we have here is a fundamental conflict on the notion of private property and what the government can demand from us.

As the gentleman from Oregon said so clearly, without just compensation, remembering that clause, that provision of the fifth amendment, we are tearing asunder the original intent of the Founding Fathers. It is indeed unfortunate we have to bring this to the floor in the first place. What should be a fundamental tenet of American rights and liberties somehow are being stripped away. But as emblematic, as systematic of the new approach by the new majority, we are engaged in a new partnership with America and we move to address those rights.

So I oppose the amendment as offered by my friend from California on the grounds mentioned so eloquently by the gentleman from Louisiana and the gentleman from Oregon.

I would urge a "no" vote on this and let us restore the nature of property rights.

My. TAUZIN. Mr. Chairman, will the gentleman yield?

Mr. HAYWORTH. I yield to the gentleman from Louisiana.

Mr. TAUZIN. I thank the gentleman for yielding.

Mr. Chairman, we need to make one more point before we end this debate. The gentleman from Massachusetts [Mr. FRANK] said or intimated that the real intent is to gut the Endangered Species Act, the Wetlands Act. Let me read from the article by Sue Waldron in the Wall Street Journal:

> The dispute over endangered species isn't over whether or not society should protect them. It's between a policy that refuses to set priorities and insists on preservation no matter what the costs to the human species or, alternatively, a more balanced approach.
>
> We are hard put to see how the species act can itself survive politically operating as an environmentalist land grab of other peoples property. The seriousness of the claims for these various species might be better tested if the government had to compensate landowners for their losses.

That is all we are asking: balance, respect. We want a good Endangered Species Act, a good Wetlands Act, but we also want balance in landowner rights.

Mr. HAYWORTH. Reclaiming my time, the gentleman stands and points out with eloquence the entire mission here. I cannot help but note the irony that the current administration, which campaigned on the notion of putting people first, would instead relegate people to the back benches, if you would, or at least take away from people their essential constitutional rights.

It is the mission of this body, as we stand in check with both the executive and judicial branches to right the wrong, to legislate for the people of this country, and to legislate effectively. It is in that spirit that I oppose the amendment but endorse wholeheartedly the concept of real property rights for the citizens of the United States.

Mr. GILCHREST. Mr. Chairman, I cannot help but comment on the remarks of gentleman from Arizona when he says we should put people first. I think all of us agree with that. It is just how we do that which is important. Ignoring certain aspects, like clean water or biodiversity, and then say we are putting all the people first, I think we are losing some important aspects of their multidimensional discussion of property rights, endangered species, clean water, and so on.

In my area, clean water is absolutely essential for the quality of people's lives, not only for their health but for our economy, protecting the wetlands in not a sterile, regimented regulatory form. The way we do it in Maryland, we all sit down at the table and we discuss this issue. Fish and Wildlife is there, the corps is there, the Department of Natural Resources is there, the affected property owners are there. We discuss how we can manage the resources and protect people's lives.

Mr. Chairman, I want to make two points. One is that the gentleman from Louisiana [Mr. TAUZIN] is continuing to refer to the Florida Rock case. Now, he refers to it in an accurate manner. He has not distorted the facts.

But I want to bring in some more of the facts that were not included there. It happens to deal with a person that wanted a limestone, in particular a 98-acre parcel piece of property. He bought the property for $1,900 per acre. The Corps of Engineers would not allow him to fill part of that acreage because there were wetlands there.

Now, he was going to sell the property because he was not going to engage in limestone mining, so he wanted to sell it for $10,500 per acre. Now, that is a pretty good profit.

As a result of the corps' regulation, the appraisers valued the property then at $4,000 per acre. Now, he was a little regulated there. The corps diminished some of the value there. But a profit of $1,900 per acre to $4,000 per acre is pretty significant.

But we have to look at some other values here when we are talking about that. That is, what is the value to the quality of the water that is purified by the wetlands to the neighboring property owners? Then what is the value of their property, the neighboring property owners, if the wetlands were filled in, water is degraded? Who is going to buy their homes, their property? Is that then diminished?

So the question in my mind, at least, is should we compensate people to refrain, or stop them, refrain them from degrading the value of somebody else's properties by filling in those wetlands?

Now, there is one other thing I want to bring out. One of these famous, wonderful Dear Colleagues that are circulated around the House for a number of reasons, there was a "Dear Colleague" circulated that a Maryland couple was denied the right to shore up their property because of an endangered beetle. And as a consequence of that, 15 feet of the bank fell off while they were trying to wait for a permit.

Well, here are the facts: It was a piece of property in Lusby, MD, which had a high bank. The guy that lived there wanted to move because he knew the erosion problem was so bad. So he did not even pay the mortgage, the bank took over the property.

This couple purchased the property at a very low price. While they were living there, they realized there is a problem because 15 feet of their bank falls off. It was at that point, after the 15 feet fell off, that they applied for a permit to put some riprap around it so no more would be falling off.

The Federal Endangered Species Act, in its infinite flexibility, at least in the State of Maryland, was going to permit that shoring up. But the State of Maryland, which has an Endangered Species Act more strict than the Federal act, was a little bit more inquisitive.

Now, they have built the riprap, they are protected at this point, and the State of Maryland Endangered Species Act is going to become more flexible, modeled after the Federal program. There still needs to be some flexibility with the Federal program, I grant you that.

But one last point: A beetle, a fairy shrimp, a butterfly, let us not forget the fact that biodiversity offers us a tremendous amount of good things for medicine, for agriculture, for a whole lot of good reasons.

I just wanted to get those points out.

Mr. MCINTOSH. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, the Mineta amendment would massively reduce the number of Americans who would benefit

from this the Private Property Protection Act of 1995. It would change the current bill ignoring existing case law and provide Government bureaucrats with the power to impose onerous regulations without accountability.

□ 1130

The amendment is most destructive because it departs from providing compensation on affected parcels of property. Instead, it would provide compensation only if the entire whole of an individual's holdings were reduced in value.

In other words, if a property owner had 100 acres, 10 of which were wetlands, the Government could prevent that landowner from developing his property because of that wetlands on only 10 acres. Any other property owned by the individual could be used to offset the fair compensation due from the Government.

This is part of a conscious effort to support a national land-use policy. The supporters of the wetlands provisions in the Endangered Species Act have used those two acts to create a national intrusion into the property rights of Americans across the country, and the purpose of this amendment is to dilute the protections for property rights that landowners would have in standing up against that policy.

Let me just close by saying that the Florida Rock case has been mentioned earlier. It strikes me that in fact the value of protecting wetlands is something that society should take into account. The difference is that we should not ask innocent landowners to be the ones who foot the bill for that; instead, we should ask all of society to compensate that individual in order to preserve those truly valuable natural resources.

Mr. TAUZIN. Mr. Chairman, will the gentleman yield just briefly?

Mr. McINTOSH. I am delighted to yield to the gentleman from Louisiana.

Mr. TAUZIN. Mr. Chairman, I thank the gentleman for yielding.

I am so glad my friend, the gentleman from Maryland, brought up Florida Rock again. The reason I quote it so often is that it is now Florida Rock III. These plaintiffs have made their third trip to the court of appeals. The case started in 1978. They finally got a judgment in March 1994 that says they are entitled to compensation. The case has been remanded again to the Court of Claims. They are on their fourth trip around. That is why this bill is so desperately needed.

Mr. McINTOSH. That is right. My point is that if those are valuable wetlands, why should society not go ahead and pay compensation under the fifth amendment and under the provisions of this act so that someone who is an innocent landowner is not deprived of 60 percent of the value of his property.

The CHAIRMAN. The question is on the amendment offered by the gentleman from California [Mr. MINETA] to the amendment in the nature of a substitute offered by the gentleman from Florida [Mr. CANADY], as amended.

The question was taken; and the Chairman announced that the noes appeared to have it.

RECORDED VOTE

Mr. MINETA. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 173, noes 252, not voting 9, as follows:

[Roll No. 194]

AYES—173

Abercrombie	Gibbons	Nadler
Ackerman	Gilchrest	Neal
Andrews	Greenwood	Oberstar
Baldacci	Gutierrez	Obey
Barcia	Hall (OH)	Olver
Barrett (WI)	Hamilton	Owens
Becerra	Hastings (FL)	Pallone
Beilenson	Hefner	Pastor
Bentsen	Hilliard	Payne (NJ)
Berman	Hinchey	Pelosi
Bishop	Jackson-Lee	Peterson (FL)
Bonior	Jacobs	Pomeroy
Borski	Jefferson	Poshard
Boucher	Johnson (CT)	Rahall
Brown (CA)	Johnson (SD)	Reed
Brown (FL)	Johnson, E. B.	Richardson
Brown (OH)	Johnston	Rivers
Cardin	Kanjorski	Roemer
Clay	Kaptur	Rose
Clayton	Kelly	Roybal-Allard
Clement	Kennedy (MA)	Rush
Clyburn	Kennedy (RI)	Sabo
Coleman	Kennelly	Sanders
Collins (IL)	Kildee	Sawyer
Collins (MI)	Kleczka	Schiff
Conyers	Klink	Schroeder
Costello	LaFalce	Schumer
Coyne	Lantos	Scott
Cramer	Levin	Serrano
Davis	Lewis (GA)	Skaggs
DeFazio	Lincoln	Slaughter
DeLauro	Lipinski	Spratt
Dellums	Lofgren	Stark
Deutsch	Lowey	Stokes
Dicks	Luther	Studds
Dingell	Maloney	Stupak
Dixon	Manton	Thompson
Doggett	Markey	Thornton
Dooley	Martinez	Torres
Doyle	Mascara	Torricelli
Durbin	Matsui	Towns
Ehlers	McCarthy	Traficant
Engel	McDermott	Tucker
Eshoo	McHale	Velazquez
Evans	McKinney	Vento
Farr	Meehan	Visclosky
Fattah	Meek	Ward
Fazio	Menendez	Waters
Fields (LA)	Meyers	Watt (NC)
Filner	Mfume	Waxman
Flake	Miller (CA)	Williams
Foglietta	Mineta	Wise
Ford	Minge	Woolsey
Fox	Mink	Wyden
Frank (MA)	Mollohan	Wynn
Frost	Moran	Yates
Gejdenson	Morella	Zimmer
Gephardt	Murtha	

NOES—252

Allard	Bereuter	Bunn
Archer	Bevill	Bunning
Armey	Bilbray	Burr
Bachus	Bilirakis	Burton
Baesler	Bliley	Buyer
Baker (CA)	Blute	Callahan
Baker (LA)	Boehlert	Calvert
Ballenger	Boehner	Camp
Barr	Bonilla	Canady
Barrett (NE)	Bono	Castle
Bartlett	Brewster	Chabot
Barton	Browder	Chambliss
Bass	Brownback	Chapman
Bateman	Bryant (TN)	Chenoweth
Christensen	Hobson	Portman
Chrysler	Hoekstra	Pryce
Clinger	Hoke	Quillen
Coble	Holden	Quinn
Coburn	Horn	Radanovich
Collins (GA)	Hostettler	Ramstad
Combest	Houghton	Regula
Condit	Hunter	Riggs
Cooley	Hutchinson	Rogers
Cox	Hyde	Rohrabacher
Crane	Inglis	Ros-Lehtinen
Crapo	Istook	Roth
Cremeans	Johnson, Sam	Roukema
Cubin	Kasich	Royce
Cunningham	Kim	Salmon
Danner	King	Sanford
de la Garza	Kingston	Saxton
Deal	Klug	Scarborough
DeLay	Knollenberg	Schaefer
Diaz-Balart	Kolbe	Seastrand
Dickey	LaHood	Sensenbrenner
Doolittle	Largent	Shadegg
Dornan	Latham	Shaw
Dreier	LaTourette	Shays
Duncan	Laughlin	Shuster
Dunn	Lazio	Sisisky
Edwards	Leach	Skeen
Ehrlich	Lewis (CA)	Skelton
Emerson	Lewis (KY)	Smith (MI)
English	Lightfoot	Smith (NJ)
Ensign	Linder	Smith (TX)
Everett	Livingston	Smith (WA)
Ewing	LoBiondo	Solomon
Fawell	Longley	Souder
Fields (TX)	Lucas	Spence
Flanagan	Manzullo	Stearns
Foley	Martini	Stenholm
Forbes	McCollum	Stockman
Fowler	McCrery	Stump
Franks (CT)	McDade	Talent
Franks (NJ)	McHugh	Tanner
Frelinghuysen	McInnis	Tate
Frisa	McIntosh	Tauzin
Funderburk	McKeon	Taylor (MS)
Furse	McNulty	Taylor (NC)
Gallegly	Metcalf	Tejeda
Ganske	Mica	Thomas
Gekas	Miller (FL)	Thornberry
Geren	Molinari	Thurman
Gillmor	Montgomery	Tiahrt
Gilman	Moorhead	Torkildsen
Goodlatte	Myers	Upton
Goodling	Myrick	Volkmer
Gordon	Nethercutt	Vucanovich
Goss	Neumann	Waldholtz
Green	Ney	Walker
Gunderson	Norwood	Walsh
Gutknecht	Nussle	Wamp
Hall (TX)	Ortiz	Watts (OK)
Hancock	Orton	Weldon (FL)
Hansen	Oxley	Weldon (PA)
Harman	Packard	Weller
Hastert	Parker	White
Hastings (WA)	Paxon	Whitfield
Hayes	Payne (VA)	Wicker
Hayworth	Peterson (MN)	Wilson
Hefley	Petri	Wolf
Heineman	Pickett	Young (AK)
Herger	Pombo	Young (FL)
Hilleary	Porter	Zeliff

NOT VOTING—9

Bryant (TX)	Hoyer	Rangel
Gonzalez	Jones	Reynolds
Graham	Moakley	Roberts

□ 1150

The Clerk announced the following pair:

On this vote:

Mr. Rangel for, with Mr. Graham against.

Messrs. PORTER, LEACH, and SKEEN changed their vote from "aye" to "no."

Mr. LIPINSKI and Mrs. KELLY changed their vote from "no" to "aye."

So the amendment to the amendment in the nature of a substitute, as amended, was rejected.

The result of the vote was announced as above recorded.

PERSONAL EXPLANATION

Mr. JONES. Mr. Speaker, I was unavoidably detained for rollcall No. 194. Had I been here, I would have voted "no." I ask that the RECORD reflect that.

LIMITATION OF DEBATE ON PROSPECTIVE AMENDMENTS

Mr. CANADY of Florida. Mr. Chairman, I ask unanimous consent that the gentleman from Florida [Mr. GOSS] be next recognized to offer an amendment and the debate on the amendment be limited to 20 minutes, equally divided and controlled by a proponent and an opponent thereto. I further ask unanimous consent that the gentleman from Mississippi [Mr. TAYLOR] and the gentleman from Ohio [Mr. TRAFFICANT] be next recognized to offer their amendments, and that debate on each of these two amendments be limited to 5 minutes, equally divided and controlled by a proponent and an opponent thereto.

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

Mr. FRANK of Massachusetts. Mr. Chairman, reserving the right to object, that timetable with a rollcall on the Goss amendment would, of course, preempt any other amendments. I would not be able to accept something that would preempt any other chance for any other amendments.

Mr. CANADY of Florida. Mr. Chairman, will the gentleman yield?

Mr. FRANK of Massachusetts. I yield to the gentleman from Florida.

Mr. CANADY of Florida. Mr. Chairman, I understand the gentleman's concern, and I would be certainly willing to change the unanimous-consent request to further limit the debate on the Goss amendment to 10 minutes, 5 minutes debate on each side.

Mr. FRANK of Massachusetts. Mr. Chairman, that will not be agreeable, but it is the best we can get. We will still be at risk. I hope, if Members will cooperate, we can get to the amendment of the gentleman from North Carolina [Mr. WATT].

Mr. Chairman, I withdraw my reservation of objection.

The CHAIRMAN. Is there objection to the request of the gentleman from Florida [Mr. CANADY], as amended?

Mr. WATT of North Carolina. Mr. Chairman, reserving the right to object, what I still have not heard is the final part of the uanimous-consent request. I never heard what I understood to be the final part of the unanimous-consent request.

Mr. CANADY of Florida. Mr. Chairman, will the gentleman yield?

Mr. WATT of North Carolina. I yield to the gentleman from Florida.

Mr. CANADY of Florida. Mr. Chairman, the first part of the unanimous-consent request, as now modified, is 10 minutes of debate on the Goss amendment. After that there will be 5 minutes debate on the Taylor amendment and 5 minutes debate on the Traficant amendment.

Mr. WATT of North Carolina. Mr. Chairman, I thought the final part was that the Watt amendment would come up last and be the final issue.

Mr. CANADY of Florida. Mr. Chairman, there was no mention of the Watt amendment in the unanimous-consent request.

Mr. WATT of North Carolina. Mr. Chairman, I withdraw my reservation of objection.

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

There was no objection.

AMENDMENT OFFERED BY MR. GOSS TO THE AMENDMENT IN THE NATURE OF A SUBSTITUTE, AS AMENDED

Mr. GOSS. Mr. Chairman, I offer an amendment to the amendment in the nature of a substitute, as amended.

The Clerk read as follows:

Amendment offered by Mr. GOSS to the amendment in the nature of a substitute offered by Mr. CANADY of Florida, as amended: In section 3(a), strike "10" and insert "20".

The CHAIRMAN. The gentleman from Florida [Mr. GOSS] is recognized for 5 minutes.

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

Mr. Chairman, what we are involved in here is obviously a moving negotiation, and a number of things have happened in the last couple of votes on this in this very difficult area of trying to come to a compromise that will hold together a working block of votes to get on with the benefits of this legislation and to make it as good as possible and still attract a majority. A couple of things need to be pointed out here.

Mr. Chairman, the three particular areas of trouble that we wanted to discuss at this time were to get a further explanation on when we are talking about affected areas that are going to be subject to regulation, who sets those boundaries and how that happens. In a moment I am going to yield to my friend, the gentleman from Louisiana [Mr. TAUZIN], for that.

The second was an area where after the vote last night I had several Members, particularly from the Midwest, come to me and suggest they had a difficult time with my amendment that went to the total parcel, and they had not supported us because of concerns they had in explaining to me about prairie potholes and other types of situations that are very important, but somewhat unique to that part of the country, and they felt they did not understand it properly.

The third area was the question of the small lot owners. I am satisfied by moving this percentage to 20 percent, we still protect the small lot owners either way from unreasonable takings.

So I am, in the spirit of compromise, trying to get something that will work, and that is the purpose of this amendment. We now have a 20-percent threshold to trigger an automatic taking on the affected part of the property.

Mr. Chairman, I yield such time as he may consume to the gentleman from Louisiana [Mr. TAUZIN] to explain about how these affected areas actually work.

Mr. TAUZIN. Mr. Chairman, I thank the gentleman for yielding.

Mr. Chairman, what happens under the bill is that the property owner who believes he is affected by one of these statutes, endangered species, 404 wetlands or swampbusters, literally goes to the agency and makes a request, Am I affected by those statutes? If so, what part of my property is affected?

A good example is the one I gave the other day from my farmer in Plaquemines Parish. Included in his letter to me was a map. The corps actually drew a map, showed him the affected area of his property affected by the wetlands determination.

So the agency determines what part of your property is affected by wetlands or endangered species. That area is defined, is certain, and that is why this new revision to the amendment makes sense.

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

Mr. Chairman, I wanted to make sure to all those who supported my original amendment, that that explanation was going to be forthcoming, it is forthcoming, and it is satisfactory to me, because it gives the precision we were looking for, it allows the agency to make that determination. That protects the public, and on the other hand the private property owner is protected with this 20 percent threshold.

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

□ 1200

The CHAIRMAN. Does any Member wish to speak in opposition to the amendment?

Mr. FRANK of Massachusetts. Mr. Chairman, I rise in opposition to the amendment.

The CHAIRMAN. The gentleman from Massachusetts [Mr. FRANK] is recognized for 5 minutes.

Mr. FRANK of Massachusetts. Mr. Chairman, I yield myself such time as I may consume.

This is an amendment that is about a subspecies of land. This is the planting of shade trees to give cover to Members who switched their vote.

Since everything has already been arranged and since under this restrictive 12-hour rule, if I debate this at any length my friend from North Carolina will be preempted from offering his amendment, I would simply say that I think this is just to cover Members who voted the other way on the last one since all the votes have already been accounted for.

Mr. FRANK of Massachusetts. Mr. Chairman, I yield back the balance of

my time, in the hopes that we will be able to protect the right of the gentleman from North Carolina [Mr. WATT] to offer his amendment.

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

The CHAIRMAN. The question is on the amendment offered by the gentleman from Florida [Mr. GOSS] to the amendment in the nature of a substitute offered by the gentleman from Florida [Mr. CANADY] as amended.

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

RECORDED VOTE

Mr. DOOLITTLE. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 338, noes 83, not voting 13, as follow:

[Roll No. 195]

AYES—338

Abercrombie
Ackerman
Allard
Andrews
Archer
Armey
Bachus
Baesler
Baker (LA)
Baldacci
Ballenger
Barcia
Barr
Barrett (NE)
Barrett (WI)
Bartlett
Bass
Bateman
Bentsen
Bereuter
Bilbray
Bilirakis
Bishop
Bliley
Blute
Boehlert
Boehner
Bono
Boucher
Brewster
Browder
Brown (FL)
Brown (OH)
Brownback
Bryant (TN)
Bunn
Bunning
Burr
Burton
Buyer
Callahan
Calvert
Camp
Canady
Castle
Chabot
Chambliss
Chapman
Christensen
Chrysler
Clayton
Clement
Clinger
Coble
Coburn
Coleman
Collins (GA)
Condit
Costello
Cox
Cramer
Crane
Cremeans
Cunningham
Danner
Davis
de la Garza
Deal
DeFazio
DeLauro
DeLay
Deutsch
Diaz-Balart
Dickey
Dicks
Doggett
Dooley
Doolittle
Doyle
Dreier
Duncan
Dunn
Durbin
Edwards
Ehrlich
Engel
English
Ensign
Eshoo
Evans
Everett
Ewing
Farr
Fawell
Fazio
Fields (LA)
Flanagan
Foley
Forbes
Ford
Fowler
Fox
Franks (CT)
Franks (NJ)
Frisa
Frost
Funderburk
Gallegly
Ganske
Gejdenson
Gekas
Gephardt
Geren
Gibbons
Gillmor
Gilman
Goodlatte
Goodling
Gordon
Goss
Graham
Green
Greenwood
Gunderson
Gutierrez
Gutknecht
Hall (OH)
Hamilton
Hancock
Hansen
Harman
Hastert
Hastings (WA)
Hayes
Hayworth
Hefley
Hefner
Heineman
Hilleary
Hilliard
Hobson
Hoekstra
Hoke
Holden
Horn
Houghton
Hoyer
Hutchinson
Hyde
Inglis
Istook
Jackson-Lee
Jacobs
Jefferson
Johnson (CT)
Johnson (SD)
Johnson, E.B.
Johnson, Sam
Johnston
Jones
Kanjorski
Kaptur
Kasich
Kelly
Kennedy (MA)
Kennedy (RI)
Kennelly
Kildee
Kim
King
Kingston
Kleczka
Klink
Klug
Knollenberg
Kolbe
LaFalce
LaHood
Lantos
Latham
LaTourette
Laughlin
Lazio
Leach
Levin
Lewis (CA)
Lewis (KY)
Lightfoot
Lincoln
Linder
Lipinski
Livingston
Longley
Lowey
Lucas
Luther
Maloney
Manton
Manzullo
Martinez
Martini
Mascara
Matsui
McCarthy
McCollum
McCrery
McDade
McHale
McHugh
McInnis
McIntosh
McKeon
McNulty
Menendez
Metcalf
Meyers
Mica
Miller (CA)
Miller (FL)
Minge
Mink
Molinari
Mollohan
Montgomery
Moorhead
Moran
Murtha
Myers
Myrick
Nethercutt
Ney
Norwood
Nussle
Obey
Olver
Ortiz
Orton
Oxley
Packard
Pallone
Paxon
Payne (VA)
Pelosi
Peterson (FL)
Peterson (MN)
Petri
Pickett
Pombo
Pomeroy
Portman
Poshard
Pryce
Quillen
Quinn
Rahall
Ramstad
Reed
Regula
Riggs
Roberts
Roemer
Rogers
Rohrabacher
Ros-Lehtinen
Rose
Roth
Roukema
Royce
Salmon
Sanders
Sanford
Sawyer
Saxton
Scarborough
Schiff
Schroeder
Schumer
Scott
Seastrand
Sensenbrenner
Shadegg
Shaw
Shays
Shuster
Sisisky
Skaggs
Skeen
Skelton
Slaughter
Smith (MI)
Smith (NJ)
Smith (WA)
Solomon
Spence
Spratt
Stearns
Stenholm
Stump
Stupak
Talent
Tanner
Tate
Tauzin
Taylor (MS)
Taylor (NC)
Tejeda
Thomas
Thornton
Thurman
Tiahrt
Torkildsen
Torres
Traficant
Upton
Volkmer
Vucanovich
Waldholtz
Walker
Walsh
Wamp
Ward
Watts (OK)
Weldon (FL)
Weldon (PA)
Weller
White
Whitfield
Wicker
Wilson
Wise
Wolf
Woolsey
Wyden
Wynn
Young (AK)
Young (FL)
Zeliff
Zimmer

NOES—83

Baker (CA)
Barton
Becerra
Beilenson
Bevill
Bonilla
Bonior
Borski
Cardin
Chenoweth
Clyburn
Collins (IL)
Collins (MI)
Combest
Conyers
Cooley
Coyne
Crapo
Cubin
Dellums
Dingell
Dixon
Ehlers
Fattah
Fields (TX)
Filner
Flake
Foglietta
Frank (MA)
Frelinghuysen
Furse
Gilchrest
Hall (TX)
Hastings (FL)
Herger
Hinchey
Hostettler
Hunter
Lewis (GA)
LoBiondo
Lofgren
Markey
McDermott
McKinney
Meehan
Meek
Mineta
Morella
Nadler
Neal
Neumann
Oberstar
Owens
Parker
Pastor
Payne (NJ)
Porter
Reynolds
Richardson
Rivers
Roybal-Allard
Rush
Sabo
Schaefer
Serrano
Smith (TX)
Souder
Stark
Stockman
Studds
Thompson
Thornberry
Torricelli
Towns
Tucker
Velazquez
Vento
Visclosky
Waters
Watt (NC)
Waxman
Williams
Yates

NOT VOTING—13

Berman
Brown (CA)
Bryant (TX)
Clay
Dornan
Emerson
Gonzalez
Largent
Mfume
Moakley
Radanovich
Rangel
Stokes

□ 1219

The Clerk announced the following pair:

On this vote:

Mr. Radanovich for, with Mr. Rangel against.

Ms. WATERS and Messrs. COMBEST, STOCKMAN, and CRAPO, Mrs. CHENOWETH, Mrs. CUBIN, and Messrs. HUNTER, RUSH, MEEHAN, FIELDS of Texas, and SCHAEFER changed their vote from "aye" to "no."

Mr. GUTIERREZ, Mrs. SMITH of Washington, Ms. ESHOO, and Messrs. GREENWOOD, MATSUI, JACOBS, and HILLIARD changed their vote from "no" to "aye."

So the amendment to the amendment in the nature of a substitute, as amended, was agreed to.

The result of the vote was announced as above recorded.

PERSONAL EXPLANATION

Mr. RADANOVICH. Mr. Chairman, I was unavoidably detained during rollcall No. 195, the vote on the Goss amendment to the Canady substitute. Had I been here, I would have voted "yes" on it.

PERSONAL EXPLANATION

Mr. LARGENT. Mr. Chairman, I was unavoidably detained on rollcall No. 195. Had I been present I would have voted "aye" on the Goss amendment to the Canady substitute to H.R. 925.

AMENDMENT OFFERED BY MR. TAYLOR OF MISSISSIPPI TO THE AMENDMENT IN THE NATURE OF A SUBSTITUTE OFFERED BY MR. CANADY OF FLORIDA, AS AMENDED

Mr. TAYLOR of Mississippi. Mr. Chairman, I offer an amendment to the amendment in the nature of a substitute, as amended.

The Clerk read as follows:

Amendment offered by Mr. TAYLOR of Mississippi to the amendment in the nature of a substitute offered by Mr. CANADY of Florida, as amended: After paragraph (4) of section 9, insert the following:

(5) the term "fair market value" means the most probable price at which property would change hands, in a competitive and open market under all conditions requisite to a fair sale, between a willing buyer and a willing seller, neither being under any compulsion to buy or sell and both having reasonable knowledge of relevant facts, at the time the agency action occurs;

Redesignate succeeding paragraphs accordingly.

The CHAIRMAN. The gentleman from Mississippi [Mr. TAYLOR] will be recognized for 2½ minutes, and a Member opposed will be recognized for 2½ minutes.

The Chair recognizes the gentleman from Mississippi [Mr. TAYLOR].

Mr. TAYLOR of Mississippi. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, throughout the measure before us the term "fair market value" is referred to but never defined. What we have done is take two common uses of "fair market value," one coming from the Treasury regulations, another coming from a court case, Banks versus the United States. We have combined those two definitions. We feel it is self-explanatory. That is why we asked the Clerk to read it. I hope the majority will accept this amendment.

Mr. CANADY of Florida. Mr. Chairman, will the gentleman yield?

Mr. TAYLOR of Mississippi. I yield to the gentleman from Florida.

Mr. CANADY of Florida. Mr. Chairman, I think the gentleman has a good amendment. We will be happy to accept and support the gentleman's amendment.

Mr. FRANK of Massachusetts. Mr. Chairman, will the gentleman yield?

Mr. TAYLOR of Mississippi. I yield to the gentleman from Massachusetts.

Mr. FRANK of Massachusetts. Us, too, Mr. Chairman.

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

Mr. TAYLOR of Mississippi. I yield to the gentleman from Louisiana.

Mr. TAUZIN. Mr. Chairman, is it the understanding of the gentleman, as we have discussed privately, that this amendment defines "fair market value" without consideration of the agency action. The agency action then occurs, and the next question is fair market value, after the agency action diminishes, if it does, the value of the property?

Mr. TAYLOR of Mississippi. Mr. Chairman, to clarify, the key words "at the time the agency action occurs" are included. It was in both of those. It is included in this.

The CHAIRMAN. If no Member is seeking time in opposition, all time has expired.

The question is on the amendment offered by the gentleman from Mississippi [Mr. TAYLOR] to the amendment in the nature of a substitute offered by the gentleman from Florida [Mr. CANADY], as amended.

So the amendment to the amendment in the nature of a substitute, as amended, was agreed to.

AMENDMENT OFFERED BY MR. TRAFICANT TO THE AMENDMENT IN THE NATURE OF A SUBSTITUTE OFFERED BY MR. CANADY OF FLORIDA, AS AMENDED

Mr. TRAFICANT. Mr. Chairman, I offer an amendment to the amendment in the nature of a substitute, as amended.

The Clerk read as follows:

Amendment offered by Mr. TRAFICANT to the amendment in the nature of a substitute offered by the gentleman from Florida, Mr. CANADY, as amended: After Sec. 7, insert the following:

SEC. . DUTY OF NOTICE TO OWNERS.

Whenever an agency takes an agency action limiting the use of private property, the agency shall give appropriate notice to the owners of that property directly affected explaining their rights under this Act and the procedures for obtaining any compensation that may be due to them under this Act.

Redesignate succeeding sections accordingly.

Mr. TRAFICANT (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

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

There was no objection.

The CHAIRMAN. The gentleman from Ohio [Mr. TRAFICANT] will be recognized for 2½ minutes and a Member in opposition will be recognized for 2½ minutes.

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

Mr. TRAFICANT. Mr. Chairman, this amendment ensures that property owners will in fact be notified and given notice, and their rights will be explained, and the procedures for obtaining any compensation available under this act will be made known to them.

The big corporations and the big guys have attorneys that handle this. The little guys many times that are hurt, and the families that are hurt due to these limitations, may not necessarily know their rights under this bill.

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

Mr. TRAFICANT. I yield to the gentleman from Louisiana.

Mr. TAUZIN. Mr. Chairman, let me first commend the gentleman on an excellent addition to the bill.

Secondly, I want to also commend him for the fact that he was the original author for the original 10- to 20-percent change we just adopted. I thank him for contributing this change to the bill.

Mr. FRANK of Massachusetts. Mr. Chairman, will the gentleman yield?

Mr. TRAFICANT. I yield to the gentleman from Massachusetts.

Mr. FRANK of Massachusetts. Mr. Chairman, the minority accepts the amendment.

The CHAIRMAN. If no Member rises in opposition, all time has expired.

The question is on the amendment offered by the gentleman from Ohio [Mr. TRAFICANT] to the amendment in the nature of a substitute offered by the gentleman from Florida [Mr. CANADY], as amended.

The amendment to the amendment in the nature of a substitute, as amended, was agreed to.

Mr. CANADY of Florida. Mr. Chairman, I move that the Committee do now rise.

The CHAIRMAN. The question is on the motion offered by the gentleman from Florida [Mr. CANADY].

The motion was agreed to.

Accordingly the Committee rose, and the Speaker pro tempore (Mr. DOOLITTLE) having assumed the chair, Mr. SHUSTER, 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. 925) to compensate owners of private property for the effect of certain regulatory restrictions, had come to no resolution thereon.

AUTHORIZING EXTENSION OF TIME FOR DEBATE ON AMENDMENTS TO H.R. 925, PRIVATE PROPERTY PROTECTION ACT OF 1995

Mr. CANADY of Florida. Mr. Speaker, I ask unanimous consent that consideration of the bill, H.R. 925, in the Committee of the Whole be extended by 10 minutes.

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

There was no objection.

PRIVATE PROPERTY PROTECTION ACT OF 1995

The SPEAKER pro tempore (Mr. DOOLITTLE). Pursuant to House Resolution 101 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. 925.

□ 1226

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. 925) to compensate owners of private property for the effect of certain regulatory restrictions, with Mr. SHUSTER in the chair.

The Clerk read the title of the bill.

The CHAIRMAN. When the Committee of the Whole rose earlier today, the amendment offered by the gentleman from Ohio [Mr. TRAFICANT] to the amendment in the nature of a substitute offered by the gentleman from Florida [Mr. CANADY], as amended, had been disposed of.

Pursuant to the order of the House, further consideration of the bill for amendment will end at 12:54.

AMENDMENT OFFERED BY MR. WATT OF NORTH CAROLINA TO THE AMENDMENT IN THE NATURE OF A SUBSTITUTE OFFERED BY MR. CANADY OF FLORIDA AS AMENDED

Mr. WATT of North Carolina. Mr. Chairman, I offer an amendment to the amendment in the nature of a substitute, as amended.

The Clerk read as follows:

Amendment offered by Mr. WATT of North Carolina to the amendment in the nature of a substitute offered by the gentleman from Florida, Mr. CANADY, as amended: Strike section 6(f).

The CHAIRMAN. The gentleman from North Carolina [Mr. WATT] is recognized for 5 minutes.

Mr. WATT of North Carolina. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, the effect of this amendment will become apparent very quickly. If we read the provisions of the fifth amendment, my colleagues here have spent a lot of time and rhetoric talking about the fifth amendment. The provision we are talking

about in this particular bill says "nor shall private property be taken for public use without just compensation." They have told us throughout this debate that the purpose of this bill is to assure that people who are deprived of their property receive just compensation. They have told us that a reduction in value of people's property is a taking, and therefore, they should be compensated for it under the fifth amendment.

Mr. Chairman, I want to talk about this for a little bit, and find out from my colleagues whether we believe this right is a right that is a first-class right, or whether it is a right which is a second-class right that we have under the Constitution.

Mr. Chairman, we started out with a bill that said "If you have a diminution in the value of your property, a reduction in the value of your property as a result of any agency action, you would be compensated." We then spent hours debating whether to limit that bill to compensation for just two kinds of agency action, that agency action being for the Endangered Species Act and for the Clean Water Act, disregarding all of the other agency actions that might have the impact of reducing the value of an individual's property.

□ 1230

We then spent hours more debating the issue of whether the reduction in value that would be required to trigger this amendment, or this bill, would be 10 percent reduction or whether it would be 30 percent reduction, or where we finally got to under the last amendment, the 20 percent reduction.

I am not interested in talking about a constitutional right that triggers only if it is 70 percent. We do not have any constitutional rights in our country that trigger at 70 percent, or 80 percent, or even 90 percent. We cannot put a value on our constitutional rights.

Now we come to the amendment that I have offered, and I want to direct my colleagues' attention to the bill because in the first section of the bill, it says the Federal Government shall compensate a owner of property whose value has been diminished.

Then we read on over to the fine print of the bill and we got to the source of payment and it says, "Any payment made under this section to an owner and any judgment obtained by an owner in a civil action shall come out of the agency's budget" and the agency, if it gets a judgment against it, must come back and seek appropriations.

My question to my colleagues is, is this a constitutional right, or is it a second-class right?

The gentleman from Louisiana [Mr. TAUZIN] has been very articulate about the rights that we are talking about here. They are all constitutional rights. Do they apply only when the Clean Air Act steps on them or only when the Clean Water Act steps on them, or only when the Endangered Species Act?

The CHAIRMAN. The time of the gentleman from North Carolina [Mr. WATT] has expired.

(By unanimous consent, Mr. WATT of North Carolina was allowed to proceed for 2 additional minutes.)

Mr. WATT of North Carolina. Or is this a real constitutional right that we are willing to pay for as we pay for all other constitutional rights in this country?

So when our constituents come and say, "We can get recovery if our values are diminished," will we scratch our heads and say, "Oh, well, if we appropriate the money, you will get a recovery"?

If someone gets a judgment against the United States of America and the agency does not have the money, will we say to them, "Oh, no, the agency is bankrupt now. You must wait until next year's appropriation"? That is what the bill says. "It shall be the duty of the head of the agency to seek the appropriation of such funds for the next fiscal year."

I have never known anybody who got a judgment against the United States who we can put off until the next fiscal year and tell we are not going to pay that judgment until a year from now, or 2 years from now, or we may not pay it at all if they do not appropriate the funds.

The question I ask my colleagues in this amendment is to abolish this provision that says you can get your money only from an agency. There is no agency. This is the U.S. Government.

I call on my colleagues to make this a first-class constitutional right, not a second-class constitutional right.

Mrs. CHENOWETH. Mr. Chairman, I move to strike the last word.

Mr. Chairman, some things change in time and some things just do not change in time. I want to bring that into focus in my comments. Some things that do not change in time is the nature of government, the nature of a government that when it grows too large, then it begins to encroach on our constitutional rights and our ability to make a living off the land.

I want to share with Members a little bit of history, and, that is, that about 125 years ago, the U.S. Army sent General Custer into the West to conquer the Sioux Nation. In doing so, what they did not realize is that the Sioux were very keen people in regard to the promises that the American Government had made them, promises that were broken, promises that were broken when the American Army went in and they wounded and sometimes killed women and children. It was a broken promise between the American Government and the Sioux Nation. And so the American Government sent General Custer out to the West to conquer the Sioux Nation, not realizing that the Sioux were people who did not take very kindly to broken promises.

Of course, we know the history of what happened at Wounded Knee, and, that is, that when General Custer went in, a terrible battle ensured and there was a great slaughter and a great setback of the American Army at that time. But the Army retaliated and in conquering the West, went ahead and sent other troops out and they chased the Sioux Nation into Canada and finally captured and conquered them.

Sitting Bull, a great medicine man from the Sioux Nation, was asked to stand in this gallery, in this place, nearly 125 years ago, and I am standing in the same place that Sitting Bull stood when he addressed a joint session of the House and the Senate.

Yes, ladies and gentlemen, some things change but some things never do, because this is what Sitting Bull said when he stood exactly in this place. He said, "The government has made us many promises, more than I can remember, and they never kept but one. They promised to take our land and they took it."

As a lady from Idaho, I can tell you I live with that every day, because more and more of our land is being taken. I appreciate the bill, H.R. 925. I think it is historic. It is part of living up to the Contract With America and beginning to reclaim our land.

Mr. SCOTT. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I accept the idea that society ought to pay for societal policies. When the public wants a highway, it wants to enjoy the benefits of the highway, those who have to suffer by losing their land are compensated so that everyone else can enjoy the benefits of the public policy.

If this bill is going to work, we have to acknowledge that no agency has in it the money for these reimbursements. When we again fund money for a highway, we not only have money for the road itself but also in the appropriation enough money to fulfill expenses and condemnation as part of that budget.

If this is going to be implemented, we have to have a budget from which these payments can be made. The Watt amendment, Mr. Chairman, provides that resource.

Mr. Chairman, I would hope that this amendment would pass. Otherwise, the bill just cannot operate.

I would ask, Mr. Chairman, the gentleman from North Carolina to respond, if he would, to the question of how the judgments would be enforced if his amendment is not passed.

Mr. WATT of North Carolina. If the gentleman would yield, as I understand it, in every other situation where a

judgment is obtained against Government agencies, it is the Federal Government that stands behind that judgment and the full faith and credit of the United States is at risk any time a judgment is entered.

If this amendment is to have any meaningful effect, if this bill is to have any meaningful effect, and people who we have not guaranteed if this bill passes that they will be compensated will be subjected to the whims of the appropriation process or nonappropriation. It is like we have got these naughty Federal Government agencies over there that are somehow separate and part from the Federal Government, itself, and the laws that the Congress passes who are out there acting as renegades and we are looking for somebody to blame, and trying to tell our constituents that somehow we are compensating them and protecting them against these naughty Federal Government agencies and hiding our head when really the agencies and the rules that they are applying and promulgating that result in these reductions in value are pursuant to the laws we passed here in this body and this is all a charade designed to make it appear that it is not us that is causing the problem by passing the Endangered Species Act or the Clean Water Act, but it is some Federal Government agency over there that is separate from us over here in Congress and they ought to go over there and get their judgment satisfied.

What I want to make sure the public understands is that there is no Federal Government agency, and Congress, that this is one Federal Government. If the Federal Government agency does something wrong, it is being done pursuant to a law that we have passed and we cannot just pass the buck over there and leave the public out there saying they have a valuable constitutional right, yet they have no assured means of collecting the judgment that is at play.

Mr. SCOTT. Mr. Chairman, I finally say that as we pass future laws, we could include in those appropriations the money for reimbursement under this law as well as for the promulgation of the policy just as we do with highways. I would hope that his amendment would pass so that we could implement the law as soon as possible and not have to get into the situations as the gentleman from North Carolina has indicated.

I yield to the gentleman from North Carolina [Mr. ROSE].

Mr. ROSE. I thank the gentleman for yielding.

I would like to say about my colleague from North Carolina's amendment, that without this amendment, this is an unworkable piece of legislation, assuming that you feel that it needs to be enacted. I intend to vote for the bill, but it will be a much better bill with your amendment in it. Without it, it is rather mean-spirited as you pointed out. With it in it, it is extremely focusing of the public's mind and the Government's mind that the whole Government, not just some particular agency, has got to pay for it. I encourage my colleagues to support the Watt amendment. It perfects this bill.

Mr. FIELDS of Texas. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I have a different interpretation than my friend from North Carolina because what this amendment does is gut this legislation. It guts the private property rights of property owners which we are trying to protect because it takes out what is the real stick in this legislation. The real stick is if the Government comes in and takes your property because of an endangered species designation or a wetland declaration and you lose the beneficial use of your property as guaranteed by the Constitution, you are not going to be compensated by the Government.

It is my hope that you do not see this used as an entitlement. This is intended to be used when property is lost, when the Government comes in and says there really is a need for this particular piece of property as a wetland, or there really is a particular need for this property because of an endangered species.

When we passed the Endangered Species Act and when we passed Clean Water, it was never envisioned by this Congress that the basic water rights in the State of Texas would be abrogated because of a fountain darter.

□ 1245

It was never intended by this body when those two acts were passed that farmers and ranchers in the Texas hill country would lose the ability to control cedar on their property because of two birds. It was never intended when those acts were passed that a Golden Eagle's nest, and by the way, there never has been proof that there really was an eagle's nest in the example I cited, it was never intended that would stop the construction of a badly needed road in my congressional district.

Another particular story, Marge and Roger Krueger spent $53,000 of their savings on a lot for their dream house in the Texas hill country. They and other owners have been barred from building their dream houses because the Golden Cheek Warbler was found in adjacent canyons. Surely that was not the intent when the Endangered Species Act was passed and I think our forefathers had great foresight in understanding that through the actions of Government, property could be taken, and that is why they made provision in the Constitution for payment when in fact those takings have taken place.

So again I say to my friend from North Carolina I appreciate the sincerity with which he comes to the floor, but I have to say in all candor to my friend, this is a gutting amendment if you support the basic and fundamental private property rights guaranteed under the Constitution.

Mr. WATT of North Carolina. Mr. Chairman, will the gentleman yield?

Mr. FIELDS of Texas. I am glad to yield to the gentleman from North Carolina.

Mr. WATT of North Carolina. I am concerned about Marge and Roger Krueger. The question I would ask the gentleman is if whatever agency that caused that adverse impact to Marge's land runs out of money, and they have gotten a judgment against the United States or against that agency, and the agency then comes back a year later and asks for an appropriation, what kind of protection has the gentleman provided in this bill for Marge Krueger?

Mr. FIELDS of Texas. First you have the civil court, but then second let me say what this is designed to do.

Mr. WATT of North Carolina. They have the judgment already.

Mr. FIELDS of Texas. Reclaiming my time, what this stick of compensation is designed to do is to force the Federal Government in the first instance to make the right decision, to protect in this particular instance the warbler and the vireo. Other things could be done. You have State properties in this particular area where there was a concerted effort to save those birds. The fountain darter, there are things that could be done to propagate and actually increase the population and actually introduce this to the ecosystem of Texas. In regard to the eagle's nest I talked about just a minute ago, through cooperative effort people would bend over backwards in my area to protect if in fact that was an eagle's nest. But what has happened is we have lost the cooperation and the consultation with and of that local private landowner and that is what this legislation is designed to protect. This amendment guts it.

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

Mr. FIELDS of Texas. I am glad to yield to my friend from Louisiana.

Mr. TAUZIN. Mr. Chairman, I thank the gentleman for yielding to make the point that it is the very language the gentleman's amendment would delete from the bill that provides the answer. It says that notwithstanding any other provision of law, payment must come from that agency. Therefore, the citizen can compel mandamus against that agency for payment.

Mr. CANADY of Florida. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I just wanted to point out with respect to this amendment that it would eliminate the essential

feature of this bill which provides an incentive for agencies to behave responsibly, for agencies to consider the real cost of their action, to take into account when they are imposing burdens on landowners, and I think for that reason this amendment would be counterproductive.

I believe that in many of the instances where we are currently seeing landowners burdened, we are seeing agencies that are overreaching, they are going beyond the real intent of the law, and agencies who are doing that can exercise their discretion not to do that. And I believe that would be the consequence, the major consequence of passing this law.

I want to also take this opportunity to thank all of those who have assisted and helped in the movement of this legislation. I want to particularly thank the gentleman from Texas [Mr. SMITH], the gentleman from California [Mr. POMBO], and the gentleman from Alaska [Mr. YOUNG], for their hard work in putting together the compromise, the substitute amendment which I have offered. Without their hard work on this issue we would not have been able to move this bill to the floor and I am very grateful to them for this.

I also want to thank particularly the gentleman from Idaho [Mr. CRAPO] for his hard work on this issue and his active participation in the floor debate. His very able participation here has been very important to the success of this bill.

Finally, it is very important also to thank the gentleman from Louisiana [Mr. TAUZIN] and the Members on the Democratic side who are participating in this effort. It is true that the gentleman from Louisiana [Mr. TAUZIN] has worked on this issue for years. I am very pleased that we are now seeing this issue brought to the floor, and I believe we are going to see this issue move forward to the Senate, and I am hopeful that we are going to see this issue passed into law later this year. So I am very grateful to them.

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

Mr. CANADY of Florida. Mr. Chairman, I yield to the gentleman from California.

Mr. POMBO. Mr. Chairman, I thank the gentleman for yielding.

Mr. Chairman, I think we all would like to thank the gentleman for the wonderful job he has done in managing this bill on the floor, and I appreciate all of the hard work you have put in in battling over the last 12 long hours.

Mr. Chairman, I would like to rise in opposition to this amendment and to bring it into perspective in that if you take the incentive away, the hammer away from the agencies, you run into the situation that is the result of this bill coming to the floor, where an agency like the Fish and Wildlife Service can list the fairy shrimp and declare most of California habitat and control most of California without any cost to the agency, without any fear that anything is going to happen to them. They have run amok. It is the bureaucracy out of control, it is the bureaucracy and the regulators with a free hand running all over the Western United States and the Southern United States, without anyone having the ability to come down on them, unless of course you happen to have 10 years and a half million dollars to spend on attorneys' fees.

That is what we are trying to correct in this bill. And I know what the gentleman's intentions are, but I feel that if this amendment were passed, it would completely damage the bill, so that we would not be able to accomplish what is truly needed, and that is to restore some responsibility to the agencies, and to put that hammer in the hands and I guess to restore the power to the people who are out there having to live under this.

I think this is an extremely damaging amendment, and I would urge all of my colleagues to vote "no" on it.

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

Mr. CANADY of Florida. I yield to the gentleman from Louisiana.

Mr. TAUZIN. Mr. Chairman, I will just take a minute and thank the gentleman for yielding. Let me concur in the last remarks. I do not want to use words like gutting and all of that, but this is extremely damaging. It takes from the bill the method of payment.

Let me say to my friend who offered the amendment, this is a first class right under the Constitution. Any citizen under this bill that wants to exercise that right can do so at 1 percent, 2 percent, 10 percent, 20 percent. This bill simply creates a new remedy for citizens at home under the criteria set by this bill to get justice at home. For it to work the agency has to want to cooperate, and if you do not make the agency responsible for damage it does, and do not make the agency responsible for payment, you will never get cooperation. Just day before yesterday Mr. Babbitt just announced the first of its kind safe harbor provision for the red cockaded woodpecker offering to cooperate with a landowner instead of taking their land.

This is what we need.

The CHAIRMAN. All time has expired.

Under the previous order of the House of today, the question is on the amendment offered by the gentleman from North Carolina [Mr. WATT] to the amendment in the nature of a substitute offered by the gentleman from Florida [Mr. CANADY], as amended.

The question was taken; and the Chairman announced that the noes appeared to have it.

RECORDED VOTE

Mr. WATT of North Carolina. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The CHAIRMAN. Pursuant to clause 2 of rule XXIII, the Chair may reduce to not less than 5 minutes the time for any recorded vote that may be on another of the pending amendments without intervening business or debate.

The vote was taken by electronic device, and there were—ayes 127, noes 299, not voting 8, as follows:

[Roll No. 196]

AYES—127

Abercrombie	Green	Pastor
Ackerman	Gutierrez	Payne (NJ)
Becerra	Hastings (FL)	Pelosi
Beilenson	Hefner	Rahall
Bentsen	Hilliard	Reed
Berman	Hinchey	Reynolds
Bishop	Hoyer	Richardson
Bonior	Jackson-Lee	Rivers
Borski	Jefferson	Rose
Boucher	Johnson, E. B.	Roybal-Allard
Brown (FL)	Johnston	Rush
Cardin	Kaptur	Sabo
Clay	Kennedy (MA)	Sanders
Clayton	Kennedy (RI)	Sawyer
Clement	Kennelly	Schroeder
Clyburn	Kildee	Schumer
Coleman	LaFalce	Scott
Collins (MI)	Lantos	Serrano
Conyers	Lewis (GA)	Skaggs
Coyne	Lofgren	Slaughter
DeFazio	Lowey	Stark
DeLauro	Maloney	Stokes
Dellums	Manton	Studds
Deutsch	Markey	Thompson
Dingell	Martinez	Torres
Dixon	Matsui	Torricelli
Doggett	McCarthy	Towns
Engel	McDermott	Tucker
Evans	McKinney	Velazquez
Farr	Meehan	Vento
Fattah	Meek	Visclosky
Fazio	Menendez	Ward
Fields (LA)	Mfume	Waters
Filner	Miller (CA)	Watt (NC)
Flake	Mineta	Waxman
Foglietta	Mink	Williams
Ford	Nadler	Wise
Frank (MA)	Neal	Woolsey
Frost	Oberstar	Wyden
Furse	Obey	Wynn
Gejdenson	Olver	Yates
Gephardt	Owens	
Gibbons	Pallone	

NOES—299

Allard	Bunning	Diaz-Balart
Andrews	Burr	Dickey
Archer	Burton	Dicks
Armey	Buyer	Dooley
Bachus	Callahan	Doolittle
Baesler	Calvert	Doyle
Baker (CA)	Camp	Dreier
Baker (LA)	Canady	Duncan
Baldacci	Castle	Dunn
Ballenger	Chabot	Durbin
Barcia	Chambliss	Edwards
Barr	Chenoweth	Ehlers
Barrett (NE)	Christensen	Ehrlich
Barrett (WI)	Chrysler	Emerson
Bartlett	Clinger	English
Barton	Coble	Ensign
Bass	Coburn	Eshoo
Bateman	Collins (GA)	Everett
Bereuter	Combest	Ewing
Bevill	Condit	Fawell
Bilbray	Cooley	Fields (TX)
Bilirakis	Costello	Flanagan
Bliley	Cox	Foley
Blute	Cramer	Forbes
Boehlert	Crane	Fowler
Boehner	Crapo	Fox
Bonilla	Cremeans	Franks (CT)
Bono	Cubin	Franks (NJ)
Brewster	Cunningham	Frelinghuysen
Browder	Danner	Frisa
Brown (OH)	Davis	Funderburk
Brownback	de la Garza	Gallegly
Bryant (TN)	Deal	Ganske
Bunn	DeLay	Gekas

Geren	Linder	Roth
Gilchrest	Lipinski	Roukema
Gillmor	Livingston	Royce
Gilman	LoBiondo	Salmon
Goodlatte	Longley	Sanford
Goodling	Lucas	Saxton
Gordon	Luther	Scarborough
Goss	Manzullo	Schaefer
Graham	Martini	Schiff
Greenwood	Mascara	Seastrand
Gunderson	McCollum	Sensenbrenner
Gutknecht	McCrery	Shadegg
Hall (OH)	McDade	Shaw
Hall (TX)	McHale	Shays
Hamilton	McHugh	Shuster
Hancock	McInnis	Sisisky
Hansen	McIntosh	Skeen
Harman	McKeon	Skelton
Hastert	McNulty	Smith (MI)
Hastings (WA)	Metcalf	Smith (NJ)
Hayes	Meyers	Smith (TX)
Hayworth	Mica	Smith (WA)
Hefley	Miller (FL)	Solomon
Heineman	Minge	Souder
Herger	Molinari	Spence
Hilleary	Mollohan	Spratt
Hobson	Montgomery	Stearns
Hoekstra	Moorhead	Stenholm
Hoke	Moran	Stockman
Holden	Morella	Stump
Horn	Murtha	Stupak
Hostettler	Myers	Talent
Houghton	Myrick	Tanner
Hunter	Nethercutt	Tate
Hutchinson	Neumann	Tauzin
Hyde	Ney	Taylor (MS)
Inglis	Norwood	Taylor (NC)
Istook	Nussle	Tejeda
Jacobs	Ortiz	Thomas
Johnson (CT)	Orton	Thornberry
Johnson (SD)	Oxley	Thornton
Johnson, Sam	Packard	Thurman
Jones	Parker	Tiahrt
Kanjorski	Paxon	Torkildsen
Kasich	Payne (VA)	Traficant
Kelly	Peterson (FL)	Upton
Kim	Peterson (MN)	Volkmer
King	Petri	Vucanovich
Kingston	Pickett	Waldholtz
Kleczka	Pombo	Walker
Klink	Pomeroy	Walsh
Klug	Porter	Wamp
Knollenberg	Portman	Watts (OK)
Kolbe	Poshard	Weldon (FL)
LaHood	Pryce	Weldon (PA)
Largent	Quillen	Weller
Latham	Quinn	White
LaTourette	Radanovich	Whitfield
Laughlin	Ramstad	Wicker
Lazio	Regula	Wilson
Leach	Riggs	Wolf
Levin	Roberts	Young (AK)
Lewis (CA)	Roemer	Young (FL)
Lewis (KY)	Rogers	Zeliff
Lightfoot	Rohrabacher	Zimmer
Lincoln	Ros-Lehtinen	

NOT VOTING—8

Brown (CA)	Collins (IL)	Moakley
Bryant (TX)	Dornan	Rangel
Chapman	Gonzalez	

□ 1312

The Clerk announced the following pair:

On this vote:

Mr. Rangel for, with Mr. Dornan against.

Mrs. THURMAN, Mr. LEVIN, and Mr. McHALE changed their vote from "aye" to "no."

Mr. FAZIO, Mr. OBEY, and Mrs. LOWEY changed their vote from "no" to "aye."

So the amendment to the amendment in the nature of a substitute, as amended, was rejected.

The result of the vote was announced as above recorded.

The CHAIRMAN. The question is on the amendment in the nature of a substitute, as amended, offered by the gentleman from Florida [Mr. CANADY].

The amendment in the nature of a substitute, as amended, was agreed to.

The CHAIRMAN. The question is on the committee amendment in the nature of a substitute, as amended.

The committee amendment in the nature of a substitute, as amended, was agreed to.

Mr. STUMP. Mr. Chairman, I rise in support of H.R. 925, the Private Property Protection Act of 1995 and I encourage my colleagues to support the bill as well.

The bill is not an assault on the Constitution and it is not a scheme to benefit a select few as some propaganda has suggested. The bill simply affords Americans the protection that they have been guaranteed under the Constitution's fifth amendment. The bill is easily the most important measure to protect private property rights since the Bill of Rights was ratified in 1791.

Tomorrow, March 4, 1995, marks the 206th year that the U.S. Congress has met. When the First Congress met, there was great concern that the Constitution did not include a basic Bill of Rights to limit the powers of the Federal Government. In their wisdom, the First Congress proposed a Bill of Rights and determined that the Bill of Rights should guarantee compensation for the taking of private property for public use.

When the Bill of Rights was ratified in 1789, guarantee of compensation for the taking of private property became the fifth amendment to the Constitution.

Since the Bill of Rights was ratified, the fifth amendment has been relied upon to limit Federal intrusion into private lives without due process of law. When we look back over the past 200 years, it is easy to see a clear pattern of increased takings of private property. The number of takings have rapidly escalated over the past two decades in direct relation to the increase in Federal regulatory actions. Unfortunately, private property owners who are victims of regulatory takings are not receiving due process guaranteed to them under the fifth amendment.

The Federal regulatory morass has unfairly punished private property owners by restricting the use of their lands. While such Federal regulations clearly "take" from private property owners, tragically, the private property owner must sue to get compensation due to them by the Federal Government.

We must not allow the Federal Government to continue to grow and regulate without regard for the public, of which private property owners are a part. We must not allow the Federal Government to take private lands for public purposes and then require the property owners to pay for costly, time consuming litigation in order to receive compensation.

We must pass H.R. 925 and protect the constitutional guarantee of compensation for the taking of private lands.

Mr. MINGE. Mr. Chairman, farmers and other landowners in the Second Congressional District are frustrated by a complex, burdensome, inefficient, and expensive set of procedures and restrictions dealing with wetlands and drainage. This has led to demands for compensation and reform of the process.

I am drafting and will introduce legislation to dramatically simplify the procedures and reduce the harsh effects of these drainage and wetlands restrictions. The problem must be solved, and it must be solved now.

The alternative approach set up in H.R. 925 of establishing a right to compensation for a loss of land value due to Federal restrictions is inviting but ill-advised. It will be a full employment act for attorneys and appraisers, potentially explosive liability, and an increase in the Federal debt. It is unworkable, unfair, and poorly thought out. For example, owners of areas with cattails that could be drained would be entitled to farmland value. Another example of the problem is how to handle parcels that are subject to, and then relieved of, restrictions. Should the land owner be obligated to refund the payment? Should the Federal Government have a lien on the land to receive the refund? Query, what is to be done about the situation where property both receives very substantial benefits from Federal activity that increases land value and then a more modest loss of value due to regulations?

The real goal is to eliminate the unreasonable burdens. The promise of compensation, contained in H.R. 925 that was hastily considered by the House of Representatives, is an inadequate, elusive, and unacceptable solution. For these reasons, I voted against the bill. Hopefully, the idea of reasonable compensation for unreasonable restrictions in H.R. 935 will be improved in the U.S. Senate to deal with the problems I have identified. If it is, I look forward to voting for the measure.

For the present, I look forward to working to lift the harsh burdens that are the real problem. Farmers in my area do not want a new and endless controversy. They want to farm. They are responsible stewards of the land.

Mr. LIGHTFOOT. Mr. Chairman, on March 2, 1995, I voted "aye" on the Tauzin amendment to H.R. 925. However, the computer did not record my vote. I would like to declare my support for this amendment which would protect the rights of property owners from overzealous government takings. I reaffirmed my support for this legislation by voting in favor of final passage of H.R. 925.

Mr. MFUME. Mr. Chairman, I rise in opposition to the H.R. 925, the Private Property Protection Act. The Private Property Protection Act comes under the guise of protecting private property rights, while in reality it pits the property rights of some against the rights of others and the rights of the community as a whole. Private property rights are sufficiently protected under the fifth amendment to the Constitution; codifying a specific interpretation of these rights is not only unnecessary, but dangerous as well. I urge a "no" vote on this legislation.

The courts have outlined the factors to be considered on a case-by-case basis in determining if a "taking" has occurred, including the economic impact on the property owner, the public purpose for which the regulation was adopted, and the character of the governmental action. H.R. 925 calls for an extended, legislated, interpretation of the fifth amendment of the Constitution. This bill would require the Federal Government to pay a private property owner for any decrease in value to his/her land due to Federal regulations. The

effect of this legislation would be to have the Government—i.e. the taxpayers—pay land owners not to destroy the environment.

Along with property rights come property responsibilities. Nobody has the right to use his or her property in a manner that may harm the public health or damage the property of another landowner or the community as a whole. American citizens are able to use environmental laws in order to protect their property from damage at the lands of irresponsible industries and landowners. Environmental laws, in turn, have been established to preserve our natural resources for the benefit of future generations and so that Mother Earth can survive.

The intent of H.R. 925 is to make it fiscally impossible to enforce such important legislation as the Clean Water Act, the Endangered Species Act, and other environmental initiatives. A broader interpretation of this bill could limit the ability of the Federal Government to enforce such laws as the Americans with Disabilities Act, the Civil Rights Act, and other laws which protect American citizens but may place a financial burden on business. The possibilities of abuse under this legislation are enormous. We must not fall for the "what's mine, is mine" pitch used by "takings" legislation advocates if it comes at the expense of the American taxpayer, or the community at large. I urge my colleagues to vote against H.R. 925.

Mr. RADANOVICH. Mr. Chairman, bureaucracies have little respect for private property.

In my district, for example, a constituent has been fighting an uphill battle with USDA's Forest Service over an easement right.

Here is a letter from Jeffrey Green, county counsel of Mariposa County—my home community and on whose board of supervisors I formerly served. He explains the problem in a straightforward way that I believe my colleagues will find illuminating, and I ask that it be included with my remarks in the RECORD.

I also want to point out that the problem discussed by Mr. Green has a further dimension that illustrates the indifference Federal bureaucrats can display. More than a year ago—January 10, 1994—the district ranger of Stanislaus National Forest wrote Mr. Green that the requested road use permit for my constituents would be ready within the next 30 days.

When that didn't happen, Mr. Green made further inquiry. On May 17, 1994, the district ranger wrote that he could ensure that the permit would be received shortly. Knowing I planned to use this awful apathy by the Forest Service in remarks on the House floor, my counsel called the district ranger to ask whether the promised permit yet had issued. Sad to say, Mr. Chairman, the answer was "no."

These are intolerable circumstances that, I am learning go on every day across our country. Citizens are at the mercy of a corps of overpaid, underworked dolts who make a mockery of the term, "public service."

THE COUNTY COUNSEL,
Mariposa County, CA, March 2, 1995.

Re National Forest Service Use Permit for Billy J. Lovelace.

OFFICE OF CONGRESSMAN RADANOVICH,
Cannon Building, Washington, DC:

I have previously forwarded to your office my correspondence relative to the above matter and the failure of the Forest Service, after numerous promises, to issue a Use Permit to Mr. Lovelace to access his property wherein he resides. You have requested that I provide you additional information as to why in my opinion this type of activity illustrates the federal government's failure to respect property rights of its citizens. Mr. Lovelace purchased his property with the access road to his dwelling already constructed. That access road did in fact cross a small portion of the Forest Service property and an easement existed for the use of that Forest Service strip of land. When the easement expired, the Forest Service basically took the position that Mr. Lovelace was going to have to find other access to his property, although as a practical matter no other access existed. Mr. Lovelace felt totally ineffectual in dealing with the National Forest Service personnel, as they made him feel that access to his property would be granted upon their whim only and not as any property right he may have acquired over a period of time. We all know that you cannot acquire a prescriptive easement against a governmental entity, however, there is a concept of fair play and due process when the federal government has allowed access over a period of years and then arbitrarily determined that it may not continue that access to the property owner. That is what happened in the Lovelace case and the possible denial of the Use Permit has caused great emotional distress to Mr. Lovelace. He feels totally helpless in dealing with the federal government and therefore contacted his County Supervisor, Doug Balmain, to intervene on his behalf. Supervisor Balmain and myself did in fact intervene on Mr. Lovelace's behalf and had a number of conversations with the Forest Service personnel. Essentially the first meetings indicated that the Forest Service was adopting a blanket policy without any regard to the private property rights of the individuals in that it was inappropriate to access private property over a Forest Service land if there was any other conceivable way to access the property. Of course, to the Forest Service, any conceivable way to access the property did not take into consideration the extreme expenses involved in most cases, and the topography of the land which may make it impossible to access. However, after a number of conversations and written correspondence, the Forest Service did in fact agree that Mr. Lovelace was entitled to a Use Permit to access his property. As you know, that permit has still not been issued even though it was promised well over a year ago. Certainly when Mr. Lovelace purchased his property, he felt he had a property right to access his dwelling over the road that had been constructed prior to his purchase. It was only after his purchase that he discovered that the Forest Service may restrict access to his property. In my opinion, as well as Supervisor Balmain's opinion, the federal government has a moral right and obligation to deal honestly and fairly with citizens who are affected by its rules and regulations. Access to an individual's dwelling is certainly viewed by that individual as a property right and the threat of removing that access generates a great deal of distress for the property owner.

Based upon other experiences with the Forest Service, this is not an unusual way in which the Forest Service personnel deals with citizens' property rights and values. In one of the letters which my office received from the District Ranger regarding this matter, the following language was contained in the letter which, in effect, chastised Supervisor Balmain and myself for becoming involved in this issue: "Since the issues revolve around the administration and management of National Forest lands, all future correspondence will be carried out through the concerned individuals." I read that sentence to essentially tell Supervisor Balmain and myself to butt out of Supervisor Balmain's constituent's business with the federal government.

Should you desire any additional information regarding this matter, please feel free to contact me.

Very truly yours,

JEFFREY G. GREEN,
County Counsel.

Mr. COSTELLO. Mr. Chairman, I rise today to express my concern over legislation under consideration in the House today to place into statute guidance for takings allowance under the fifth amendment of the Constitution. While I support efforts to offer this guidance, I am concerned the original bill proposed by the majority goes too far.

This bill would require Federal agencies to reimburse private property owners if 10 percent of their land is affected by any Federal regulation. While the intent of this bill is good, the potential cost to the Federal Government for a 10-percent diminishment of property value is enormous.

In addition, the bill's basic provisions are unworkable. For instance, if the Federal Government raises the speed limit on a rural highway, property owners adjacent to the highway could claim their property has been devalued by at least 10 percent due to increased noise from greater automobile traffic or higher speed limits. They could then demand reimbursement from the Department of Transportation for that diminished land value.

I have made efforts to work with my colleagues to try and raise this threshold to a more reasonable level. I have voted for amendments to raise this threshold beyond the 10-percent level, to one which builds on current legal precedent but which is not too narrow. In addition, I am working with my Democratic colleagues who also favor protecting private property rights to narrow the bill to instances of likely takings—for wetlands protections, for example—instead of every Federal regulation. Making Federal regulations more reasonable is my goal, which is also why I have cosponsored wetlands reform in the past.

An effort was made to try and narrow this bill, but it did not go far enough. The amendment offered by Representative TAUZIN would have gone beyond just a wetlands provision to include rights of western water use, mining and other use western lands. It also raised the threshold to only 50 percent, one which I feel is still too unworkable. That is why I opposed the Tauzin amendment.

One amendment I did support would have required a private property impact assessment by an agency prior to any taking. This would have written into law an Executive order signed by President Ronald Reagan, that would allow property owners to seek compensation based on this assessment. Unfortunately, this amendment was rejected by a majority of my colleagues. However, this bill has improved as it has moved through the House, and it is my hope that in supporting this bill on final passage we may move it to the Senate

and reach common ground to protect private property rights, and our Nation's critical environment areas, in a final package.

Mr. McDERMOTT. Mr. Chairman, I rise in strong opposition to H.R. 925. This is yet another proposal offered by the new majority to undermine our Nation's health, safety, and environmental standards in order to benefit their favorite special interest: the pollution industry.

This bill is a cruel joke which endangers helpless private property owners throughout the country and allows land abusers the opportunity to raid the Federal treasury.

Make no mistake, this bill is incapable of protecting the public from health or safety hazards.

In my State of Washington, clear cut logging on steep slopes caused extreme run-off and excessive flooding along the Tolt River. Slides sent trees and debris choking the river and deflecting flows.

Meanwhile, the flooding caused a family's mobile home to be washed down river and significantly eroded several other properties. The effect: property devaluation and serious expense to the downstream landowners, serious harm to the environment, and huge profits for the loggers.

This bill does nothing to either prevent such environmental damages or protect the landowners who undoubtedly will be harmed by the ensuing reckless developments.

In fact, even as amended, H.R. 925 makes the government liable for the negligent actions of industry polluters, reckless developers, and the property owners whose land is harmed by such development.

For example, when a developer seeks a permit to clear cut a steep slope as occurred in my State, or to fill in a wetland which endangers the property of downstream landowners, the government is damned if it grants the permit and damned if it doesn't.

If the government issues the permit, it then becomes liable for the damages incurred by the developers on the downstream property owner's lands. Yet, if the government denies the permit, this bill forces it to compensate the developer who requested it—no matter how negligent the developer's proposal may be.

By voting in favor of H.R. 925, the majority will commit our government to a financial conundrum which will drain the Federal treasury.

There are not enough health, education, nutrition, or family programs for the new majority to eliminate in order to pay for a bill which mandates such financial recklessness.

Mr. Chairman, I hope that you take a look beyond your political focus groups and examine the actual, real world implications of this dangerous bill.

I hope my colleagues find the wisdom and courage to vote against this horrifying piece of legislation which, as usual in this new majority, benefits a select few and harms the rest of us.

Mr. UNDERWOOD. Mr. Chairman, the fifth amendment to the U.S. Constitution clearly speaks to the issue of Federal land acquisition when it states: "[N]or shall private property be taken for public use, without just compensation." The Constitution is clear on the issue of Federal land takings and compels us to deal justly with the impact of Federal action on private land.

H.R. 925 is currently being touted as the cure for private land owners whose land has been devalued by Federal regulations. However, it does not answer Guam's outrage over Federal land policies.

The people of Guam have for many years been the victims of unjust land grabs and the heavy hand of Federal land policy. Within the borders of the war in the Pacific Park, land owners cannot develop their private property due to Federal regulations. Land owners at Ritidian Point, landlocked by the Andersen Air Force Base, are also denied free use of their land because access is restricted. Unfortunately, this legislation would not compensate these land owners or any others whose land is currently controlled by the Federal Government.

Guam needs more than just promises for the future; we need Congress to recognize and commit itself to resolving Guam's unique Federal land problems.

Mr. PETERSON of Minnesota. Mr. Chairman, today we are considering property rights legislation, one of the most important pieces of legislation we will vote on this year. The right to own property is one of the basic doctrines of our Constitution. The fifth amendment requires the Government to provide just compensation for property taken for public purposes. Property rights has come to the forefront of debate in rural America. This debate is vital to every landowner in this country, specially to the American farmer.

Over the past three decades, there has been an enormous expansion in Government regulation of private property. The intent of these regulations is for the most part positive. However, the rigidity of the regulations is completely unnecessary and over burdensome and often defeats the purpose of the objective of the regulation. The Federal Government makes it a practice to spell out step by step the method each person should use to accomplish the goal of a regulation. This rigidity is costly and actually creates more obstacles.

These regulation restrictions are out of control, specifically in regard to wetlands. For example, a farmer in my district bought 160 acres of land with the intent to farm the 160 acres. After talking to his local soil and conservation service [SCS], and looking at the records from the sight, including soil samples and all inclusive maps, the SCS office confirmed that no wetlands were contained on the land. My constituent then proceeded to purchase the land and begin to make the necessary changes to farm. His local SCS came out again to approve the site, and on the way out noticed some cattails in the field. The SCS then proceeded to discover, new wetlands which affected about 26 acres of land. This farmer would have reconsidered buying the property if he knew he could not farm on a large portion of his land.

As a result of this type of common practice by Federal agencies, private property owners repeatedly lose economic use of their property. In situations where the Government regulates to the point that the property owner may not use his property, or the property is substantially devalued, it is only fair and just for the property owner to be compensated.

No one argues that we need to regulate certain activities and restrict certain practices on land for the common good and well being of the country. We need clean water, we need clean air. And we need to protect the environment. However, the burden of providing public good should not be on an individual landowner. If the American public benefits from restrictions on land uses, then the public should pay for the costs.

Furthermore, as recourse to Federal taking, wealthy people and big corporations have the resources to protect their property rights through the legal process. The average person on the other hand doesn't have the money and should not have to defend his or her property rights in the current lengthy, complicated and expensive legal process. More often than not, the small property owner has no way to combat the expansive authority and resources of Federal agencies. We must set up a process where people don't have to hire a lawyer, spend a lot of their own money, and waste millions of taxpayer dollars to defend their basic property rights.

For these reasons, I strongly support H.R. 925, private property rights legislation. H.R. 925 ensures that private property owners are compensated when the use or value of their property is limited. This bill lays out clear and specific guidelines for government officials and property owners in determining when Federal regulations go too far, and result in violate individual property rights. Federal agencies will have to weigh their actions cautiously before issuing regulations and will be required to pay for the imposed regulations.

People in this country who purchase and pay taxes on property should not have to endure their rights being stripped away. The Federal Government must be responsible for its actions. Congress must act now to minimize the taking of our constitutionally protected property rights. I urge my colleagues to support H.R. 925.

Ms. PELOSI. Mr. Chairman, I rise today to oppose H.R. 925, the Private Property Protection Act of 1995. This legislation will create an entitlement program for polluters, a billion dollar sweepstakes for land speculators, and will leave the American taxpayer holding the bag.

In the words of a Justice Department official who testified before the House Judiciary Committee, "hard-working American taxpayers * * * will be forced to watch as their hard-earned wages are collected by the Government as taxes and paid out to corporations and large landowners as takings compensation."

At a time when so-called entitlement programs are under attack by the Republican Party, H.R. 925 would create an immense new entitlement program and bureaucracy with so much legal uncertainty that the only sure winners will be our Nation's lawyers.

Mr. Chairman, contrary to what the authors of this legislation would have us believe, American law is based on a deep respect for private property rights. The fifth amendment itself symbolizes this respect for property rights by ensuring that private property shall not be taken for public use without just compensation.

H.R. 925 represents a radical departure from long-settled Supreme Court doctrine. It abandons the modern definition of the fifth amendment's "takings" clause by requiring that private property owners be compensated if regulations limit land use and diminish property values by just 10 percent.

This means that almost any loss in market value would require compensation. This replaces an entire body of constitutional law with a clumsy measure that ignores the collective wisdom of two centuries of Supreme Court decisions.

Mr. Chairman, for over 200 years, private claims to compensation under the fifth amendment's "takings" clause have been successfully balanced against the public interest on a case-by-case basis.

H.R. 925 does not add to this delicate judicial balance in a constructive manner. Rather, it shatters legal precedent by imposing a heavy-handed new doctrine that will only result in unjust windfalls to wealthy corporations at a tremendous cost to the health, safety and pocketbooks of all Americans.

Who will pay for the costs of environmental clean-up when polluters degrade our environment? The American taxpayer. This bill protects the interests of polluters at the expense of the American taxpayer.

Mr. Chairman, we should heed the voice of our constituents as we consider this bill. In a recent CNN/Time poll, people were asked whether a landowner that is barred from installing a toxic waste dump should be compensated. Fully two-thirds of those interviewed, 66 percent, said no.

Let's not allow the American taxpayer to get "taken" by this legislation. I urge my colleagues to vote against H.R. 925.

Mr. JOHNSON of South Dakota. Mr. Chairman, once again the House Republican leadership has brought us a bill in H.R. 925, the Private Property Protection Act, which addresses a legitimately important issue, but which is overly broad, ill-considered and poorly drafted. I believe the debate on this important issue should continue, and so I will for now support this legislation in order for the Senate and the conference committees to have an opportunity to revise and improve the legislation. If no such significant improvement is forthcoming from those bodies, however, I am very doubtful that I will be able to vote for this bill on final passage.

Mrs. COLLINS of Illinois. Mr. Chairman, I rise today in opposition to H.R. 925, the Private Property Protection Act. This bill establishes a dangerous and disturbing precedent that would allow individuals to do whatever they want with their property, regardless of whether it destroys their neighbors' property or not. Moreover, H.R. 925 would establish a new entitlement system to pay off these individuals to prevent them from using their property in a damaging way.

Imagine if this radical and extreme interpretation of the U.S. Constitution's fifth amendment had been adopted by an earlier Congress. We would have no civil rights, no child labor laws, no environmental standards, no car safety standards, no clean water requirements, no Americans with Disabilities Act, etc. We would live in a dirty, unsafe, and callous environment in which each individual and corporation would be out for his or her own best interest, regardless of the consequences on their neighbors and surroundings. The Government's efforts to protect public health and safety would be completely compromised because agencies would have to choose between promulgating the laws we pass and going bankrupt or ignoring important federal laws.

Environmental justice efforts, and bills such as my Environmental Equal Rights Act would be completely undermined by H.R. 925 because environmentally disadvantaged communities would either have to allow a new waste facility site to be established or pay the polluter to not develop the site. This is dangerous, extreme and fundamentally unfair to the vast majority of Americans who own private property that is protected by our critical environmental, health, and public safety laws.

In fact, I prepared an amendment to this legislation that would ensure that private property owners could not seek compensation if an agency prevented them from using their land in a way that would decrease the property value of their neighbor's land. Currently, the bill prevents someone from seeking compensation if the agency's action seeks to prevent damage to other properties. Damage implies specific, visible harm to neighboring property. For example, if water or waste was backing up in someone's backyard. What about the loss of property value when an enormous, ugly waste treatment site is constructed at the end of your block? This has occurred throughout my district and it seems unfair that property owners should have to choose between watching their property value decrease or paying their neighbor not to construct a waste facility. My concerns with this legislation are so great, however, that I intend to oppose H.R. 925 completely.

What we have, Mr. Chairman, is a bad bill based on a bad idea. Members seem to be frustrated that Federal agencies are doing what they are required to do, which is to promulgate the laws that we pass. If this is the case, we should deal directly with this issue. But to pass a bill that makes taxpayers pay for our inaction is truly passing the buck. It is not only passing the buck but also endangering the future health and safety of the majority of our constituents. I urge my colleagues to join me in opposing this dangerous legislation.

Mr. SMITH of Texas. Mr. Chairman, some opponents of the Private Property Protection Act of 1995 are engaged in world class doublespeak.

Many of the same crowd that's run up a $4.5 trillion debt of our children's money criticize the Private Property Protection Act of 1995 as a raid on the Treasury. Those who supported the largest tax hike in history worry that the bill will harm the middle class.

Many of the same gang that supported a Governmental takeover of private health care in America condemn this bill as a new bureaucracy. Those who created cradle to grave entitlements attack this bill as a new entitlement. And the people who will oppose tort reform next week worried that this bill will be a boon for lawyers.

It's amazing the creative excuses that defenders of big Government will resort to in order to protect their power to tell the American people what to do. But, Mr. Chairman, the American people, many of whom are watching this debate on C–SPAN today, know better.

They know who is responsible for the deficit-raising, tax-elevating, mandate-creating, heavy-regulating, entitlement-formulating, lawsuit-generating policies of the regulatory state. And the American people understand who will, and won't, end those policies.

And if the opponents of the Private Property Protection Act of 1995 would read our bill, they'd know that this bill does not create a new entitlement, does not create new bureaucracy, is not a boon for lawyers, is not a threat to the middle class, and does not eliminate our Nation's environmental laws.

Read our bill. It simply makes the general public share the costs of regulations designed to benefit the general public. It prevents the Government from hiding those costs by foisting them on a single, innocent landowner.

Read our bill. It doesn't prevent Government from protecting endangered species or preserving wetlands. We the people can protect as many endangered species and as many wetlands as we the people are willing to pay for.

Read our bill. It doesn't create a new entitlement. Right now certain Americans who own the wrong land in the wrong place at the wrong time are forced to bear the entire cost of Government regulation. This bill simply relieves their burden brought on by the Government.

Read our bill. This has nothing to do with a raid on the Treasury. This bill prevents the Government from stealing private property. It provides relief to the victims of regulatory theft. This relief would be made available from annual agency appropriations, not the U.S. Treasury.

Read our bill. The Private Property Protection Act of 1995 would benefit the middle class. It would provide the people who do the work, pay the taxes, and pull the wagon with the same rights as the blind cave spider, golden cheeked warbler, and fairy shrimp. And it would make Government regulators public servants once again. No longer would these officials be the masters of middle class Americans.

Mr. Chairman, objections to this bill have nothing to do with entitlements, bureaucracy, middle-class rights, or lawyers. They don't object to any of these things; they've spent their careers working hard to expand each of them.

They have everything to do with their love of big Government control of the lives of middle class Americans. They'll say anything to defend it; they'll even talk in double-speak.

Mr. Chairman, this Congress was elected to end big Government and prevent it from trampling the rights of the American middle class. That's why we rise today, Republican and Democrat, from all over this Nation, to support the Private Property Protection Act of 1995. I urge my colleagues to read this bill and when they do they'll support it.

Mr. PACKARD. Mr. Chairman, Government imposed regulations chip away at the very cornerstone of our society—private property. It is time to stop Government's encroachment on our fifth amendment rights. Overzealous Federal regulations intrude on property owner rights and restrict individual freedom. Government exists to protect and serve the needs of private property owners, not to trespass on them.

H.R. 925, the Private Property Protection Act works to restore the sanctity of private property by ensuring fair compensation for unfair Federal takings. Our Republican property

rights proposal represents a simple but constitutionally protected concept. Whether the Government wants your property to build a road or to preserve an endangered rat's habitat, the intent of our Founding Fathers is clear. If you take it, pay for it. H.R. 925 provides landowners with their first line of defense against overreaching Government regulations.

Our Nation's greatness arises in large part from the opportunities afforded by the use and ownership of private property. The restrictions imposed by overzealous regulatory agencies and legislatures limits the ability of property owners to manage and use their land. Bureaucrats abrogating our property rights and abusing the fifth amendment, assault the very fabric of our society.

Mr. Chairman, Government should be encouraging, not discouraging ownership of private property. Fair compensation for unfair Federal land taking will restore Government accountability and legitimacy. The people want Government to stop meddling in their private affairs. H.R. 925, the Private Property Protection Act, gets Government off of the people's back.

Mr. COLEMAN. Mr. Chairman, I rise today in opposition to the bill H.R. 925. I am disappointed because there were a series of important measures that would have modified the legislation in such a way that I could have supported it. Unfortunately, those measures failed, and the bill that we are left with has extremely alarming implications. Were this legislation enacted, the Federal Government would be saddled with a huge new entitlement program, with unknown costs. Not only will this legislation be tremendously expensive in terms of Federal dollars, but the limitations that it will impose upon the regulatory power of Federal agencies could exact a huge toll upon human health and the environment.

Many of the proponents of this bill have tried to argue that the decision before us is essentially a constitutional question. They have frequently read from the fifth amendment provision which bars the Federal Government from taking private property without just compensation. But H.R. 925 raises a constitutional question only insofar as the bill requires us to expand upon how this body chooses to define "takings." In the past, this interpretation has been left to the jurisdiction of the courts. As the takings question is fundamentally one of constitutional interpretation, the court system is probably the most appropriate forum for determining the proper answer to this question.

Yet, the precedent adhered to by the Supreme Court dictates that Government action must reduce the value of private property by almost 90 percent before the owner can be compensated. Many of my colleagues felt that such a threshold was unreasonably high, and wished to take steps to compensate property owners suffering large financial losses as the result of regulatory action. I strongly supported such initiatives. I feel that it is the proper role of the Congress to craft legislation to meet the changing needs of our society in a manner consistent with the intent of the Framers of the Constitution. I firmly believe that property owners should not be subject to undue financial burdens as a result of Government actions. However, this bill is not crafted simply to set new limitations on Government regulations. Indeed, this bill fundamentally redefines the "takings" question, giving it a meaning so broad that it has in effect been rendered meaningless.

Under the provisions of this bill, any property owner who can demonstrate a loss of value to their property of 10 percent or more will be entitled to Federal compensation. Unfortunately, this threshold is absurdly low. Landowners will be tempted under the terms of this provision to subdivide their property to meet the threshold, thereby resulting in a plethora of cases brought against Federal regulatory agencies. The bill makes no provision to prevent this from happening. The bill also fails to make any provisions to prevent speculation. If an individual buys land with the full knowledge of pending regulations that will impact upon the value of their property, they are nonetheless able to seek compensation under the terms of this bill should those regulations go into effect. Although I am certain that this is not an intended result of the bill, it is important to note that efforts to remedy this oversight failed in committee.

Aside from the technical problems of the bill, we must also face the fact that the language of this legislation threatens to vastly increase the size of the Federal Government. In establishing procedural channels for direct negotiations between Federal agencies while simultaneously promising to compensate all property owners who lose even 10 percent of their property value through regulations, we will open up a floodgate of litigations aimed at our various regulatory agencies. This bill will certainly increase the size of these Federal agencies. The agencies will be forced to hire a huge legal staff to help them determine the validity of claims brought against them. In effect, this bill ensures an increased bloating of our Federal bureaucracy. It seems strange to me the very people who are attacking big Government are actively engaged in the process of creating one.

The takings problem is large enough that it deserved a substantial portion of our time and effort toward the creation of an effective solution. Instead, the Republicans in this body acted hastily to present us with a bill that is clumsy and will doubtlessly prove ineffective. Surely there were better ways to address the problem. Instead, we have just established a brand new entitlement program, with uncertain costs and a vast scope. Just as Republicans are attacking Democrats for failing to endorse the balanced budget, they establish a program that may render such a balance impossible. Without calculating the costs of this bill, they have proposed a new program that will certainly cost the American taxpayer billions of dollars. Of course, many of those dollars will go not to small property owners. Under the terms of this bill, we will be taking money out of necessary programs, and using it to line the pockets of many wealthy landowners and industrialists, a new breed of speculators, lawyers for the Government, lawyers for those who file claims, and the Federal bureaucrats who will be central to sorting out this new law long after we are gone. Language to prevent this outcome was presented in the Porter, Farr, Ehlers, and Bryant amendment. Unfortunately, this effort failed.

While I would like to see the role of the Federal Government limited in relation to the rights of the owners of private property, I do not feel that H.R. 925 achieves that goal.

The CHAIRMAN. Under the rule, the Committee rises.

Accordingly the Committee rose; and the Speaker pro tempore (Mr. HANSEN) having assumed the chair, Mr. SHUSTER, 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. 925) to compensate owners of private property for the effect of certain regulatory restrictions, pursuant to House Resolution 101, he reported the bill back to the House with an amendment adopted by the Committee of the Whole.

The SPEAKER pro tempore. Under the rule, the previous question is ordered.

Is a separate vote demanded on any amendment to the committee amendment in the nature of a substitute adopted by the Committee of the Whole?

If not, the question is on the amendment.

The amendment was agreed to.

□ 1315

The SPEAKER pro tempore (Mr. HANSEN). 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.

The SPEAKER pro tempore. The question is on the passage of the bill.

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

Mr. CANADY of Florida. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The vote was taken by electronic device, and there were—yeas 277, nays 148, not voting 9, as follows:

[Roll No. 197]

YEAS—277

Allard	Bunn	Davis
Archer	Bunning	de la Garza
Armey	Burr	Deal
Bachus	Burton	DeLay
Baesler	Buyer	Diaz-Balart
Baker (CA)	Callahan	Dickey
Baker (LA)	Calvert	Dooley
Baldacci	Camp	Doolittle
Ballenger	Canady	Doyle
Barcia	Chabot	Dreier
Barr	Chambliss	Duncan
Barrett (NE)	Chapman	Dunn
Bartlett	Chenoweth	Durbin
Barton	Christensen	Edwards
Bass	Chrysler	Ehrlich
Bateman	Clinger	Emerson
Bentsen	Coble	English
Bereuter	Coburn	Ensign
Bevill	Collins (GA)	Everett
Bilbray	Combest	Ewing
Bilirakis	Condit	Fawell
Bishop	Cooley	Fazio
Bliley	Costello	Fields (TX)
Boehner	Cox	Flanagan
Bonilla	Cramer	Foley
Bono	Crane	Forbes
Brewster	Crapo	Fowler
Browder	Cremeans	Fox
Brown (OH)	Cubin	Franks (CT)
Brownback	Cunningham	Frisa
Bryant (TN)	Danner	Frost

Funderburk
Gallegly
Ganske
Gekas
Geren
Gillmor
Gilman
Goodlatte
Goodling
Gordon
Graham
Green
Gunderson
Gutknecht
Hall (OH)
Hall (TX)
Hamilton
Hancock
Hansen
Harman
Hastert
Hastings (WA)
Hayes
Hayworth
Hefley
Hefner
Heineman
Herger
Hilleary
Hilliard
Hobson
Hoekstra
Hoke
Holden
Horn
Hostettler
Houghton
Hunter
Hutchinson
Hyde
Inglis
Istook
Jacobs
Johnson (SD)
Johnson, Sam
Jones
Kasich
Kelly
Kim
King
Kingston
Knollenberg
Kolbe
LaHood
Lantos
Largent
Latham
LaTourette
Laughlin
Leach
Lewis (CA)
Lewis (KY)
Lightfoot
Lincoln
Linder
Livingston
LoBiondo
Longley
Lucas
Manzullo
Martinez
Mascara
McCollum
McCrery
McDade
McHale
McHugh
McInnis
McIntosh
McKeon
McNulty
Metcalf
Meyers
Mica
Molinari
Mollohan
Montgomery
Moorhead
Myers
Myrick
Nethercutt
Neumann
Ney
Norwood
Nussle
Obey
Ortiz
Orton
Oxley
Packard
Parker
Paxon
Payne (VA)
Peterson (FL)
Peterson (MN)
Petri
Pickett
Pombo
Pomeroy
Portman
Poshard
Pryce
Quillen
Radanovich
Regula
Reynolds
Riggs
Roberts
Roemer
Rogers
Rohrabacher
Ros-Lehtinen
Rose
Roth
Royce
Salmon
Sanford
Saxton
Scarborough
Schaefer
Scott
Seastrand
Sensenbrenner
Shadegg
Shaw
Shuster
Sisisky
Skeen
Skelton
Smith (MI)
Smith (NJ)
Smith (TX)
Smith (WA)
Solomon
Souder
Spence
Spratt
Stearns
Stenholm
Stockman
Stump
Stupak
Talent
Tanner
Tate
Tauzin
Taylor (MS)
Taylor (NC)
Tejeda
Thomas
Thornberry
Thornton
Thurman
Tiahrt
Traficant
Upton
Volkmer
Vucanovich
Waldholtz
Walker
Walsh
Wamp
Watts (OK)
Weldon (FL)
Weldon (PA)
Weller
White
Whitfield
Wicker
Wilson
Wolf
Young (AK)
Young (FL)
Zeliff

NAYS—148

Abercrombie
Ackerman
Andrews
Barrett (WI)
Becerra
Beilenson
Berman
Blute
Boehlert
Bonior
Borski
Boucher
Brown (FL)
Cardin
Castle
Clay
Clayton
Clement
Clyburn
Coleman
Collins (MI)
Conyers
Coyne
DeFazio
DeLauro
Dellums
Deutsch
Dicks
Dingell
Dixon
Doggett
Ehlers
Engel
Eshoo
Evans
Farr
Fattah
Fields (LA)
Filner
Flake
Foglietta
Ford
Frank (MA)
Franks (NJ)
Frelinghuysen
Furse
Gejdenson
Gephardt
Gibbons
Gilchrest
Goss
Greenwood
Gutierrez
Hastings (FL)
Hinchey
Hoyer
Jackson-Lee
Jefferson
Johnson (CT)
Johnson, E.B.
Kanjorski
Kaptur
Kennedy (MA)
Kennedy (RI)
Kennelly
Kildee
Kleczka
Klink
Klug
LaFalce
Lazio
Levin
Lewis (GA)
Lipinski
Lofgren
Lowey
Luther
Maloney
Manton
Markey
Martini
Matsui
McCarthy
McDermott
Meehan
Meek
Menendez
Mfume
Miller (CA)
Miller (FL)
Mineta
Minge
Mink
Moran
Morella
Murtha
Nadler
Neal
Oberstar
Olver
Owens
Pallone
Pastor
Payne (NJ)
Pelosi
Porter
Quinn
Rahall
Ramstad
Reed
Richardson
Rivers
Roukema
Roybal-Allard
Rush
Sabo
Sanders
Sawyer
Schiff
Schroeder
Schumer
Serrano
Shays
Skaggs
Slaughter
Stark
Stokes
Studds
Thompson
Torkildsen
Torres
Torricelli
Towns
Tucker
Velazquez
Vento
Visclosky
Ward
Waters
Watt (NC)
Waxman
Williams
Wise
Woolsey
Wyden
Wynn
Yates
Zimmer

NOT VOTING—9

Brown (CA)
Bryant (TX)
Collins (IL)
Dornan
Gonzalez
Johnston
McKinney
Moakley
Rangel

□ 1331

The Clerk announced the following pair:

On this vote:

Mr. Dornan for, with Mrs. Collins of Illinois against.

Mr. ACKERMAN changed his 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.

AUTHORIZING THE CLERK TO MAKE TECHNICAL AND CONFORMING CHANGES IN H.R. 925, PRIVATE PROPERTY PROTECTION ACT OF 1995

Mr. CANADY of Florida. Mr. Speaker, I ask unanimous consent that in the engrossment of the bill H.R. 925, as amended, the Clerk be authorized to correct section numbers, cross-references, and punctuation, and to make such stylistic, clerical, technical, conforming, and other changes as may be necessary to reflect the action of the House in amending the bill.

The SPEAKER pro tempore (Mr. HANSEN). Is there objection to the request of the gentleman from Florida?

There was no objection.

GENERAL LEAVE

Mr. CANADY of Florida. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks on H.R. 925, the bill just passed.

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

There was no objection.

JOB CREATION AND WAGE ENHANCEMENT ACT OF 1995

Mr. DELAY. Pursuant to section 2 of House Resolution 101, I call up the bill (H.R. 9) to create jobs, enhance wages, strengthen property rights, maintain certain economic liberties, decentralize and reduce the power of the Federal Government with respect to the States, localities, and citizens of the United States, and to increase the accountability of Federal officials, and ask for its immediate consideration in the House.

The Clerk read the title of the bill.

The text of H.R. 9 is as follows:

H.R. 9

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Job Creation and Wage Enhancement Act of 1995".

SEC. 2. TABLE OF CONTENTS.

The table of contents for this Act is as follows:

Sec. 1. Short title.
Sec. 2. Table of contents.

TITLE I—CAPITAL GAINS REFORM

Sec. 1001. 50 percent capital gains deduction.
Sec. 1002. Indexing of certain assets for purposes of determining gain or loss.
Sec. 1003. Capital loss deduction allowed with respect to sale or exchange of principal residence.

TITLE II—NEUTRAL COST RECOVERY

Sec. 2001. Depreciation adjustment for certain property placed in service after December 31, 1994.

TITLE III—RISK ASSESSMENT AND COST/BENEFIT ANALYSIS FOR NEW REGULATIONS

Sec. 3001. Findings

Subtitle A—Risk Assessment and Communication

Sec. 3101. Short title.
Sec. 3102. Purposes.
Sec. 3103. Effective date; applicability; savings provisions.
Sec. 3104. Principles for risk assessment.
Sec. 3105. Principles for risk characterization and communication.
Sec. 3106. Guidelines, plan for assessing new information, and report.
Sec. 3107. Definitions.

Subtitle B—Analysis of Risk Reduction Benefits and Costs

Sec. 3201. Analysis of risk reduction benefits and costs.

Subtitle C—Peer Review

Sec. 3301. Peer review program.

TITLE IV—ESTABLISHMENT OF FEDERAL REGULATORY BUDGET COST CONTROL

Sec. 4001. Amendments to the Congressional Budget Act of 1974.
Sec. 4002. President's annual budget submissions.
Sec. 4003. Estimation and disclosure of costs of Federal regulation.

TITLE V—STRENGTHENING OF PAPERWORK REDUCTION ACT

Sec. 5001. Short title.

Subtitle A—Authorization of Appropriations

Sec. 5101. Authorization of appropriations.

Subtitle B—Reducing the Burden of Federal Paperwork on the Public

Sec. 5201. Coverage of all federally sponsored paperwork burdens.
Sec. 5202. Paperwork reduction goals.

Subtitle C—Enhancing Government Responsibility and Accountability for Reducing the Burden of Federal Paperwork

Sec. 5301. Reemphasizing the responsibility of the Director to control the burden of Federal paperwork.
Sec. 5302. Enhancing agency responsibility to obtain public review of proposed paperwork burdens.
Sec. 5303. Expediting review at the Office of Management and Budget.

Sec. 5304. Improving public and agency scrutiny of paperwork burdens proposed for renewal.
Sec. 5305. Protection for whistleblowers of unauthorized paperwork burden.
Sec. 5306. Enhancing public participation.
Sec. 5307. Expediting review of an agency information collection request with a reduced burden.
Subtitle D—Enhancing Agency Responsibility for Sharing and Disseminating Public Information
Sec. 5401. Prescribing governmentwide standards for sharing and disseminating public information.
Sec. 5402. Agency responsibilities for sharing and disseminating public information.
Sec. 5403. Agency information inventory/locator system.
Subtitle E—Additional Government Information Management Responsibility
Sec. 5501. Strengthening the statistical policy and coordination functions of the Director.
Sec. 5502. Use of electronic information collection and dissemination techniques to reduce burden.
Sec. 5503. Agency implementation.
Sec. 5504. Automatic data processing equipment plan.
Sec. 5505. Technical and conforming amendments.
Subtitle F—Effective Dates
Sec. 5601. Effective dates.
TITLE VI—STRENGTHENING REGULATORY FLEXIBILITY
Sec. 6001. Judicial review.
Sec. 6002. Consideration of direct and indirect effects of rules.
Sec. 6003. Rules opposed by SBA Chief Counsel for Advocacy.
Sec. 6004. Sense of Congress regarding SBA Chief Counsel for Advocacy.
TITLE VII—REGULATORY IMPACT ANALYSES
Sec. 7001. Short title.
Sec. 7002. Rule making notices for major rules.
Sec. 7003. Hearing requirement for proposed rules; extension of comment period.
Sec. 7004. Regulatory impact analysis.
Sec. 7005. Additional responsibilities of Director of the Office of Management and Budget.
Sec. 7006. Standard of clarity.
Sec. 7007. Report by OIRA.
Sec. 7008. Definitions.
TITLE VIII—PROTECTION AGAINST FEDERAL REGULATORY ABUSE
Subtitle A—Citizens' Regulatory Bill of Rights
Sec. 8101. Citizens' regulatory bill of rights.
Subtitle B—Private Sector Whistleblowers' Protection
Sec. 8201. Short title.
Sec. 8202. Purpose.
Sec. 8203. Coverage.
Sec. 8204. Prohibited regulatory practices.
Sec. 8205. Prohibited regulatory practice as a defense to agency action.
Sec. 8206. Enforcement.
Sec. 8207. Citizen suits.
Sec. 8208. Office of the Special Counsel.
Sec. 8209. Relation to criminal investigations.
TITLE IX—PRIVATE PROPERTY RIGHTS PROTECTIONS AND COMPENSATION
Sec. 9001. Statement of purpose.
Sec. 9002. Compensation for Federal agency infringement or deprivation of rights to private property.
Sec. 9003. Severability.
Sec. 9004. Definitions.
TITLE X—ESTABLISHMENT OF FEDERAL MANDATE BUDGET COST CONTROL
Sec. 10001. Amendments to the Congressional Budget Act of 1974.
Sec. 10002. President's annual budget submissions.
Sec. 10003. Estimation and disclosure of costs of Federal mandates.
TITLE XI—TAXPAYER DEBT BUY-DOWN
Sec. 11001. Designation of amounts for reduction of public debt.
Sec. 11002. Public Debt Reduction Trust Fund.
Sec. 11003. Taxpayer-generated sequestration of Federal spending to reduce the public debt.
TITLE XII—SMALL BUSINESS INCENTIVES
Sec. 12001. Increase in unified estate and gift tax credits.
Sec. 12002. Increase in expense treatment for small businesses.
Sec. 12003. Clarification of definition of principal place of business.
Sec. 12004. Treatment of storage of product samples.

TITLE I—CAPITAL GAINS REFORM

SEC. 1001. 50 PERCENT CAPITAL GAINS DEDUCTION.

(a) GENERAL RULE.—Part I of subchapter P of chapter 1 of the Internal Revenue Code of 1986 (relating to treatment of capital gains) is amended to read as follows:

"PART I—TREATMENT OF CAPITAL GAINS

"Sec. 1201. Capital gains deduction.

"SEC. 1201. CAPITAL GAINS DEDUCTION.

"(a) GENERAL RULE.—If for any taxable year a taxpayer has a net capital gain, 50 percent of such gain shall be a deduction from gross income.

"(b) ESTATES AND TRUSTS.—In the case of an estate or trust, the deduction shall be computed by excluding the portion (if any) of the gains for the taxable year from sales or exchanges of capital assets which, under sections 652 and 662 (relating to inclusions of amounts in gross income of beneficiaries of trusts), is includible by the income beneficiaries as gain derived from the sale or exchange of capital assets.

"(c) COORDINATION WITH TREATMENT OF CAPITAL GAIN UNDER LIMITATION ON INVESTMENT INTEREST.—For purposes of this section, the net capital gain for any taxable year shall be reduced (but not below zero) by the amount which the taxpayer takes into account as investment income under section 163(d)(4)(B)(iii).

"(d) TRANSITIONAL RULE.—

"(1) IN GENERAL.—In the case of a taxable year which includes January 1, 1995—

"(A) the amount taken into account as the net capital gain under subsection (a) shall not exceed the net capital gain determined by only taking into account gains and losses properly taken into account for the portion of the taxable year on or after January 1, 1995, and

"(B) if the net capital gain for such year exceeds the amount taken into account under subsection (a), the rate of tax imposed by section 1 on such excess shall not exceed 28 percent.

"(2) SPECIAL RULES FOR PASS-THRU ENTITIES.—

"(A) IN GENERAL.—In applying paragraph (1) with respect to any pass-thru entity, the determination of when gains and losses are properly taken into account shall be made at the entity level.

"(B) PASS-THRU ENTITY DEFINED.—For purposes of subparagraph (A), the term 'pass-thru entity' means—

"(i) a regulated investment company,

"(ii) a real estate investment trust,

"(iii) an S corporation,

"(iv) a partnership,

"(v) an estate or trust, and

"(vi) a common trust fund."

(b) DEDUCTION ALLOWABLE IN COMPUTING ADJUSTED GROSS INCOME.—Subsection (a) of section 62 of such Code is amended by inserting after paragraph (15) the following new paragraph:

"(16) LONG-TERM CAPITAL GAINS.—The deduction allowed by section 1201."

(c) TECHNICAL AND CONFORMING CHANGES.—

(1) Section 13113 of the Revenue Reconciliation Act of 1993 (relating to 50-percent exclusion for gain from certain small business stock), and the amendments made by such section, are hereby repealed; and the Internal Revenue Code of 1986 shall be applied as if such section (and amendments) had never been enacted.

(2) Section 1 of such Code is amended by striking subsection (h).

(3) Paragraph (1) of section 170(e) of such Code is amended by striking "the amount of gain" in the material following subparagraph (B)(ii) and inserting "50 percent of the amount of gain".

(4)(A) Paragraph (2) of section 172(d) of such Code is amended to read as follows:

"(2) CAPITAL GAINS AND LOSSES.—

"(A) LOSSES OF TAXPAYERS OTHER THAN CORPORATIONS.—In the case of a taxpayer other than a corporation, the amount deductible on account of losses from sales or exchanges of capital assets shall not exceed the amount includible on account of gains from sales or exchanges of capital assets.

"(B) DEDUCTION UNDER SECTION 1201.—The deduction under section 1201 shall not be allowed."

(B) Subparagraph (B) of section 172(d)(4) of such Code is amended by striking "paragraphs (1) and (3)" and inserting "paragraphs (1), (2)(B), and (3)".

(5) Paragraph (4) of section 642(c) of such Code is amended to read as follows:

"(4) ADJUSTMENTS.—To the extent that the amount otherwise allowable as a deduction under this subsection consists of gain from the sale or exchange of capital assets held for more than 1 year, proper adjustment shall be made for any deduction allowable to the estate or trust under section 1201 (relating to deduction for excess of capital gains over capital losses). In the case of a trust, the deduction allowed by this subsection shall be subject to section 681 (relating to unrelated business income)."

(6) Paragraph (3) of section 643(a) of such Code is amended by adding at the end thereof the following new sentence: "The deduction under section 1201 (relating to deduction of excess of capital gains over capital losses) shall not be taken into account."

(7) Paragraph (4) of section 691(c) of such Code is amended by striking "sections 1(h), 1201, and 1211" and inserting "sections 1201 and 1211".

(8) The second sentence of section 871(a)(2) of such Code is amended by inserting "such gains and losses shall be determined without regard to section 1201 (relating to deduction for capital gains) and" after "except that".

(9) Subsection (d) of section 1044 of such Code is amended by striking the last sentence.

(10)(A) Paragraph (2) of section 1211(b) of such Code is amended to read as follows:

"(2) the sum of—

"(A) the excess of the net short-term capital loss over the net long-term capital gain, and

"(B) one-half of the excess of the net long-term capital loss over the net short-term capital gain."

(B) So much of paragraph (2) of section 1212(b) of such Code as precedes subparagraph (B) thereof is amended to read as follows:

"(2) SPECIAL RULES.—

"(A) ADJUSTMENTS.—

"(i) For purposes of determining the excess referred to in paragraph (1)(A), there shall be treated as short-term capital gain in the taxable year an amount equal to the lesser of—

"(I) the amount allowed for the taxable year under paragraph (1) or (2) of section 1211(b), or

"(II) the adjusted taxable income for such taxable year.

"(ii) For purposes of determining the excess referred to in paragraph (1)(B), there shall be treated as short-term capital gain in the taxable year an amount equal to the sum of—

"(I) the amount allowed for the taxable year under paragraph (1) or (2) of section 1211(b) or the adjusted taxable income for such taxable year, whichever is the least, plus

"(II) the excess of the amount described in subclause (I) over the net short-term capital loss (determined without regard to this subsection) for such year."

(11) Paragraph (1) of section 1402(i) of such Code is amended by inserting ", and the deduction provided by section 1201 shall not apply" before the period at the end thereof.

(12) Section 12 of such Code is amended by striking paragraph (4) and redesignating the following paragraphs accordingly.

(13) Paragraph (2) of section 527(b) of such Code is hereby repealed.

(14) Subparagraph (D) of section 593(b)(2) of such Code is amended by adding "and" at the end of clause (iii), by striking ", and" at the end of clause (iv) and inserting a period, and by striking clause (v).

(15) Paragraph (2) of section 801(a) of such Code is hereby repealed.

(16) Subsection (c) of section 831 of such Code is amended by striking paragraph (1) and redesignating the following paragraphs accordingly.

(17)(A) Subparagraph (A) of section 852(b)(3) of such Code is amended by striking ", determined as provided in section 1201(a), on" and inserting "of 17.5 percent of".

(B) Clause (iii) of section 852(b)(3)(D) of such Code is amended—

(i) by striking "65 percent" and inserting "82.5 percent", and

(ii) by striking "section 1201(a)" and inserting "subparagraph (A)".

(18) Clause (ii) of section 857(b)(3)(A) of such Code is amended by striking "determined at the rate provided in section 1201(a) on" and inserting "of 17.5 percent of".

(19) Paragraph (1) of section 882(a) of such Code is amended by striking "section 11, 55, 59A, or 1201(a)" and inserting "section 11, 55, or 59A".

(20) Subsection (b) of section 904 of such Code is amended by striking paragraphs (2)(B), (3)(B), (3)(D), and (3)(E).

(21) Subsection (b) of section 1374 of such Code is amended by striking paragraph (4).

(22) Subsection (b) of section 1381 is amended by striking "or 1201".

(23) Subsection (e) of section 1445 of such Code is amended—

(A) in paragraph (1) by striking "35 percent (or, to the extent provided in regulations, 28 percent)" and inserting "17.5 percent (or, to the extent provided in regulations, 19.8 percent)", and

(B) in paragraph (2) by striking "35 percent" and inserting "17.5 percent".

(24) Clause (i) of section 6425(c)(1)(A) of such Code is amended by striking "or 1201(a)".

(25) Clause (i) of section 6655(g)(1)(A) of such Code is amended by striking "or 1201(a)".

(26)(A) The second sentence of section 7518(g)(6)(A) of such Code is amended—

(i) by striking "during a taxable year to which section 1(h) or 1201(a) applies", and

(ii) by striking "28 percent (34 percent" and inserting "19.8 percent (17.5 percent".

(B) The second sentence of section 607(h)(6)(A) of the Merchant Marine Act, 1936 is amended—

(i) by striking "during a taxable year to which section 1(h) or 1201(a) of such Code applies", and

(ii) by striking "28 percent (34 percent" and inserting "19.8 percent (17.5 percent".

(d) EFFECTIVE DATE.—

(1) IN GENERAL.—Except as otherwise provided in this subsection, the amendments made by this section shall apply to taxable years ending after December 31, 1994.

(2) CONTRIBUTIONS.—The amendment made by subsection (c)(3) shall apply only to contributions on or after January 1, 1995.

(3) WITHHOLDING.—The amendment made by subsection (c)(23) shall apply only to amounts paid after the date of the enactment of this Act.

SEC. 1002. INDEXING OF CERTAIN ASSETS FOR PURPOSES OF DETERMINING GAIN OR LOSS.

(a) IN GENERAL.—Part II of subchapter O of chapter 1 of the Internal Revenue Code of 1986 (relating to basis rules of general application) is amended by inserting after section 1021 the following new section:

"SEC. 1022. INDEXING OF CERTAIN ASSETS FOR PURPOSES OF DETERMINING GAIN OR LOSS.

"(a) GENERAL RULE.—

"(1) INDEXED BASIS SUBSTITUTED FOR ADJUSTED BASIS.—Except as otherwise provided in this subsection, if an indexed asset which has been held for more than 1 year is sold or otherwise disposed of, for purposes of this title the indexed basis of the asset shall be substituted for its adjusted basis.

"(2) EXCEPTION FOR DEPRECIATION, ETC.—The deduction for depreciation, depletion, and amortization shall be determined without regard to the application of paragraph (1) to the taxpayer or any other person.

"(b) INDEXED ASSET.—

"(1) IN GENERAL.—For purposes of this section, the term 'indexed asset' means—

"(A) stock in a corporation, and

"(B) tangible property (or any interest therein),

which is a capital asset or property used in the trade or business (as defined in section 1231(b)).

"(2) CERTAIN PROPERTY EXCLUDED.—For purposes of this section, the term 'indexed asset' does not include—

"(A) CREDITOR'S INTEREST.—Any interest in property which is in the nature of a creditor's interest.

"(B) OPTIONS.—Any option or other right to acquire an interest in property.

"(C) NET LEASE PROPERTY.—In the case of a lessor, net lease property (within the meaning of subsection (i)(3)).

"(D) CERTAIN PREFERRED STOCK.—Stock which is fixed and preferred as to dividends and does not participate in corporate growth to any significant extent.

"(E) STOCK IN FOREIGN CORPORATIONS.—Stock in a foreign corporation.

"(F) STOCK IN S CORPORATIONS.—Stock in an S corporation.

"(3) EXCEPTION FOR STOCK IN FOREIGN CORPORATION WHICH IS REGULARLY TRADED ON NATIONAL OR REGIONAL EXCHANGE.—Paragraph (2)(E) shall not apply to stock in a foreign corporation the stock of which is listed on the New York Stock Exchange, the American Stock Exchange, the national market system operated by the National Association of Securities Dealers, or any domestic regional exchange for which quotations are published on a regular basis other than—

"(A) stock of a foreign investment company (within the meaning of section 1246(b)),

"(B) stock in a passive foreign investment company (as defined in section 1296), and

"(C) stock in a foreign corporation held by a United States person who meets the requirements of section 1248(a)(2).

"(4) TREATMENT OF AMERICAN DEPOSITORY RECEIPTS.—For purposes of this section, an American depository receipt for stock in a foreign corporation shall be treated as stock in such corporation.

"(c) INDEXED BASIS.—For purposes of this section—

"(1) GENERAL RULE.—The indexed basis for any asset is—

"(A) the adjusted basis of the asset, multiplied by

"(B) the applicable inflation ratio.

"(2) APPLICABLE INFLATION RATIO.—The applicable inflation ratio for any asset is the percentage arrived at by dividing—

"(A) the gross domestic product deflator for the calendar quarter in which the disposition takes place, by

"(B) the gross domestic product deflator for the calendar quarter in which the asset was acquired by the taxpayer (or, if later, the calendar quarter ending on December 31, 1994).

The applicable inflation ratio shall never be less than 1. The applicable inflation ratio for any asset shall be rounded to the nearest $\frac{1}{1000}$.

"(3) GROSS DOMESTIC PRODUCT DEFLATOR.—The gross domestic product deflator for any calendar quarter is the implicit price deflator for the gross domestic product for such quarter (as shown in the first revision thereof).

"(d) SHORT SALES.—

"(1) IN GENERAL.—In the case of a short sale of an indexed asset with a short sale period in excess of 1 year, for purposes of this title, the amount realized shall be an amount equal to the amount realized (determined without regard to this paragraph) multiplied by the applicable inflation ratio. In applying subsection (c)(2) for purposes of the preceding sentence, the date on which the property is sold short shall be treated as the date of acquisition and the closing date for the sale shall be treated as the date of disposition.

"(2) SHORT SALE OF SUBSTANTIALLY IDENTICAL PROPERTY.—If the taxpayer or the taxpayer's spouse sells short property substantially identical to an asset held by the taxpayer, the asset held by the taxpayer and the substantially identical property shall not be treated as indexed assets for the short sale period.

"(3) SHORT SALE PERIOD.—For purposes of this subsection, the short sale period begins on the day after property is sold and ends on the closing date for the sale.

"(e) TREATMENT OF REGULATED INVESTMENT COMPANIES AND REAL ESTATE INVESTMENT TRUSTS.—

"(1) ADJUSTMENTS AT ENTITY LEVEL.—

"(A) IN GENERAL.—Except as otherwise provided in this paragraph, the adjustment under subsection (a) shall be allowed to any qualified investment entity (including for purposes of determining the earnings and profits of such entity).

"(B) EXCEPTION FOR QUALIFICATION PURPOSES.—This section shall not apply for purposes of sections 851(b) and 856(c).

"(2) ADJUSTMENTS TO INTERESTS HELD IN ENTITY.—

"(A) IN GENERAL.—Stock in a qualified investment entity shall be an indexed asset for any calendar month in the same ratio as the fair market value of the assets held by such entity at the close of such month which are indexed assets bears to the fair market value of all assets of such entity at the close of such month.

"(B) RATIO OF 90 PERCENT OR MORE.—If the ratio for any calendar month determined under subparagraph (A) would (but for this subparagraph) be 90 percent or more, such ratio for such month shall be 100 percent.

"(C) RATIO OF 10 PERCENT OR LESS.—If the ratio for any calendar month determined under subparagraph (A) would (but for this subparagraph) be 10 percent or less, such ratio for such month shall be zero.

"(D) VALUATION OF ASSETS IN CASE OF REAL ESTATE INVESTMENT TRUSTS.—Nothing in this paragraph shall require a real estate investment trust to value its assets more frequently than once each 36 months (except where such trust ceases to exist). The ratio under subparagraph (A) for any calendar month for which there is no valuation shall be the trustee's good faith judgment as to such valuation.

"(3) QUALIFIED INVESTMENT ENTITY.—For purposes of this subsection, the term 'qualified investment entity' means—

"(A) a regulated investment company (within the meaning of section 851), and

"(B) a real estate investment trust (within the meaning of section 856).

"(f) OTHER PASS-THRU ENTITIES.—

"(1) PARTNERSHIPS.—In the case of a partnership, the adjustment made under subsection (a) at the partnership level shall be passed through to the partners.

"(2) S CORPORATIONS.—In the case of an S corporation, the adjustment made under subsection (a) at the corporate level shall be passed through to the shareholders.

"(3) COMMON TRUST FUNDS.—In the case of a common trust fund, the adjustment made under subsection (a) at the trust level shall be passed through to the participants.

"(g) DISPOSITIONS BETWEEN RELATED PERSONS.—

"(1) IN GENERAL.—This section shall not apply to any sale or other disposition of property between related persons except to the extent that the basis of such property in the hands of the transferee is a substituted basis.

"(2) RELATED PERSONS DEFINED.—For purposes of this section, the term 'related persons' means—

"(A) persons bearing a relationship set forth in section 267(b), and

"(B) persons treated as single employer under subsection (b) or (c) of section 414.

"(h) TRANSFERS TO INCREASE INDEXING ADJUSTMENT.—If any person transfers cash, debt, or any other property to another person and the principal purpose of such transfer is to secure or increase an adjustment under subsection (a), the Secretary may disallow part or all of such adjustment or increase.

"(i) SPECIAL RULES.—For purposes of this section:

"(1) TREATMENT AS SEPARATE ASSET.—In the case of any asset, the following shall be treated as a separate asset:

"(A) A substantial improvement to property.

"(B) In the case of stock of a corporation, a substantial contribution to capital.

"(C) Any other portion of an asset to the extent that separate treatment of such portion is appropriate to carry out the purposes of this section.

"(2) ASSETS WHICH ARE NOT INDEXED ASSETS THROUGHOUT HOLDING PERIOD.—The applicable inflation ratio shall be appropriately reduced for periods during which the asset was not an indexed asset.

"(3) NET LEASE PROPERTY DEFINED.—The term 'net lease property' means leased property where—

"(A) the term of the lease (taking into account options to renew) was 50 percent or more of the useful life of the property, and

"(B) for the period of the lease, the sum of the deductions with respect to such property which are allowable to the lessor solely by reason of section 162 (other than rents and reimbursed amounts with respect to such property) is 15 percent or less of the rental income produced by such property.

"(4) TREATMENT OF CERTAIN DISTRIBUTIONS.—A distribution with respect to stock in a corporation which is not a dividend shall be treated as a disposition.

"(5) SECTION CANNOT INCREASE ORDINARY LOSS.—To the extent that (but for this paragraph) this section would create or increase a net ordinary loss to which section 1231(a)(2) applies or an ordinary loss to which any other provision of this title applies, such provision shall not apply. The taxpayer shall be treated as having a long-term capital loss in an amount equal to the amount of the ordinary loss to which the preceding sentence applies.

"(6) ACQUISITION DATE WHERE THERE HAS BEEN PRIOR APPLICATION OF SUBSECTION (a)(1) WITH RESPECT TO THE TAXPAYER.—If there has been a prior application of subsection (a)(1) to an asset while such asset was held by the taxpayer, the date of acquisition of such asset by the taxpayer shall be treated as not earlier than the date of the most recent such prior application.

"(7) COLLAPSIBLE CORPORATIONS.—The application of section 341(a) (relating to collapsible corporations) shall be determined without regard to this section.

"(j) REGULATIONS.—The Secretary shall prescribe such regulations as may be necessary or appropriate to carry out the purposes of this section."

(b) CLERICAL AMENDMENT.—The table of sections for part II of subchapter O of chapter 1 of such Code is amended by inserting after the item relating to section 1021 the following new item:

"Sec. 1022. Indexing of certain assets for purposes of determining gain or loss."

(c) ADJUSTMENT TO APPLY FOR PURPOSES OF DETERMINING EARNINGS AND PROFITS.—Subsection (f) of section 312 of such Code (relating to effect on earnings and profits of gain or loss and of receipt of tax-free distributions) is amended by adding at the end thereof the following new paragraph:

"(3) EFFECT ON EARNINGS AND PROFITS OF INDEXED BASIS.—

For substitution of indexed basis for adjusted basis in the case of the disposition of certain assets, see section 1022(a)(1)."

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to dispositions after December 31, 1994, in taxable years ending after such date.

SEC. 1003. CAPITAL LOSS DEDUCTION ALLOWED WITH RESPECT TO SALE OR EXCHANGE OF PRINCIPAL RESIDENCE.

(a) IN GENERAL.—Subsection (c) of section 165 of the Internal Revenue Code of 1986 (relating to limitation on losses of individuals) is amended by striking "and" at the end of paragraph (2), by striking the period at the end of paragraph (3) and inserting "; and", and by adding at the end the following new paragraph:

"(4) losses arising from the sale or exchange of the principal residence (within the meaning of section 1034) of the taxpayer."

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to sales and exchanges after December 31, 1994, in taxable years ending after such date.

TITLE II—NEUTRAL COST RECOVERY

SEC. 2001. DEPRECIATION ADJUSTMENT FOR CERTAIN PROPERTY PLACED IN SERVICE AFTER DECEMBER 31, 1994.

(a) IN GENERAL.—Section 168 of the Internal Revenue Code of 1986 (relating to accelerated cost recovery system) is amended by adding at the end thereof the following new subsection:

"(k) DEDUCTION ADJUSTMENT TO ALLOW EQUIVALENT OF EXPENSING FOR CERTAIN PROPERTY PLACED IN SERVICE AFTER DECEMBER 31, 1994.—

"(1) IN GENERAL.—In the case of tangible property placed in service after December 31, 1994, the deduction under this section with respect to such property—

"(A) shall be determined by substituting '150 percent' for '200 percent' in subsection (b)(1) in the case of property to which the 200 percent declining balance method would otherwise apply, and

"(B) for any taxable year after the taxable year during which the property is placed in service shall be—

"(i) the amount determined under this section for such taxable year without regard to this subparagraph, multiplied by

"(ii) the applicable neutral cost recovery ratio for such taxable year.

"(2) APPLICABLE NEUTRAL COST RECOVERY RATIO.—For purposes of paragraph (1)—

"(A) IN GENERAL.—The applicable neutral cost recovery ratio for the property for any taxable year is the number determined by—

"(i) dividing—

"(I) the gross domestic product deflator for the calendar quarter ending in such taxable year which corresponds to the calendar quarter during which the property was placed in service by the taxpayer, by

"(II) the gross domestic product deflator for the calendar quarter during which the property was placed in service by the taxpayer, and

"(ii) then multiplying the number determined under clause (i) by the number equal to 1.035 to the nth power where 'n' is the number of full years in the period beginning on the 1st day of the calendar quarter during which the property was placed in service by the taxpayer and ending on the day before the beginning of the corresponding calendar quarter ending during such taxable year.

The applicable neutral cost recovery ratio shall never be less than 1. The applicable neutral cost recovery ratio shall be rounded to the nearest 1/1000.

"(B) SPECIAL RULE FOR CERTAIN PROPERTY.—In the case of property described in

paragraph (2) or (3) of subsection (b) or in subsection (g), the applicable neutral cost recovery ratio shall be determined without regard to subparagraph (A)(ii).

"(3) GROSS DOMESTIC PRODUCT DEFLATOR.—For purposes of paragraph (2), the gross domestic product deflator for any calendar quarter is the implicit price deflator for the gross domestic product for such quarter (as shown in the first revision thereof).

"(4) COORDINATION WITH INDEXING OF BASIS FOR PURPOSES OF DETERMINING GAIN OR LOSS.—Section 1022 shall not apply to any property to which this subsection applies.

"(5) ELECTION NOT TO HAVE SUBSECTION APPLY.—This subsection shall not apply to any property if the taxpayer elects not to have this subsection apply to such property. Such an election, once made, shall be irrevocable.

"(6) CHURNING TRANSACTIONS.—This subsection shall not apply to any property if this section would not apply to such property were subsection (f)(5)(A)(ii) applied by substituting '1995' for '1981' and '1994' for '1980'.

"(7) ADDITIONAL DEDUCTION NOT TO AFFECT BASIS OR RECAPTURE.—The additional amount determined under this section by reason of this subsection shall not be taken into account in determining the adjusted basis of any property or of any interest in a pass-thru entity (as defined in section 1201(d)(2)) which holds such property and shall not be treated as a deduction for depreciation for purposes of sections 1245 and 1250."

(b) MINIMUM TAX TREATMENT.—

(1) Paragraph (1) of section 56(a) of such Code is amended by adding at the end thereof the following new subparagraph:

"(E) USE OF NEUTRAL COST RECOVERY RATIO.—In the case of property to which section 168(k) applies and which is placed in service after December 31, 1994, the deduction allowable under this paragraph with respect to such property for any taxable year (after the taxable year during which the property is placed in service) shall be—

"(i) the amount so allowable for such taxable year without regard to this subparagraph, multiplied by

"(ii) the applicable neutral cost recovery ratio for such taxable year (as determined under section 168(k)).

This subparagraph shall not apply to any property with respect to which there is an election in effect not to have section 168(k)) apply."

(2) Subparagraph (C) of section 56(g)(4) of such Code is amended by adding at the end the following new clause:

"(v) NEUTRAL COST RECOVERY DEDUCTION.—Clause (i) shall not apply to the additional deduction allowable by reason of section 168(k)."

(c) COORDINATION WITH DEPRECIATION LIMITATION ON CERTAIN AUTOMOBILES.—Clause (i) of section 280F(a)(1)(B) of such Code is amended by adding at the end the following new sentence: "For purposes of this clause, the unrecovered basis of any passenger automobile shall be treated as including the additional amount determined under section 168 by reason of subsection (k) thereof to the extent not allowed as a deduction by reason of this paragraph for any taxable year in the recovery period."

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years ending after December 31, 1994.

TITLE III—RISK ASSESSMENT AND COST/BENEFIT ANALYSIS FOR NEW REGULATIONS

SEC. 3001. FINDINGS.

The Congress finds that:

(1) Environmental, health, and safety regulations have led to dramatic improvements in the environment and have significantly reduced human health risk; however, the Federal regulations that have led to these improvements have been more costly and less effective than they could have been; too often, regulatory priorities have not been based upon a realistic consideration of risk, risk reduction opportunities, and costs.

(2) The public and private resources available to address health, safety, and environmental concerns are not unlimited; those resources need to be allocated to address the greatest needs in the most cost-effective manner and so that the incremental costs of regulatory options are reasonably related to the incremental benefits.

(3) To provide more cost-effective and costreasonable protection to human health and the environment, regulatory priorities should be based upon realistic consideration of risk; the priority setting process must include scientifically sound, objective, and unbiased risk assessments, comparative risk analysis, and risk management choices that are grounded in cost-benefit principles.

(4) Risk assessment has proven to be a useful decision making tool; however, improvements are needed in both the quality of assessments and the characterization and communication of findings; scientific and other data must be better collected, organized, and evaluated; most importantly, the critical information resulting from a risk assessment must be effectively communicated in an objective and unbiased manner to decision makers, and from decision makers to the public.

(5) The public stake holders must be fully involved in the risk-decision making process. They have the right-to-know about the risks addressed by regulation, the amount of risk to be reduced, the quality of the science used to support decisions, and the cost of implementing and complying with regulations. This knowledge will allow for public scrutiny and promote quality, integrity, and responsiveness of agency decisions.

Subtitle A—Risk Assessment and Communication

SEC. 3101. SHORT TITLE.

This subtitle may be cited as the "Risk Assessment and Communication Act of 1995".

SEC. 3102. PURPOSES.

The purposes of this subtitle are—

(1) to present the public and executive branch with the most scientifically objective and unbiased information concerning the nature and magnitude of health, safety, and environmental risks in order to provide for sound regulatory decisions and public education;

(2) to provide for full consideration and discussion of relevant data and potential methodologies;

(3) to require explanation of significant choices in the risk assessment process which will allow for better peer review and public understanding; and

(4) to improve consistency within the executive branch in preparing risk assessments and risk characterizations.

SEC. 3103. EFFECTIVE DATE; APPLICABILITY; SAVINGS PROVISIONS.

(a) EFFECTIVE DATE.—Except as otherwise specifically provided in this subtitle, the provisions of this subtitle shall take effect 18 months after the date of enactment of this subtitle.

(b) APPLICABILITY.—

(1) IN GENERAL.—Except as provided in paragraph (2), this title applies to all risk assessments and risk characterizations prepared by, or on behalf of, any Federal agency in connection with Federal regulatory programs designed to protect human health, safety, or the environment.

(2) EXCEPTIONS.—(A) This title does not apply to risk assessments or risk characterizations performed with respect to either of the following:

(i) A situation that the head of the agency considers to be an emergency.

(ii) A screening analysis, including a screening analysis for purposes of product regulation, product reregistration, or premanufacturing notices.

(B) No analysis shall be treated as a screening analysis for purposes of subparagraph (A) if the results of such analyses are used either—

(i) as the basis for imposing restrictions on substances or activities, or

(ii) to characterize a positive finding of risks from substances or activities in any final agency document made available to the general public.

(3) LABELS.—This title shall not apply to any food, drug, or other product label or to any risk characterization appearing on any such label.

(c) SAVINGS PROVISIONS.—Nothing in this subtitle shall be construed to modify any statutory standard or requirement designed to protect health, safety, or the environment. Nothing in this subtitle shall be interpreted to preclude the consideration of any data or the calculation of any estimate to more fully describe risk or provide examples of scientific uncertainty or variability. Nothing in this title shall be construed to require the disclosure of any trade secret or other confidential information.

SEC. 3104. PRINCIPLES FOR RISK ASSESSMENT.

(a) IN GENERAL.—The head of each Federal agency shall apply the principles set forth in subsection (b) when preparing risk assessments in order to assure that such risk assessments and all of their components distinguish scientific findings from other considerations and are, to the maximum extent feasible, scientifically objective, unbiased, and inclusive of all relevant data. Discussions or explanations required under this section need not be repeated in each risk assessment document as long as there is a reference to the relevant discussion or explanation in another agency document.

(b) PRINCIPLES.—The principles to be applied when preparing risk assessments are as follows:

(1) When assessing human health risks, a risk assessment shall consider and discuss both laboratory and epidemiological data of sufficient quality which finds, or fails to find, a correlation between health risks and a potential toxin or activity. Where conflicts among such data appear to exist, or where animal data is used as a basis to assess human health, the assessment shall include discussion of possible reconciliation of conflicting information, and as appropriate, differences in study designs, comparative physiology, routes of exposure, bioavailability, pharmacokinetics, and any other relevant factor.

(2) Where a risk assessment involves selection of any significant assumption, inference, or model, the Federal agency preparing the assessment shall—

(A) present a representative list and explanation of plausible and alternative assumptions, inferences, or models;

(B) explain the basis for any choices;

(C) identify any policy or value judgments;

(D) fully describe any model used in the risk assessment and make explicit the assumptions incorporated in the model; and

(E) indicate the extent to which any significant model has been validated by, or conflicts with, empirical data.

SEC. 3105. PRINCIPLES FOR RISK CHARACTERIZATION AND COMMUNICATION.

In characterizing risk in any risk assessment document, regulatory proposal or decision, report to Congress, or other document which is made available to the public, each Federal agency characterizing the risk shall comply with each of the following:

(1) ESTIMATES OF RISK.—The head of such agency shall describe the populations or natural resources which are the subject of the risk characterization. If a numerical estimate of risk is provided, the agency shall, to the extent feasible and scientifically appropriate, provide—

(A) the best estimate or estimates for the specific populations or natural resources which are the subject of the characterization (based on the information available to the department, agency, or instrumentality); and

(B) a statement of the reasonable range of scientific uncertainties.

In addition to such best estimate or estimates, the Federal agency may present plausible upper-bound or conservative estimates in conjunction with plausible lower bounds estimates. Where appropriate, the Federal agency may present, in lieu of a single best estimate, multiple estimates based on assumptions, inferences, or models which are equally plausible, given current scientific understanding. To the extent practical and appropriate, the Federal agency shall provide descriptions of the distribution and probability of risk estimates to reflect differences in exposure variability in populations and uncertainties.

(2) EXPOSURE SCENARIOS.—The Federal agency shall explain the exposure scenarios used in any risk assessment, and, to the extent feasible, provide a statement of the size of the corresponding population at risk and the likelihood of such exposure scenarios.

(3) COMPARISONS.—To the extent feasible, the Federal agency shall provide a statement that places the nature and magnitude of risks to human health in context. Such statement shall include appropriate comparisons with estimates of risks that are familiar to and routinely encountered by the general public as well as other risks. The statement shall identify relevant distinctions among categories of risk and limitations to comparisons.

(4) SUBSTITUTION RISKS.—When a Federal agency provides a risk assessment or risk characterization for a proposed or final regulatory action, such assessment or characterization shall include a statement of any significant substitution risks to human health, where information on such risks has been provided to the agency.

(5) SUMMARIES OF OTHER RISK ESTIMATES.—If—

(A) a Federal agency provides a public comment period with respect to a risk assessment or regulation,

(B) a commenter provides a risk assessment, and a summary of results of such risk assessment, and

(C) such risk assessment is consistent with the principles and the guidance provided under this subtitle,

the agency shall present such summary in connection with the presentation of the agency's risk assessment or the regulation.

SEC. 3106. GUIDELINES, PLAN FOR ASSESSING NEW INFORMATION, AND REPORT.

(a) GUIDELINES.—Within 15 months after the date of enactment of this subtitle, the President shall issue guidelines for Federal agencies consistent with the risk assessment and characterization principles set forth in sections 3104 and 3105 and shall provide a format for summarizing risk assessment results. In addition, such guidelines shall include guidance on at least the following subjects: criteria for scaling animal studies to assess risks to human health; use of different types of dose-response models; thresholds; definitions, use, and interpretations of the maximum tolerated dose; weighting of evidence with respect to extrapolating human health risks from sensitive species; evaluation of benign tumors, and evaluation of different human health endpoints.

(b) PLAN.—Within 18 months after the date of enactment of this subtitle, each Federal agency shall publish a plan to review and revise any risk assessment published prior to the expiration of such 18-month period if the agency determines that significant new information or methodologies are available that could significantly alter the results of the prior risk assessment. The plan shall provide procedures for receiving and considering new information and risk assessments from the public. The plan may set priorities for review and revision of risk assessments based on factors such Federal agency considers appropriate.

(c) REPORT.—Within 3 years after the enactment of this subtitle, each Federal agency shall provide a report to the Congress evaluating the categories of policy and value judgments identified under subparagraph (C) of section 3104(b)(2).

(d) PUBLIC COMMENT AND CONSULTATION.—The guidelines, plan and report under this section, shall be developed after notice and opportunity for public comment, and after consultation with representatives of appropriate State agencies and local governments, and such other departments and agencies, offices, organizations, or persons as may be advisable.

(e) REVIEW.—The President shall review the guidelines published under this section at least every 4 years.

SEC. 3107. DEFINITIONS.

For purposes of this subtitle:

(1) RISK ASSESSMENT.—The term "risk assessment" means the process of identifying hazards and quantifying or describing the degree of toxicity, exposure, or other risk they pose for exposed individuals, populations, or resources. Such term also refers to the document containing the explanation of how the assessment process has been applied to an individual substance, activity, or condition.

(2) RISK CHARACTERIZATION.—The term "risk characterization" means that element of a risk assessment that involves presentation of the degree of risk in any regulatory proposal or decision, report to Congress, or other document which is made available to the public. The term includes discussions of uncertainties, conflicting data, estimates, extrapolations, inferences, and opinions.

(3) BEST ESTIMATE.—The term "best estimate" means an estimate which, to the extent feasible and scientifically appropriate, is based on one of the following:

(A) Central estimates of risk using the most plausible assumptions.

(B) An approach which combines multiple estimates based on different scenarios and weighs the probability of each scenario.

(C) Any other methodology designed to provide the most unbiased representation of the most plausible level of risk, given the current scientific information available to the Federal agency concerned.

(4) SUBSTITUTION RISK.—The term "substitution risk" means a potential increased risk to human health, safety, or the environment from a regulatory option designed to decrease other risks.

(5) FEDERAL AGENCY.—The term "Federal agency" means an executive department, military department, or independent establishment as defined in part I of title 5 of the United States Code, except that such term also includes the Office of Technology Assessment.

Subtitle B—Analysis of Risk Reduction Benefits and Costs

SEC. 3201. ANALYSIS OF RISK REDUCTION BENEFITS AND COSTS.

(a) IN GENERAL.—Except as provided in subsection (b), the President shall require each executive branch agency to prepare the following for each major rule designed to protect human health, safety, or the environment that is proposed or promulgated by the agency after the date of enactment of this Act:

(1) For each such proposed or promulgated rule, an assessment of incremental costs and incremental risk reduction or other benefits associated with each significant regulatory alternative considered by the agency in connection with the rule or proposed rule.

(2) For each such proposed or promulgated rule, to the extent feasible, a comparison of any human health, safety, or environmental risks addressed by the regulatory alternatives to other risks chosen by the head of the agency, including at least 3 other risks regulated by the agency and to at least 3 other risks with which the public is familiar.

(3) For each such proposed or promulgated rule, a statement of other human health risks potentially posed by implementing or complying with the regulatory alternatives, including substitution risks.

(4) For each final rule, an assessment of the costs and risk reduction or other benefits associated with implementation of, and compliance with, the rule.

(5) For each final rule, a certification by the head of the agency of each of the following:

(A) A certification that the assessment under paragraph (4) is based on an objective and unbiased scientific and economic evaluation of all significant and relevant information provided to the agency by interested parties relating to the costs, risks, and risk reduction or other benefits addressed by the rule. Such information shall have been subjected to peer review to the extent required by section 3301.

(B) A certification that the rule will substantially advance the purpose of protecting human health or the environment, as applicable, against the risk addressed by the rule.

(C) A certification that the rule will produce benefits to human health or the environment that will justify the costs incurred by local and State governments, the Federal Government, and other public and private entities as a result of implementation of and compliance with the rule, as determined under paragraph (1).

(D) A certification that there is no regulatory alternative that is allowed by the statute under which the regulation is promulgated that would achieve an equivalent

reduction in risk in a more cost-effective manner, along with a brief explanation of why other regulatory alternatives that were considered by the head of the agency were found to be less cost-effective.

(b) PUBLICATION.—For each major rule referred to in subsection (a) the head of each agency shall publish in a clear and concise manner in the Federal Register along with the proposed or final regulation, or otherwise make publicly available, the information required to be prepared under subsection (a) of this section.

(c) DEFINITIONS.—For purposes of this section:

(1) COSTS.—The term "costs" includes the direct and indirect costs to the United States government, costs to State and local governments, and costs to the private sector, of implementing and complying with a regulatory action.

(2) MAJOR RULE.— The term "major rule" means any regulation that is likely to result in one or more of the following:

(A) An annual effect on the economy of $25,000,000 or more.

(B) A major increase in costs or prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions.

(C) Significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

Subtitle C—Peer Review

SEC. 3301. PEER REVIEW PROGRAM.

(a) ESTABLISHMENT.—For regulatory programs addressing human health, safety, or the environment, the head of each Federal agency shall develop a systematic program for peer review of risk assessments and economic assessments used by the agency. Such program shall be applicable across the agency and—

(1) shall provide for the creation of peer review panels consisting of independent and external experts who are broadly representative and balanced to the extent feasible;

(2) may provide for differing levels of peer review depending on the significance or the complexity of the problems or the need for expeditiousness;

(3) shall not exclude peer reviewers merely because they represent entities that may have a potential interest in the outcome, provided that interest is fully disclosed to the agency; and

(4) shall provide open opportunity to become part of a peer review panel at a minimum by soliciting nominations through a Federal Register announcement.

(b) REQUIREMENT FOR PEER REVIEW.—Each Federal agency shall provide for peer review of scientific and economic information used for purposes of any evaluation under section 3201(a)(5)(A) or for purposes of any significant risk or cost assessment prepared in connection with a major rule. In addition, the Director of the Office of Management and Budget shall order that peer review be provided for any major risk assessment or cost assessment that may have a significant impact on public policy decisions.

(c) CONTENTS.—

(1) IN GENERAL.—Each peer review under this section shall include a report to the Federal agency concerned with respect to each of the following:

(A) An evaluation of the technical, scientific, and economic merit of the data and methods used for the assessment and analysis.

(B) A list of any considerations that were not taken into account in the assessment and analysis, but were considered appropriated by a majority of the members of the peer review panel.

(C) A discussion of the methodology used for the assessment and analysis.

(2) COMMENTS AND APPENDIX.—Each peer review report under this subsection shall include—

(A) all comments supported by a majority of the members of the peer review panel submitting the report; and

(B) an appendix which sets forth the dissenting opinions that any peer review panel member wants to express.

(3) SEPARATION OF ASSESSMENTS.—Peer review of human health, safety, environmental, and economic assessments may be separated for purpose of this subtitle.

(d) RESPONSE TO PEER REVIEW.—The head of the Federal agency shall provide a written response to all significant peer review comments.

(e) AVAILABILITY TO PUBLIC.—All peer review comments or conclusions and the agency's responses shall be made available to the public and shall be made part of the administrative record for purposes of judicial review of any final agency action.

(f) PREVIOUSLY REVIEWED DATA AND ANALYSIS.—No peer review shall be required under this section for any data or analysis which has been previously subjected to peer review or for any component of any evaluation or assessment previously subjected to peer review.

(g) NATIONAL PANELS.—The President shall appoint National Peer Review Panels to annually review the risk assessment and cost assessment practices of each Federal agency for programs designed to protect human health, safety, or the environment. The Panel shall submit a report to the Congress no less frequently than annually containing the results of such review.

(h) MAJOR RULE DEFINED.—For purposes of this section, the term "major rule" has the same meaning as provided by section 3201(c) except that "$100,000,000" shall be substituted for "$25,000,000".

TITLE IV—ESTABLISHMENT OF FEDERAL REGULATORY BUDGET COST CONTROL

SEC. 4001. AMENDMENTS TO THE CONGRESSIONAL BUDGET ACT OF 1974.

(a) FEDERAL REGULATORY BUDGET COST CONTROL SYSTEM.—Title III of the Congressional Budget Act of 1974 is amended by inserting before section 300 the following new center heading **"PART A—GENERAL PROVISIONS"** and by adding at the end the following new part:

"PART B—FEDERAL REGULATORY BUDGET COST CONTROL

"SEC. 321. OMB-CBO REPORTS.

"(a) OMB-CBO INITIAL REPORT.—Within 1 year after the date of enactment of this section, OMB and CBO shall jointly issue a report to the President and each House of Congress that contains the following:

"(1) For the first budget year beginning after the issuance of this report, a projection of the aggregate direct cost to the private sector of complying with all Federal regulations and rules in effect immediately before issuance of the report containing the projection for that budget year of the effect of current-year Federal regulations and rules into the budget year and the outyears based on those regulations and rules.

"(2) A calculation of the estimated aggregate direct cost to the private sector of compliance with all Federal regulations and rules as a percentage of the gross domestic product (GDP).

"(3) The estimated marginal cost (measured as a reduction in estimated gross domestic product) to the private sector of compliance with all Federal regulations and rules in excess of 5 percent of the gross domestic product.

"(4) The effect on the domestic economy of different types of Federal regulations and rules.

"(5) The appropriate level of personnel, administrative overhead, and programmatic savings that should be achieved on a fiscal year by fiscal year basis by Federal agencies that issue regulations or rules with direct costs to the private sector through the reduction of such aggregate costs to the private sector by equal percentage increments in the 6 years following the budget year until the aggregate level of such costs does not exceed 5 percent of the estimated gross domestic product for the same fiscal year as the estimated costs that will be incurred.

"(6) Recommendations for budgeting, technical, and estimating changes to improve the Federal regulatory budgeting process.

"(b) UPDATE REPORTS.—OMB and CBO shall issue update reports on September 15th of the fifth year beginning after issuance of the initial report and at 5-year intervals thereafter containing all the information required in the initial report, but based upon all Federal regulations and rules in effect immediately before issuance of the most recent update report.

"(c) INITIAL BASELINE REPORT.—Within 30 days after the date of enactment of this section, OMB and CBO shall jointly issue a report to the President and each House of Congress that contains an initial aggregate regulatory baseline for the first budget year that begins at least 120 days after that date of enactment. That baseline will be a projection of the aggregate direct cost to the private sector of complying with all Federal regulations and rules in effect immediately before issuance of the report containing the projection for that budget year of the effect of current-year Federal regulations and rules into the budget year and the outyears based on those regulations and rules.

"SEC. 322. AGGREGATE REGULATORY BASELINE.

"(a) IN GENERAL.—For the first budget year beginning after the date of enactment of this section and for every other fiscal year thereafter, the aggregate regulatory baseline refers to a projection of the aggregate direct cost to the private sector of complying with all Federal regulations and rules in effect immediately before issuance of the report containing the projection for that budget year of the effect of current-year Federal regulations and rules into the budget year and the outyears based on those regulations and rules. However, in the case of each of the succeeding fiscal years, the baseline shall be adjusted for the estimated growth during that year in the gross domestic product (GDP).

"(b) OMB-CBO AGGREGATE REGULATORY BASELINE REPORTS.—(1) The first budget year for which there shall be an aggregate regulatory baseline shall be the budget year to which the initial OMB-CBO baseline report issued under section 321(c) pertains.

"(2) In the case of each budget year after the budget year referred to in paragraph (1), not later than September 15 of the current year, OMB and CBO shall jointly issue a report containing the baseline referred to in subsection (a) for that budget year.

"SEC. 323. RECONCILIATION AND ALLOCATIONS.

"(a) RECONCILIATION DIRECTIVES.—In addition to the requirements of section 310, a

concurrent resolution on the budget for any fiscal year shall specify—

"(1) changes in laws and regulations and rules necessary to reduce the aggregate direct cost to the private sector of complying with all Federal regulations by 6.5 percent for the budget year (as measured against the aggregate regulatory baseline for the first budget year to which this part applies) and by equal percentage increments for each of the outyears (until the aggregate level of such costs does not exceed 5 percent of the estimated gross domestic product for the same fiscal year as the estimated costs that will be incurred) for Federal agencies that issue regulations or rules producing direct costs to the private sector; and

"(2) changes in laws necessary to achieve reductions in the level of personnel and administrative overhead and to achieve programmatic savings for the budget year and the outyears for those agencies of the following:

"(A) In the first outyear, one-fourth of the percent of reduction in regulatory authority from the aggregate regulatory base.

"(B) In the second outyear, one-third of the percent of reduction in regulatory authority from the aggregate regulatory base.

"(C) In the third, fourth, fifth, and sixth years following the budget year, one-half of the percent of reduction in regulatory authority from the aggregate regulatory base.

Section 310(c) shall not apply with respect to directions made under this section.

"(b) ALLOCATION OF TOTALS.—(1) The Committees on the Budget of the House of Representatives and the Senate shall each allocate aggregate 2-year regulatory authority among each committee of its House and by major functional category for the first budget year beginning after the date of enactment of this section and for the second, fourth, and sixth years following the budget year and then every other year thereafter.

"(2) As soon as practicable after receiving an allocation under paragraph (1), each committee shall subdivide its allocation among its subcommittees or among programs over which it has jurisdiction.

"(c) POINT OF ORDER.—(1) It shall not be in order in the House of Representatives or the Senate to consider any bill or resolution, or amendment thereto, which would cause the appropriate allocation made under subsection (b) for a fiscal year of regulatory authority to be exceeded.

"(2) WAIVER.—The point of order set forth in paragraph (1) may only be waived by the affirmative vote of at least three-fifths of the Members voting, a quorum being present.

"(d) DETERMINATIONS BY BUDGET COMMITTEES.—For purposes of this section, the level of regulatory authority for a fiscal year shall be determined by the Committee on the Budget of the House of Representatives or the Senate, as the case may be.

"(e) EXCEEDING ALLOCATION TOTALS.—Whenever any Committee of the House of Representatives exceeds its allocation of aggregate 2-year regulatory authority under subsection (b)(1), any Member of the House of Representatives may offer a bill in the House (which shall be highly privileged, unamendable, and debateable for 30 minutes) which shall only prohibit the issuance of regulations and rules by any agency under the jurisdiction of that committee for the fiscal years covered by that allocation until that committee eliminates its breach.

"SEC. 324. ANALYSIS OF REGULATORY COSTS BY CONGRESSIONAL BUDGET OFFICE.

"CBO shall prepare for each bill or resolution of a public character reported by any committee of the House of Representatives or the Senate (except the Committee on Appropriations of each House), and submit to such committee—

"(1) an estimate of the costs which would be incurred by the private sector in carrying out or complying with such bill or resolution in the fiscal year in which it is to become effective and in each of the 4 fiscal years following such fiscal year, together with the basis of each such estimate; and

"(2) a comparison of the estimate of costs described in paragraph (1) with any available estimates of costs made by such committee or by any Federal agency.

"SEC. 325. DEFINITIONS.

"As used in this part:

"(1) The term 'CBO' refers to the Director of the Congressional Budget Office.

"(2) The term 'OMB' refers to the Director of the Office of Management and Budget.

"(3) The term 'regulatory authority' or 'regulatory cost' means the direct cost to the private sector of complying with Federal regulations and rules.

"(4) The term 'direct costs' means (recognizing that direct costs are not the only costs associated with Federal regulation) all expenditures occurring as a direct result of complying with Federal regulation, rule, statement, or legislation, except those applying to the military or agency organization, management, and personnel.

"(5) The term 'regulation' or the term 'rule' means any agency statement of general applicability and future effect designed to implement, interpret, or prescribe law or policy or describing the procedure or practice requirements of any agency, but does not include—

"(A) administrative actions governed by the provisions of sections 556 and 557 of title 5, United States Code; or

"(B) rules or regulations issued with respect to a military or foreign affairs function of the United States.

"(6) The term 'agency' means any authority of the United States that is an agency under title section 3502(1) of title 44, United States Code, including independent agencies.".

SEC. 4002. PRESIDENT'S ANNUAL BUDGET SUBMISSIONS.

Section 1105(a) of title 31, United States Code, is amended by adding at the end the following new paragraph:

"(32) a regulatory authority budget analysis of the aggregate direct cost to the private sector of complying with all current and proposed Federal regulations and rules and proposals for complying with section 323 of the Congressional Budget Act of 1974 for the budget year and the outyears."

SEC. 4003. ESTIMATION AND DISCLOSURE OF COSTS OF FEDERAL REGULATION.

Chapter 6 of title 5, United States Code, popularly known as the "Regulatory Flexibility Act", is amended—

(1) in section 603(a) in the second sentence by inserting before the period the following: "and the monetary costs to small entities, other businesses, and individuals of complying with the proposed rule";

(2) by adding at the end of section 603 the following:

"(d) Each initial regulatory flexibility analysis shall also contain a description of the nature and amount of monetary costs that will be incurred by small entities, other businesses, and individuals in complying with the proposed rule.";

(3) in section 604(a)—

(A) in paragraph (2) by striking "and" after the semicolon;

(B) in paragraph (3) by striking the period and inserting "; and"; and

(C) by adding at the end the following:

"(4) a statement of the nature and amount of monetary costs that will be incurred by small entities, other businesses, and individuals in complying with the rule."; and

(4) in section 607 by inserting before the period the following: ", except that estimates of monetary costs under sections 603(d) and 604(a)(4) shall only be in the form of a numerical description".

TITLE V—STRENGTHENING OF PAPERWORK REDUCTION ACT

SEC. 5001. SHORT TITLE.

This title may be cited as the "Paperwork Reduction Act of 1995".

Subtitle A—Authorization of Appropriations

SEC. 5101. AUTHORIZATION OF APPROPRIATIONS.

Section 3520(a) of title 44, United States Code, is amended by striking out "$5,500,000 for each of the fiscal years 1987, 1988, and 1989." and inserting in lieu thereof "$7,000,000 for fiscal year 1994, $7,500,000 for fiscal year 1995, $8,000,000 for fiscal year 1996, $8,500,000 for fiscal year 1997, and $9,000,000 for fiscal year 1998.".

Subtitle B—Reducing the Burden of Federal Paperwork on the Public

SEC. 5201. COVERAGE OF ALL FEDERALLY SPONSORED PAPERWORK BURDENS.

Section 3502 of title 44, United States Code, is amended—

(1) by amending paragraph (3) to read as follows:

"(3) the term 'burden' means the time, effort, financial resources, and opportunity costs imposed on persons to generate, capture, assemble, process, maintain, and report information to or for a Federal agency, including—

"(A) the resources expended for obtaining, reviewing and understanding applicable instructions and requirements;

"(B) developing a way to comply with the applicable instructions and requirements;

"(C) adjusting the existing ways to comply with any previously applicable instructions and requirements;

"(D) searching existing data sources;

"(E) obtaining, compiling and maintaining the necessary data;

"(F) implementing recordkeeping requirements;

"(G) completing and reviewing the collection of information;

"(H) retaining, sharing, notifying, reporting, transmitting, labeling, or otherwise disclosing to third parties or the public the information involved; and

"(I) carrying out any other information transaction which occurs as a result of the collection of information;";

(2) in paragraph (4) by striking out "of facts or opinions by" and inserting in lieu thereof "(through maintenance, retention, notifying, reporting, labeling or disclosure to third parties or the public) of facts or opinions by or for"; and

(3) in paragraph (17) by inserting ", including the retention, reporting, notifying, or disclosure to third parties or the public of such records" before the period.

SEC. 5202. PAPERWORK REDUCTION GOALS.

Section 3505 of title 44, United States Code, is amended to read as follows:

"§ 3505. Assignment of tasks and deadlines

"In carrying out the functions under this chapter, the Director shall—

"(1) set a governmentwide goal, consistent with improving agency management of the process for the review of each collection of

information established under section 3506(e), to reduce by September 30, 1995, the burden of Federal collections of information existing on September 30, 1994, by at least 5 percent;

"(2) for the fiscal year beginning on October 1, 1995, and the following 3 fiscal years, set a governmentwide goal, consistent with improving agency management of the process for the review of each collection of information established under section 3506(e), to reduce the burden of Federal collections of information existing at the end of the immediately preceding fiscal year by at least 5 percent;

"(3) in establishing the governmentwide goal pursuant to paragraph (2), establish a goal for each agency that—

"(A) represents the maximum practicable opportunity to reduce the paperwork burden imposed upon the public by such agency's collections of information, after considering the recommendations of the senior agency official designated under section 3506(b)(1); and

"(B) permits the attainment of the governmentwide goal when such agency's goal is aggregated with the individual goals of all other agencies included in the governmentwide goal; and

"(4) in each report issued under section 3514, beginning with the report relating to fiscal year 1995, identify any agency initiatives to reduce the burden of the Federal collections of information associated with—

"(A) businesses, especially small businesses and those engaged in international competition;

"(B) State and local governments; and

"(C) educational institutions.".

Subtitle C—Enhancing Government Responsibility and Accountability for Reducing the Burden of Federal Paperwork

SEC. 5301. REEMPHASIZING THE RESPONSIBILITY OF THE DIRECTOR TO CONTROL THE BURDEN OF FEDERAL PAPERWORK.

Section 3504(c) of title 44, United States Code, is amended—

(1) in paragraph (3) by redesignating subparagraphs (B) and (C) as subparagraphs (C) and (D), respectively, and inserting after subparagraph (A) the following new subparagraph:

"(B) display, to the extent practicable, an estimate of the burden for each response;";

(2) by amending paragraphs (5) and (6) to read as follows:

"(5) establishing procedures under which an agency is to estimate the burden under this chapter to comply with the proposed collection of information;

"(6) coordinating with the Office of Federal Procurement Policy to eliminate paperwork burdens associated with procurement and acquisition;";

(3) by striking out the period at the end of paragraph (7) and inserting in lieu thereof a semicolon; and

(4) by adding at the end thereof the following new paragraphs:

"(8) minimizing the Federal paperwork burden imposed through Federal collection of information, with particular emphasis on those individuals or entities most adversely affected, including—

"(A) businesses, especially small businesses and those engaged in international competition;

"(B) State and local governments; and

"(C) educational institutions; and

"(9) initiating and conducting, with selected agencies and non-Federal entities on a voluntary basis, pilot projects to test or demonstrate the feasibility and benefit of changes or innovations in Federal policies, rules, regulations, and agency procedures to improve information management practices and related management activities (including authority for the Director to waive the application of designated agency regulations or administrative directives after giving timely notice to the public and Congress regarding the need for such waiver).".

SEC. 5302. ENHANCING AGENCY RESPONSIBILITY TO OBTAIN PUBLIC REVIEW OF PROPOSED PAPERWORK BURDENS.

Section 3507(a) of title 44, United States Code, is amended—

(1) in paragraph (2)(B) by inserting "a summary of the request," after "title for the information collection request,";

(2) by striking out "and" at the end of paragraph (2); and

(3) by redesignating paragraph (3) as paragraph (4) and inserting after paragraph (2) the following:

"(3) the agency provides at least 30 days for public comment to the agency and the Office of Management and Budget after publication of the notice in the Federal Register, except as provided under section 3507 (g) and (k), and the agency head and the Director consider comments received regarding the proposed collection of information; and".

SEC. 5303. EXPEDITING REVIEW AT THE OFFICE OF MANAGEMENT AND BUDGET.

Section 3507(b) of title 44, United States Code, is amended—

(1) by striking out the first sentence and inserting in lieu thereof "The Director shall within 30 days after publication of the notice under subsection (a)(3) that is applicable to a proposed information collection request not contained in a proposed rule, notify the agency involved of the decision to approve or disapprove the proposed information collection request and shall make such decisions publicly available. Any decision to disapprove an information collection request shall include an explanation of the reasons for such decision.";

(2) by striking out "sixty" each place it appears and inserting "30" in each such place;

(3) by striking out "thirty" and inserting in lieu thereof "30"; and

(4) by striking out "one" and inserting in lieu thereof "1".

SEC. 5304. IMPROVING PUBLIC AND AGENCY SCRUTINY OF PAPERWORK BURDENS PROPOSED FOR RENEWAL.

(a) APPROVAL OF INFORMATION COLLECTION REQUEST.—Section 3507(d) of title 44, United States Code, is amended—

(1) by inserting "(1)" after "(d)"; and

(2) by adding at the end thereof the following:

"(2)(A) If the head of the agency, or the senior official designated under section 3506(b)(1), decides to seek extension of the Director's approval granted for a currently approved information collection request, the agency shall, through the notice prescribed in subsection (a)(2)(B) and such other practicable steps as may be reasonable, seek comment from the agencies, and the public on the continued need for, and burden imposed by, the collection of information.

"(B) The agency, after having made a reasonable effort to seek comment under subparagraph (A), but no later than 60 days before the expiration date of the control number assigned by the Director for the currently approved information collection request, shall—

"(i) evaluate the public comments received;

"(ii) conduct the review established under section 3506(e); and

"(iii) provide to the Director the certification required by section 3506(f), including the text of the certification and any additional relevant information regarding how the information collection request comports with the principles and requirements of this chapter.

"(C) Upon receipt of such certification, and prior to the expiration of the control number for that information collection request, the Director shall—

"(i) ensure that the agency has taken the actions specified under section 3506(f)(2);

"(ii) evaluate the public comments received by the agency or by the Director;

"(iii) determine whether the agency certification complies with the standards under section 3506(f)(1); and

"(iv) approve or disapprove the information collection request under this chapter.

"(3) If a certification is not provided to the Director prior to the beginning of the 60-day period before the expiration of the control number as provided under paragraph (2)(B), the agency shall submit the information collection request for review and approval or disapproval under this chapter.

"(4) An agency may not make a substantive or material modification to an information collection request after it has been approved by the Director, unless the modification has been submitted to the Director for review and approval or disapproval under this chapter.".

(b) APPROVAL OF INFORMATION COLLECTION REQUIREMENTS.—Section 3507 of title 44, United States Code, is further amended by adding at the end thereof the following new subsections:

"(i)(1) As soon as practicable, but no later than publication of a notice of proposed rulemaking in the Federal Register, each agency shall forward to the Director a copy of any proposed rule which contains a collection of information requirement and upon request, information necessary to make the determination required under this chapter.

"(2) Within 60 days after the notice of proposed rulemaking is published in the Federal Register, the Director may file public comments under the standards set forth in section 3508 on the collection of information requirement contained in the proposed rule.

"(3) When a final rule is published in the Federal Register, the agency shall explain how any collection of information requirement contained in the final rule responds to the comments, if any, filed by the Director or the public, or explain the reasons such comments were rejected.

"(4) The Director has no authority to disapprove any collection of information requirement specifically contained in an agency rule, if the Director has received notice and failed to comment on the rule within 60 days after the notice of proposed rulemaking.

"(5) No provision in this section shall be construed to prevent the Director, at the discretion of such officer, from—

"(A) disapproving any information collection request which was not specifically required by an agency rule;

"(B) disapproving any collection of information requirement contained in an agency rule, if the agency failed to comply with the requirements of paragraph (1) of this subsection;

"(C) disapproving any collection of information requirement contained in a final agency rule, if the Director finds within 60 days after the publication of the final rule that such a collection of information requirement cannot be approved under the

standards set forth in section 3508, after reviewing the agency's response to the comments of the Director filed under paragraph (2) of this subsection; or

"(D) disapproving any collection of information requirement, if the Director determines that the agency has substantially modified, in the final rule, the collection of information requirement contained in the proposed rule and the agency has not given the Director the information required under paragraph (1) with respect to the modified collection of information requirement, at least 60 days before the issuance of the final rule.

"(6) The Director shall make publicly available any decision to disapprove a collection of information requirement contained in an agency rule, together with the reasons for such decision.

"(7) The authority of the Director under this subsection is subject to subsection (c).

"(8) This subsection shall apply only when an agency publishes a notice of proposed rulemaking and requests public comments.

"(9) The decision of the Director to approve or not to act upon a collection of information requirement contained in an agency rule shall not be subject to judicial review.

"(j)(1) If the head of the agency, or the senior official designated under section 3506(b)(1), decides to seek extension of the Director's approval granted for a currently approved collection of information requirement, the agency shall, through the notice prescribed in subsection (a)(2)(B) and such other practicable steps as may be reasonable, seek comment from the agencies, and the public on the continued need for, and burden imposed by, the collection of information requirement.

"(2) The agency, after having made a reasonable effort to seek comment under paragraph (1), but no later than 60 days before the expiration date of the control number assigned by the Director for the currently approved collection of information requirement, shall—

"(A) evaluate the public comments received;

"(B) conduct the review established under section 3506(e); and

"(C) provide to the Director the certification required by section 3506(f), including the text of the certification and any additional relevant information regarding how the collection of information requirement comports with the principles and requirements of this chapter.

"(3) Upon receipt of such certification, and prior to the expiration date of the control number for that collection of information requirement, the Director shall—

"(A) ensure that the agency has taken the actions specified in section 3506(f)(2);

"(B) evaluate the public comments received by the agency or by the Director;

"(C) determine whether the agency certification complies with the standards under section 3506(f)(1); and

"(D) approve or disapprove the collection of information requirement under this chapter.

"(4) If under the provisions of paragraph (3), the Director disapproves a collection of information requirement, or recommends or instructs the agency to make a substantive or material change to a collection of information requirement, the Director shall—

"(A) publish an explanation thereof in the Federal Register; and

"(B) instruct the agency to undertake a rulemaking within a reasonable time limited to consideration of changes to the collection of information requirement and thereafter to submit the collection of information requirement for approval or disapproval under this chapter.

"(5) Nothing in this subsection affects the review process for a collection of information requirement contained in a proposed rule, including a proposed change to an existing collection of information requirement, under subsection (i) with respect to such collection of information requirement.

"(6) The Director may not approve a collection of information requirement for a period in excess of 3 years.".

SEC. 5305. PROTECTION FOR WHISTLEBLOWERS OF UNAUTHORIZED PAPERWORK BURDEN.

Section 3507(h) of title 44, United States Code, is amended in the second sentence by inserting before the period ", and any communication relating to a collection of information, the disclosure of which could lead to retaliation or discrimination against the communicator".

SEC. 5306. ENHANCING PUBLIC PARTICIPATION.

Section 3517 of title 44, United States Code, is amended—

(1) by inserting "(a)" before "In development"; and

(2) by adding at the end thereof:

"(b)(1) Under procedures established by the Director, a person may request the Director to review any collection of information conducted by or for an agency to determine, if—

"(A) the collection of information is subject to the requirements of this chapter;

"(B) the collection of information has been approved in conformity with this chapter; and

"(C) the person that is to respond to the collection of information is entitled to the public protections afforded by this chapter.

"(2) Any review requested under paragraph (1), unless the request is determined frivolous or does not on its face state a valid basis for such review, shall—

"(A) be completed by the Director within 60 days after receiving the request, unless such period is extended by the Director to a specified date and the person making the request is given notice of such extension;

"(B)(i) be coordinated with the agency responsible for the collection of information to which the request relates; and

"(ii) be coordinated with the Administrator for Federal Procurement Policy, if the request relates to a collection of information applicable to an actual or prospective Federal contractor or subcontractor at any tier; and

"(C) result in a written determination by the Director, that shall be—

"(i) furnished to the person making the request; and

"(ii) made available to the public upon request (and listed and summarized in the annual report required under section 3514), unless confidentiality is requested by the person making the request.".

SEC. 5307. EXPEDITING REVIEW OF AN AGENCY INFORMATION COLLECTION REQUEST WITH A REDUCED BURDEN.

Section 3507 of title 44, United States Code (as amended by section 5304(b) of this title) is further amended by adding at the end thereof the following new subsection:

"(k) Upon request by the head of an agency, the Director shall approve a proposed change to an existing information collection request (unless such proposed change is subject to subsection (i)) within 30 days after the Director receives the proposed change. The information collection request shall thereafter remain in effect at least for the remainder of the period for which it was previously approved by the Director, if—

"(1) the information collection request has a current control number; and

"(2) the Director determines that the revision—

"(A) reduces the burden resulting from the information collection request; and

"(B) does not substantially change the information collection request.".

Subtitle D—Enhancing Agency Responsibility for Sharing and Disseminating Public Information

SEC. 5401. PRESCRIBING GOVERNMENTWIDE STANDARDS FOR SHARING AND DISSEMINATING PUBLIC INFORMATION.

Section 3504(h) of title 44, United States Code, is amended to read as follows:

"(h) The functions of the Director related to agency dissemination and sharing of public information shall include—

"(1) developing policies and practices for agency dissemination and sharing of public information consistent with the agency responsibilities under section 3506(g); and

"(2) developing policy guidelines that instruct Federal agencies on ways to fulfill agency responsibilities to disseminate and share information that, to the extent appropriate and practicable—

"(A) make information dissemination products available on timely, equitable and cost effective terms;

"(B) encourage a diversity of public and private information dissemination products;

"(C) avoid establishing, or permitting others to establish, exclusive, restricted, or other distribution arrangements that interfere with the availability of information dissemination products on a timely and equitable basis; and

"(D) avoid establishing restrictions or regulations, including the charging of fees or royalties, on the reuse, resale, or redissemination of Federal information dissemination products by the public; and

"(E) set user charges for information dissemination products at a level sufficient to recover the cost of dissemination, except—

"(i) where otherwise required by statute;

"(ii) where the information is collected, processed, and disseminated for the benefit of a specific identifiable group beyond the benefit to the general public; or

"(iii) where user charges are established at less than cost of dissemination because of a determination that higher charges would interfere with the proper performance of the agency's functions.".

SEC. 5402. AGENCY RESPONSIBILITIES FOR SHARING AND DISSEMINATING PUBLIC INFORMATION.

Section 3506 of title 44, United States Code, is amended by adding at the end thereof the following new subsection:

"(g) The head of each agency shall, to the extent appropriate and practicable, and in conformance with the policy guidelines established under section 3504(h), establish and maintain a management system for the dissemination and sharing of information that—

"(1) ensures that the public has timely, equitable and cost-effective access to the agency's information dissemination products;

"(2) disseminates and shares information in a manner that achieves the best balance between maximizing the usefulness of the information and minimizing the cost to the Government and the public;

"(3) takes advantage of all appropriate channels, Federal and non-Federal, including State and local governments, libraries and

private sector entities, in discharging agency responsibilities for the dissemination and sharing of information;

"(4) considers whether an information dissemination product available from other Federal or non-Federal sources is equivalent to an agency information dissemination product and reasonably achieves the objectives of the agency;

"(5) establishes and maintains inventories of all agency information dissemination products in conformance with the requirements of section 3511;

"(6) establishes and maintains communications with members of the public and with State and local governments so that the agency shares information and otherwise creates information dissemination products that meet their respective needs; and

"(7) provides adequate notice when initiating, substantially modifying, or terminating significant information dissemination products.".

SEC. 5403. AGENCY INFORMATION INVENTORY/LOCATOR SYSTEM.

(a) IN GENERAL.—Section 3511 of title 44, United States Code, is amended to read as follows:

"§ 3511. Inventory systems of information dissemination products

"(a) Each agency having significant information dissemination products shall establish and maintain a comprehensive inventory of such products, which shall include, at a minimum, the title of each such product, an abstract of the contents of each product, the media in which each product is available, and the cost, if any, of each product, subject to any requirements promulgated pursuant to subsection (c).

"(b) The inventory created pursuant to subsection (a) shall be made available for public access by electronic means, and in such other media as are appropriate and practicable, at no charge to the public.

"(c) The Director, in consultation with the Secretary of Commerce, the Archivist of the United States, the Public Printer, and the Librarian of Congress, may establish a mechanism for developing technical standards and other minimum requirements for the agency inventory systems created under subsection (a).".

(b) TECHNICAL AND CONFORMING AMENDMENT.—The table of sections for chapter 35 of title 44, United States Code, is amended by amending the item relating to section 3511 to read as follows:

"3511. Inventory systems of information dissemination products.".

Subtitle E—Additional Government Information Management Responsibility

SEC. 5501. STRENGTHENING THE STATISTICAL POLICY AND COORDINATION FUNCTIONS OF THE DIRECTOR.

Section 3504(d) of title 44, United States Code, is amended to read as follows:

"(d)(1) The statistical policy and coordination functions of the Director shall include—

"(A) coordinating and providing leadership for development of the Federal statistical system;

"(B) developing and periodically reviewing and, as necessary, revising long-range plans for the improved coordination and performance of the statistical activities and programs of the Federal Government;

"(C) ensuring the integrity, objectivity, impartiality and confidentiality of the Federal statistical system;

"(D) reviewing budget proposals of agencies to ensure that the proposals are consistent with such long-range plans and developing a summary and analysis of the budget submitted by the President to the Congress for each fiscal year of the allocation for all statistical activities;

"(E) coordinating, through the review of budget proposals and as otherwise provided under this chapter, the functions of the Federal Government with respect to gathering, interpreting and sharing statistics and statistical information;

"(F) developing and implementing governmentwide policies, principles, standards and guidelines concerning statistical collection procedures and methods, statistical data classification, statistical information presentation and sharing, and such statistical data sources as may be required for the administration of Federal programs;

"(G) evaluating statistical program performance and agency compliance with governmentwide policies, principles, standards and guidelines;

"(H) promoting the timely release by agencies of statistical data to the public;

"(I) coordinating the participation of the United States in international statistical activities;

"(J) preparing an annual report to submit to the Congress on the statistical policy and coordination function;

"(K) integrating the functions described under this paragraph with the other information resources management functions specified under this chapter; and

"(L) appointing a chief statistician who is a trained and experienced professional to carry out the functions described under this paragraph.

"(2) The Director shall establish an interagency working group on statistical policy, consisting of the heads of the agencies with major statistical programs, headed by the chief statistician to coordinate agency activities in carrying out the functions under paragraph (1).

"(3) The Director shall provide opportunities for long-term training in the statistical policy functions of the chief statistician to employees of the Federal Government. Each trainee shall be selected at the discretion of the Director based on agency requests and shall serve for at least 6 months and no more than 1 year. All costs of the training are to be paid by the agency requesting training.".

SEC. 5502. USE OF ELECTRONIC INFORMATION COLLECTION AND DISSEMINATION TECHNIQUES TO REDUCE BURDEN.

Section 3504(g)(1) of title 44, United States Code, is amended—

(1) by inserting "development and" after "overseeing the"; and

(2) by inserting "(including standards that improve the ability of agencies to use technology to reduce burden)" after "establishment of standards".

SEC. 5503. AGENCY IMPLEMENTATION.

Section 3514(a) of title 44, United States Code, is amended—

(1) in paragraph (9)(C) by striking out "and" at the end thereof;

(2) in paragraph (10)(C) by striking out the period and inserting in lieu thereof a semicolon; and

(3) by adding at the end thereof the following new paragraphs:

"(11) a listing of any increase in the burden imposed on the public during the year covered by the report resulting from a collection of information conducted or sponsored by or for an agency, which was imposed by such agency—

"(A) as specifically mandated by the provision of a statute; or

"(B) as necessary to implement a statutory requirement, which requirement shall be identified with particularity;

"(12) a description of each such agency's efforts in implementing, and plans to implement, the applicable policies, standards and guidelines with respect to the functions under this chapter; and

"(13) a strategic information resources management plan for the Federal Government, developed in consultation with the Administrator of General Services, the Secretary of Commerce, and the Archivist of the United States, that includes an analysis of cross-cutting issues of governmentwide importance.".

SEC. 5504. AUTOMATIC DATA PROCESSING EQUIPMENT PLAN.

Section 3504(g) of title 44, United States Code, is amended—

(1) by redesignating paragraphs (3), (4), and (5) as paragraphs (4), (5), and (6), respectively; and

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

"(3) developing and annually revising, in consultation with the Administrator of General Services, a 5-year plan for meeting the automatic data processing equipment (including telecommunications) and other information technology needs of the Federal Government in accordance with the requirements of sections 110 and 111 of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 757 and 759) and the purposes of this chapter;".

SEC. 5505. TECHNICAL AND CONFORMING AMENDMENTS.

(a) DEFINITIONS.—Section 3502(10) of title 44, United States Code, is amended by striking out "the Federal Housing Finance Board" and inserting in lieu thereof "Federal Housing Finance Board".

(b) REVIEW PERIODS.—Section 3507(g)(1) of title 44, United States Code, is amended to read as follows: "(1) is needed prior to the expiration of the time periods for public notice and review by the Director pursuant to the requirements of this chapter,".

(c) DIRECTOR REVIEW.—Section 3513(a) of title 44, United States Code, is amended in the first sentence by inserting "resources" after "information".

(d) RESPONSIVENESS.—Section 3514(a) of title 44, United States Code, is amended—

(1) in paragraph (9)(A) by inserting "and" at the end thereof;

(2) in paragraph (9)(B) by striking out the semicolon and inserting a period; and

(3) by striking out paragraph (9)(C).

Subtitle F—Effective Dates

SEC. 5601. EFFECTIVE DATES.

(a) IN GENERAL.—Except as provided in subsection (b), the provisions of this title shall become effective 120 days after the date of the enactment of this Act.

(b) IN PARTICULAR.—section 5101 and this section shall become effective upon the date of the enactment of this Act.

TITLE VI—STRENGTHENING REGULATORY FLEXIBILITY

SEC. 6001. JUDICIAL REVIEW.

(a) IN GENERAL.—Section 611 of title 5, United States Code, is repealed.

(b) CONFORMING AMENDMENT.—The table of sections at the beginning of chapter 6 of title 5, United States Code, is amended by striking the item relating to section 611.

SEC. 6002. CONSIDERATION OF DIRECT AND INDIRECT EFFECTS OF RULES.

(a) IN GENERAL.—Title 5, United States Code, is amended by inserting after section 610 the following new section:

"§ 611. Consideration of direct and indirect effects of rules

"In determining under this chapter whether or not a rule is likely to have a significant impact on a substantial number of small entities, an agency shall consider both the direct and indirect effects of the rule.".

(b) CONFORMING AMENDMENT.—The table of sections at the beginning of chapter 6 of title 5, United States Code, is amended by inserting after the item relating to section 610 the following:

"611. Consideration of direct and indirect effects of rules.".

SEC. 6003. RULES OPPOSED BY SBA CHIEF COUNSEL FOR ADVOCACY.

(a) IN GENERAL.—Section 612 of title 5, United States Code, is amended by adding at the end the following new subsection:

"(d) STATEMENT OF OPPOSITION.—

"(1) TRANSMITTAL OF PROPOSED RULES AND INITIAL REGULATORY FLEXIBILITY ANALYSIS TO SBA CHIEF COUNSEL FOR ADVOCACY.—On or before the 30th day preceding the date of publication by an agency of general notice of proposed rulemaking for a rule, the agency shall transmit to the Chief Counsel for Advocacy of the Small Business Administration—

"(A) a copy of the proposed rule; and

"(B)(i) a copy of the initial regulatory flexibility analysis for the rule if required under section 603; or

"(ii) a determination by the agency that an initial regulatory flexibility analysis is not required for the proposed rule under section 603 and an explanation for the determination.

"(2) STATEMENT OF OPPOSITION.—On or before the 15th day following receipt of a proposed rule and initial regulatory flexibility analysis from an agency under paragraph (1), the Chief Counsel for Advocacy may transmit to the agency a written statement of opposition of the proposed rule.

"(3) RESPONSE.—If the Chief Counsel for Advocacy transmits to an agency a statement of opposition to a proposed rule in accordance with paragraph (2), the agency shall publish the statement, together with the response of the agency to the statement, in the Federal Register at the time of publication of general notice of proposed rulemaking for the rule.".

(b) CONFORMING AMENDMENT.—Section 603(a) of title 5, United States Code, is amended by inserting "in accordance with section 612(d)" before the period at the end of the last sentence.

SEC. 6004. SENSE OF CONGRESS REGARDING SBA CHIEF COUNSEL FOR ADVOCACY.

It is the sense of Congress that the Chief Counsel for Advocacy of the Small Business Administration should be permitted to appear as amicus curiae in any action or case brought in a court of the United States for the purpose of reviewing a rule.

TITLE VII—REGULATORY IMPACT ANALYSES

SEC. 7001. SHORT TITLE.

This title may be cited as the "Administrative Procedure Reform Act of 1995".

SEC. 7002. RULE MAKING NOTICES FOR MAJOR RULES.

Section 553 of title 5, United States Code, is amended by adding at the end the following:

"(f)(1)(A) The head of an agency shall publish in the Federal Register, at least 90 days before the date of publication of general notice under subsection (b) for a proposed major rule, a notice of intent to engage in rule making.

"(B) A notice under subparagraph (A) for a proposed major rule shall include, to the extent possible, the information required to be included in a Regulatory Impact Analysis for the rule under section 7004(c) (1), (2), and (8) of the Administrative Procedure Reform Act of 1995.

"(2) The head of an agency shall include in a general notice under subsection (b) for a major rule proposed by the agency—

"(A) a final Regulatory Impact Analysis for the rule prepared in accordance with section 7004 of the Administrative Procedure Reform Act of 1995; and

"(B) clear delineation of all changes in the information included in the final Regulatory Impact Analysis under section 7004(c)(1) and (2) of the Administrative Procedure Reform Act of 1995 from any such information that was included in the notice for the rule under paragraph (1)(B) of this subsection.

"(3) In this subsection, the term 'major rule' has the meaning given that term in section 7004(b) of the Administrative Procedure Reform Act of 1995.".

SEC. 7003. HEARING REQUIREMENT FOR PROPOSED RULES; EXTENSION OF COMMENT PERIOD.

(a) HEARING REQUIREMENT.—Section 553 of title 5, United States Code, is further amended—

(1) in subsection (b), in the matter following paragraph (3), by inserting "(except subsection (g))" after "this subsection"; and

(2) by adding after subsection (f) (as added by section 7002 of this title) the following:

"(g) If more than 100 interested persons acting individually submit comments to an agency regarding any rule proposed by the agency, the agency shall hold a public hearing on the proposed rule.".

(b) EXTENSION OF COMMENT PERIOD.—Section 553 of title 5, United States Code, is further amended by adding after subsection (g) (as added by subsection (a)(2) of this section) the following:

"(h) If during the 30-day period beginning on the date of publication of notice under subsection (f)(1)(A) for a proposed major rule, or if during the 30-day period beginning on the date of publication or service of notice required by subsection (b) for a proposed rule, more than 100 persons individually contact the agency to request an extension of the period for making submissions under subsection (c) pursuant to the notice, the agency—

"(1) shall provide an additional 30-day period for making those submissions; and

"(2) may not adopt the rule until after that additional period.".

(c) RESPONSE TO COMMENTS.—Section 553(c) of title 5, United States Code, is amended—

(1) by inserting "(1)" after "(c)"; and

(2) by adding at the end the following:

"(2) The head of an agency shall publish in the Federal Register with each rule published under section 552(a)(1)(D) of this title, responses to the substance of the comments received by the agency regarding the rule.".

SEC. 7004. REGULATORY IMPACT ANALYSIS.

(a) APPLICATION OF EXECUTIVE ORDER AS STATUTORY REQUIREMENT.—Except as otherwise provided in this section, Executive Order 12291 (relating to Federal regulation requirements and regulatory impact analysis), as in effect on September 29, 1993, shall apply to each agency in accordance with the provisions of the Order.

(b) DEFINITION OF MAJOR RULE IN ORDER.—Notwithstanding section 1(b) of the Order, for purposes of subsection (a) of this section, the term "major rule" means any proposed rulemaking—

(1) which affects more than 100 persons; or

(2) compliance with which will require the expenditure of more than $1,000,000 by any single person which is not a Federal agency.

(c) CONTENTS OF REGULATORY IMPACT ANALYSES.—In lieu of the information specified in section 3(d) of the Order, each preliminary and final Regulatory Impact Analysis required under section 3 of the Order for a rule shall contain the following:

(1) An explanation of the necessity, appropriateness and reasonableness of the rule.

(2) A description of the current condition that the rule will address and how that condition will be affected by the rule.

(3) A statement that the rule does not conflict with nor duplicate any other rule, or an explanation of why the conflict or duplication exists.

(4) A statement of whether the rule is in accord with or in conflict with any legal precedent.

(5) A statement of the factual, scientific, or technical basis for the agency's determination that the rule will accomplish its intended purpose.

(6) A statement that describes and, to the extent practicable, quantifies the risks to human health or the environment to be addressed by the rule.

(7) A demonstration that the rule provides the least costly or least intrusive approach for meeting its intended purpose.

(8) A description of any alternative approaches considered by the agency or suggested by interested persons and the reasons for their rejection.

(9) An estimate of the nature and number of persons to be regulated or affected by the rule.

(10) An estimate of the economic costs of the rule, including those incurred by persons in complying with the rule.

(11) An evaluation of the costs versus the benefits derived from the rule, including evaluation of how those benefits outweigh the cost.

(12) Whether the rule will require onsite inspections.

(13) An estimate of the paperwork burden on persons regulated or affected by the rule, such as the number of forms, impact statements, surveys, and other documents required to be completed by the person under the rule.

(14) Whether persons will be required by the rule to maintain any records which will be subject to inspection.

(15) Whether persons will be required by the rule to obtain licenses, permits, or other certifications, and the fees and fines associated therewith.

(16) Whether persons will be required by the rule to appear before the agency.

(17) Whether persons will be required by the rule to disclose information on materials or processes, including trade secrets.

(18) Whether persons will be required by the rule to report any particular type of incidents.

(19) Whether persons will be required by the rule to adhere to design or performance standards.

(20) Whether persons may need to retain or utilize any lawyer, accountant, engineer, or other professional consultant in order to comply with the regulations.

(21) An estimate of the costs to the agency for implementation and enforcement of the regulations.

(22) Whether the agency can be reasonably expected to implement the rule with the current level of appropriations.

(23) A statement that any person may submit comments on the Regulatory Impact Analysis to the Administrator of the Office of Information and Regulatory Affairs.

The requirements of this section shall be consistent with, and not duplicative of, the requirements of section 3201.

(d) DEFINITIONS.—In this section—

(1) the term "Order" means Executive Order 12291, as in effect on September 29, 1993; and

(2) each of the terms "agency", "regulation", and "rule" has the meaning given that term in section 1 of the Order, except that the term "agency" includes an independent agency.

SEC. 7005. ADDITIONAL RESPONSIBILITIES OF DIRECTOR OF THE OFFICE OF MANAGEMENT AND BUDGET.

An agency may not adopt a major rule unless the final Regulatory Impact Analysis for the rule is approved in writing by the Director of the Office of Management and Budget or by an individual designated by the Director for that purpose.

SEC. 7006. STANDARD OF CLARITY.

To the extent practicable, the head of an agency may not publish in the Federal Register any proposed major rule, summary of a proposed major rule, or Regulatory Impact Analysis unless the Director of the Office of Management and Budget certifies that the proposed major rule, summary, or Analysis—

(1) is written in a reasonably simple and understandable manner and is easily readable;

(2) is written to provide adequate notice of the content of the rule, summary, or Analysis to affected persons and interested persons that have some subject matter expertise;

(3) conforms to commonly accepted principles of grammar;

(4) contains only sentences that are as short as practical and organized in a sensible manner; and

(5) to the extent practicable, does not contain any double negatives, confusing cross references, convoluted phrasing, unreasonably complex language, or term of art or word with multiple meanings that may be misinterpreted and is not defined in the rule, summary, or analysis, respectively.

SEC. 7007. REPORT BY OIRA.

The Director of the Office of Management and Budget shall submit a report to the Congress no later than 24 months after the date of the enactment of this Act containing an analysis of rule making procedures of Federal agencies and an analysis of the impact of those rule making procedures on the regulated public and regulatory process.

SEC. 7008. DEFINITIONS.

For purposes of this title—

(1) except as provided in section 7004(d)(2), each of the terms "agency", "rule", and "rule making" has the meaning given that term in section 551 of title 5, United States Code; and

(2) the term "major rule" has the meaning given that term in section 7004(b).

TITLE VIII—PROTECTION AGAINST FEDERAL REGULATORY ABUSE

Subtitle A—Citizens' Regulatory Bill of Rights

SEC. 8101. CITIZENS' REGULATORY BILL OF RIGHTS.

(a) IN GENERAL.—Except as provided in subsection (c), each person that is the target of a Federal investigative or enforcement action shall, upon the initiation of an inspection, investigation, or other official proceeding directed against that person, have the right—

(1) to remain silent;

(2) to be advised as to whether the person has a right to a warrant;

(3) to be warned that statements can be used against them;

(4) to have an attorney or accountant present;

(5) to be informed as the the scope and purpose of the agency action;

(6) to be present at the inspection, investigation, or proceeding;

(7) to be reimbursed for unreasonable damages;

(8) to be free of unreasonable seizures of property or assets; and

(9) to receive attorneys fees and other expenses from the Government when the Government commences a frivolous civil action against such person, except that nothing in this paragraph shall be construed to affect the Equal Access to Justice Act.

(b) AGENCY RULES.—Each agency or other authority of the Federal Government with respect to which this section applies shall make appropriate rules within 90 days after the date of the enactment of this Act to implement this section in the context of that agency's functions.

(c) LIMITATION ON APPLICATION OF REQUIREMENTS.—A requirement of this section shall not apply if compliance with the requirement would—

(1) substantially delay responding to an imminent danger to person or property; or

(2) substantially or unreasonably impede a criminal investigation.

Subtitle B—Private Sector Whistleblowers' Protection

SEC. 8201. SHORT TITLE.

This subtitle may be cited as the "Private Sector Whistleblowers' Protection Act of 1995".

SEC. 8202. PURPOSE.

The Federal regulatory system should be implemented consistent with the principle that any person subject to Government regulation should be protected against reprisal for disclosing information that the person believes is indicative of—

(1) violation or inconsistent application of any law, rule, regulation, policy, or internal standard;

(2) arbitrary action or other abuse of authority;

(3) mismanagement;

(4) waste or misallocation of resources;

(5) inconsistent, discriminatory or disproportionate enforcement proceedings;

(6) endangerment of public health or safety;

(7) personal favoritism; and

(8) coercion for partisan political purposes;

by any agency or its employees.

SEC. 8203. COVERAGE.

This subtitle shall apply to:

(1) Any agency of the Federal Government as defined in section 551 of title 5, United States Code.

(2) Any agency of a State government that exercises authority under Federal law, or that exercises authority under State law establishing a program approved by a Federal agency as a substitute for or supplement to a program established by Federal law.

SEC. 8204. PROHIBITED REGULATORY PRACTICES.

(a) DEFINED.—For purposes of this subtitle, "prohibited regulatory practice" means any action described in subsection (b)(i), (ii), or (iii) of this section.

(b) PROHIBITION.—(1) No employee of an Agency who has authority—

(A) to take or direct other employees to take,

(B) to recommend, or

(C) to approve,

any regulatory action shall—

(i) take or fail to take, or threaten to take or fail to take,

(ii) recommend or direct that others take or fail to take, or threaten to so recommend or direct, or

(iii) approve the taking or failing to take, or threaten to so approve,

such regulatory action because of any disclosure by a person subject to the action, or by any other person, of information that the person believed indicative of—

(I) violation or inconsistent application of any law, rule, regulation, policy, or internal standard;

(II) arbitrary action or other abuse of authority;

(III) mismanagement;

(IV) waste or misallocation of resources;

(V) inconsistent, discriminatory or disproportionate enforcement;

(VI) endangerment of public health or safety;

(VII personal favoritism; or

(VIII) coercion for partisan political purposes;

by any agency or its employees.

(2) An action shall be deemed to have been taken, not taken, approved, or recommended because of the disclosure of information within the meaning of paragraph (1) if the disclosure of information was a contributing factor to the decision to take, not to take, to approve, or to recommend.

SEC. 8205. PROHIBITED REGULATORY PRACTICE AS A DEFENSE TO AGENCY ACTION.

(a) IN GENERAL.—In any administrative or judicial action or proceeding, formal or informal, by an agency to create, apply or enforce any obligation, duty or liability under any law, rule or regulation against any person, the person may assert as a defense that the agency or one or more employees of the agency have engaged in a prohibited regulatory practice with respect to the person or to a related entity in connection with the action or proceeding.

(b) COMPLIANCE.—If the existence of a prohibited regulatory practice is established, the person may be required to comply with the obligation, duty or liability to the extent compliance is required of and enforced against other persons similarly situated, but no penalty, fine, damages, costs or other obligation except compliance shall be imposed on the person.

SEC. 8206. ENFORCEMENT.

(a) CIVIL PENALTY.—Any agency, and any employee of an agency, engaging in a prohibited regulatory practice may be assessed a civil penalty of not more than $25,000 for each such practice. In the case of a continuing prohibited regulatory practice, each day that the practice continues shall be deemed a separate practice.

(b) PROCEDURES.—The President shall, by regulation, establish procedures providing for the administrative enforcement of the requirements of subsection (a) of this section.

SEC. 8207. CITIZEN SUITS.

(a) COMMENCEMENT.—Any person injured or threatened by a prohibited regulatory practice may commence a civil action on his own behalf against any person or agency alleged to have engaged in or threatened to engage in such practice.

(b) JURISDICTION AND VENUE.—Any action under subsection (a) of this section shall be brought in the district court for any district in which the alleged prohibited regulatory practice occurred or in which the alleged injury occurred. The district court shall have jurisdiction, without regard to the amount in controversy or the citizenship of the parties, to—

(1) restrain any agency or person who has engaged or is engaging in any prohibited regulatory practice;

(2) order the cancellation or remission of any penalty, fine, damages, or other monetary assessment that resulted from a prohibited regulatory practice;

(3) order the rescission of any settlement that resulted from a prohibited regulatory practice;

(4) order the issuance of any permit or license that has been denied or delayed as a result of a prohibited regulatory practice;

(5) order the agency and/or the employee engaging in a prohibited regulatory practice to pay to the injured person such damages as may be necessary to compensate the person for any harm resulting from the practice, including damages for—

(A) injury to, deterioration of, or destruction of real or personal property;

(B) loss of profits from idle or underutilized resources, and from business forgone;

(C) costs incurred, including costs of compliance where appropriate;

(D) loss in value of a business;

(E) reasonable legal, consulting and expert witness fees; or

(F) payments to third parties;

(6) order the payment of punitive damages, in an amount not to exceed $25,000 for each such prohibited regulatory practice, provided that, in the case of a continuing prohibited regulatory practice, each day that the practice continues shall be deemed a separate practice.

SEC. 8208. OFFICE OF THE SPECIAL COUNSEL.

(a) REQUEST FOR INVESTIGATION.—Any person who has reason to believe that any employee of any agency has engaged in a prohibited regulatory practice may request the Special Counsel established by section 1211 of title 5, United States Code, to investigate.

(b) POWERS.—The Special Counsel shall have the same power to investigate prohibited regulatory practices that it has to investigate prohibited personnel practices pursuant to section 1212 of title 5, United States Code.

SEC. 8209. RELATION TO CRIMINAL INVESTIGATIONS.

Nothing in this subtitle shall be construed so as substantially or unreasonably to impede a criminal investigation.

TITLE IX—PRIVATE PROPERTY RIGHTS PROTECTIONS AND COMPENSATION

SEC. 9001. STATEMENT OF PURPOSE.

It is the purpose of this title to compensate private property owners with respect to certain actions that are taken by the Federal Government for public purposes and that limit the use of private property by property owners.

SEC. 9002. COMPENSATION FOR FEDERAL AGENCY INFRINGEMENT OR DEPRIVATION OF RIGHTS TO PRIVATE PROPERTY.

(a) ELIGIBILITY.—

(1) IN GENERAL.—A private property owner is entitled to receive compensation from the United States in accordance with this section for any agency infringement or deprivation of rights to property that is owned by the private property owner.

(2) AGENCY INFRINGEMENT OR DEPRIVATION OF RIGHTS TO PROPERTY DEFINED.—For purposes of paragraph (1), the term "agency infringement or deprivation of rights to property" means a limitation or condition that—

(A) is imposed by a final agency action on a use of property that would be lawful but for the agency action, and

(B) results in a reduction in the value of the property equal to ten percent or more.

(3) CIRCUMSTANCES IN WHICH COMPENSATION NOT REQUIRED.—A private property owner shall not be entitled to receive compensation under this subsection for any of the following:

(A) A limitation on any action that would constitute a violation of applicable State or local law (including an action that would violate a local zoning ordinance or would constitute a nuisance under any applicable State or local law).

(B) A limitation on any use of private property, imposed pursuant to a determination by the President that the use poses or would pose a serious and imminent threat to public health and safety or to the health and safety of workers, or other individuals, lawfully on the property.

(C) A limitation imposed pursuant to the Federal navigational servitude.

(4) LIMITATION ON CUMULATIVE AMOUNT OF COMPENSATION.—No payment may be made pursuant to this subsection with respect to property if the sum of such payment and all other payments made pursuant to this subsection with respect to the property would exceed the fair market value of the property (as determined at the time of the payment).

(5) STATE OR LOCAL LIMITATIONS IMPOSED PURSUANT TO FEDERAL MANDATES.—A limitation or condition shall be considered to be a Federal agency infringement or deprivation of rights to property for purposes of paragraph (1) if it is a consequence of a limitation or condition on the use of the property by the private property owner that is imposed by a State or local government pursuant to an agency action that is intended to, or does, bind the State or local government.

(b) REQUEST FOR COMPENSATION.—Within 90 days after receipt of notice of an agency action with respect to which compensation is required under subsection (a), a private property owner may submit to the head of the agency a request in writing for compensation under this section.

(c) AGENCY DETERMINATION AND OFFER.—

(1) IN GENERAL.—Upon receipt of a request for compensation, submitted in accordance with subsection (b), with respect to an agency action affecting private property as described in subsection (a), the head of the agency that took the action shall determine whether the private property owner submitting the request has demonstrated entitlement to compensation under subsection (a). If the head of the agency finds that the private property owner has so demonstrated, the head of the agency shall offer to compensate the private property owner for the reduction in the value of the property, as demonstrated by the private property owner.

(2) TIMING OF DETERMINATION AND OFFER.—The head of an agency shall make the determination and offer, if any, required by paragraph (1) with respect to a request for compensation not later than 180 days after receiving the request.

(d) PRIVATE PROPERTY OWNERS' RESPONSE.—A private property owner shall have 60 days after the date of receipt of an offer under subsection (c) to accept or to reject the offer.

(e) ARBITRATION.—If the head of an agency determines, under subsection (c), that a private property owner is not entitled to compensation under subsection (a), or a private property owner rejects an offer made under subsection (c), the private property owner may submit the matter for arbitration to an arbitrator appointed by the head of the agency from a list of arbitrators submitted by the American Arbitration Association. The arbitrator shall determine whether the request meets the requirements of subsection (a) (if such determination is called for by the submission of the property owner) and shall determine the amount of compensation to which the property owner is entitled under this section, in accordance with subsection (c). The arbitration shall be conducted in accordance with the real estate valuation arbitration rules of that association. For purposes of this section, an arbitration is binding on the head of an agency and the private property owner as to whether the property owner is entitled to compensation under subsection (a) and as to the amount, if any, of compensation owed to the private property owner under this section.

(f) PAYMENT.—The head of an agency shall pay a private property owner any compensation required under the terms of an offer of the agency head that is accepted by the private property owner in accordance with subsection (d), or under a decision of an arbiter under subsection (e), by not later than 60 days after the date of the acceptance or the date of the issuance of the decision, respectively.

(g) NATURE OF REMEDY.—

(1) PROHIBITION OF LIMITATION ON OTHER CLAIMS.—No provision of this title shall be construed to limit the rights of any person to pursue any claim or cause of action under the Constitution or any other law (including a claim or cause of action concerning personal property).

(2) PROHIBITION OF USE AS CONDITION PRECEDENT.—Submission of a request for compensation, or receipt of compensation, under this title shall not be a condition precedent for any claim or cause of action under any law.

(h) LIMITATION ON DOUBLE RECOVERY.—

(1) COURT AWARDS OF DAMAGES.—Notwithstanding subsection (g), a court may credit a payment made pursuant to subsection (a) for any reduction in the value of property against the amount of damages awarded pursuant to any claim or cause of action, under the Constitution or any other law, that arises from the same reduction in the value of the same property.

(2) PAYMENTS UNDER THIS TITLE.—The amount awarded pursuant to any claim or cause of action, under the Constitution or any other law, for any reduction in the value of a property shall be credited against the amount of any payment made pursuant to subsection (a) with respect to the same reduction in the value of the same property.

(i) SOURCE OF PAYMENT FUNDS.—

(1) USE OF AGENCY FUNDS.—Except as provided in paragraphs (2) and (3), and notwithstanding any other provision of law, any payment made pursuant to subsection (a) shall be paid from the annual appropriation of the agency or agencies taking the action for which the payment is required. For the purpose of making such a payment, the head of the agency may transfer or reprogram any funds available to the agency.

(2) ALTERNATIVE SOURCE OF FUNDS.—If the agency taking the action referred to in paragraph (2) or (5) of subsection (a) does not have sufficient funds available to complete the payment required by this section with respect to the action, the Comptroller General of the United States shall identify the most appropriate Federal source of funds to complete the payment and the President shall complete the payment using funds from such source, notwithstanding any other provision of law.

(3) LAND EXCHANGE.—In lieu of payment under paragraph (1) or (2), the President may enter into an agreement with the private property owner who is entitled to the compensation for which the payment is required to provide all or part of the compensation by

exchanging all or part of the affected private property for property owned by the United States and identified by the President as suitable for such an exchange. The properties transferred as part of such an exchange shall be of equal value, as determined under section 206(d) of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1716(d)).

SEC. 9003. SEVERABILITY.

If any provision of this title, or the application thereof to any person or circumstance, is held invalid, the remainder of this title and the application of such provision to other persons and circumstances shall not be affected.

SEC. 9004. DEFINITIONS.

For purposes of this title:

(1) AGENCY.—The term "agency" has the meaning given that term in section 551(1) of title 5, United States Code.

(2) AGENCY ACTION.—The term "agency action" has the meaning given that term in section 551(13) of title 5, United States Code.

(3) FAIR MARKET VALUE.—Unless stated otherwise, the term "fair market value of the property" means the fair market value of property determined as of the date on which the private property owner makes a claim under this title with respect to the property.

(4) FINAL AGENCY ACTION.—The term "final agency action" means an agency action that is intended to or does bind a private property owner with respect to the use of the property. Such term includes but is not limited to the following:

(A) Denial of a permit.

(B) Issuance of a cease and desist order.

(C) Issuance of a statement under section 7(b)(3) of the Endangered Species Act of 1973 (16 U.S.C. 1536(b)(3)).

(D) Issuance of a permit with conditions.

(E) Commencement of a civil or criminal proceeding arising out of failure to secure a permit.

(5) PRIVATE PROPERTY OWNER.—The term "private property owner" means a person (other than the United States, a department, agency, or instrumentality thereof, or an officer, employee, or agent thereof when acting on behalf of his or her employing authority) that—

(A) owns property referred to in paragraph (6)(A); or

(B) holds property referred to in paragraph (6)(B).

(6) PROPERTY.—The term "property" means—

(A) land; and

(B) the right to use or receive water.

(7) REDUCTION IN THE VALUE OF PROPERTY.—The term "reduction in the value of property" means the difference, if greater than zero, between—

(A) the fair market value of property, as determined based on the value of the property if an agency action referred to in paragraph (2) or (5) of section 9002(a), as the case may be, were not implemented; minus

(B) the fair market value of property, as determined based on the value of the property if an agency action referred to in paragraph (2) or (5) of section 9002(a), as the case may be, were implemented.

(8) USE—The term "use" means a prior, existing, or potential utilization of property, by the private property owner, which is—

(A) predictable; and

(B) consistent with the utilization of property of the same general type or with property usage in the geographic area in which the property is located.

TITLE X—ESTABLISHMENT OF FEDERAL MANDATE BUDGET COST CONTROL

SEC. 10001. AMENDMENTS TO THE CONGRESSIONAL BUDGET ACT OF 1974.

(a) FEDERAL REGULATORY BUDGET COST CONTROL SYSTEM.—Title III of the Congressional Budget Act of 1974, as amended by section 4001(a) of this Act, is further amended by adding after part B the following new part:

"PART C—FEDERAL MANDATE BUDGET COST CONTROL

"SEC. 331. OMB–CBO REPORTS.

"(a) OMB–CBO INITIAL REPORT.—Within 1 year after the date of enactment of this section, OMB and CBO shall jointly issue a report to the President and each House of Congress that contains the following:

"(1) For the first budget year beginning after the issuance of this report, a projection of the aggregate direct cost to States and local governments of complying with all Federal mandates in effect immediately before issuance of the report containing the projection for that budget year of the effect of current-year Federal mandates into the budget year and the outyears based on those mandates.

"(2) A calculation of the estimated aggregate direct cost to States and local governments of compliance with all Federal mandates as a percentage of the gross domestic product (GDP).

"(3) The estimated marginal cost (measured as a reduction in estimated gross domestic product) to States and local governments of compliance with all Federal mandates in excess of the cap (to be determined under paragraph (5)) allowable for the sixth year following the budget year and subsequent fiscal years.

"(4) The effect on the domestic economy of different types of Federal mandates.

"(5) The appropriate level of personnel, administrative overhead, and programmatic savings that should be achieved on a fiscal year by fiscal year basis by Federal agencies that issue mandates with direct costs to States and local governments through the reduction of such aggregate costs to States and local governments by 6.5 percent for the budget year (as measured against the aggregate mandate baseline for the first budget year to which this part applies) and by 6.5 percent increments for each of the outyears (until the aggregate level of such costs does not exceed 3 percent of the estimated gross domestic product for the same fiscal year as the estimated costs that will be incurred).

"(6) Recommendations for budgeting, technical, and estimating changes to improve the Federal mandate budgeting process.

"(b) UPDATE REPORTS.—OMB and CBO shall issue update reports on September 15th of the fifth year beginning after issuance of the initial report and at 5-year intervals thereafter containing all the information required in the initial report, but based upon all Federal mandates in effect immediately before issuance of the most recent update report.

"(c) INITIAL BASELINE REPORT.—Within 30 days after the date of enactment of this section, OMB and CBO shall jointly issue a report to the President and each House of Congress that contains an initial aggregate mandate baseline for the first budget year that begins at least 120 days after that date of enactment. That baseline will be a projection of the aggregate direct cost to States and local governments of complying with all Federal mandates in effect immediately before issuance of the report containing the projection for that budget year of the effect of current-year Federal mandates into the budget year and the outyears based on those mandates.

"SEC. 332. AGGREGATE MANDATE BASELINE.

"(a) IN GENERAL.—For the first budget year beginning after the date of enactment of this section and for every other fiscal year thereafter, the aggregate mandate baseline refers to a projection of the aggregate direct cost to States and local governments of complying with all Federal mandates in effect immediately before issuance of the report containing the projection for that budget year of the effect of current-year Federal mandates into the budget year and the outyears based on those mandates. However, in the case of each of the succeeding fiscal years, the baseline shall be adjusted for the estimated growth during that year in the gross domestic product (GDP).

"(b) OMB–CBO AGGREGATE MANDATE BASELINE REPORTS.—(1) The first budget year for which there shall be an aggregate mandate baseline shall be the budget year to which the initial OMB–CBO baseline report issued under section 331(c) pertains.

"(2) In the case of each budget year after the budget year referred to in paragraph (1), not later than September 15 of the current year, OMB and CBO shall jointly issue a report containing the baseline referred to in subsection (a) for that budget year.

"SEC. 333. RECONCILIATION AND ALLOCATIONS.

"(a) RECONCILIATION DIRECTIVES.—In addition to the requirements of section 310, a concurrent resolution on the budget for any fiscal year shall specify—

"(1) changes in laws, regulations, and rules necessary to reduce the aggregate direct cost to States and local governments of complying with all Federal mandates by 6.5 percent for the budget year (as measured against the aggregate mandate baseline for the first budget year to which this part applies) and by 6.5 percent increments for each of the outyears (until the aggregate level of such costs does not exceed 3 percent of the estimated gross domestic product for the same fiscal year as the estimated costs that will be incurred) for Federal agencies that issue mandates producing direct costs to States and local governments; and

"(2) changes in laws necessary to achieve reductions in the level of personnel and administrative overhead and to achieve programmatic savings for the budget year and the outyears for those agencies of the following:

"(A) In the first outyear, one-fourth of the percent of reduction in mandate authority from the aggregate mandate base.

"(B) In the second outyear, one-third of the percent of reduction in mandate authority from the aggregate mandate base.

"(C) In the third, fourth, fifth, and sixth years following the budget year, one-half of the percent of reduction in mandate authority from the aggregate mandate base.

Section 310(c) shall not apply with respect to directions made under this section.

"(b) ALLOCATION OF TOTALS.—(1) The Committees on the Budget of the House of Representatives and the Senate shall each allocate aggregate 2-year mandate authority among each committee of its House and by major functional category for the first budget year beginning after the date of enactment of this section and for the second, fourth, and sixth years following the budget year and then every other year thereafter.

"(2) As soon as practicable after receiving an allocation under paragraph (1), each committee shall subdivide its allocation among its subcommittees or among programs over which it has jurisdiction.

"(c) POINT OF ORDER.—(1) It shall not be in order in the House of Representatives or the Senate to consider any bill or resolution, or amendment thereto, which would cause the appropriate allocation made under subsection (b) for a fiscal year of mandate authority to be exceeded.

"(2) WAIVER.—The point of order set forth in paragraph (1) may only be waived by the affirmative vote of at least three-fifths of the Members voting, a quorum being present.

"(d) DETERMINATIONS BY BUDGET COMMITTEES.—For purposes of this section, the level of mandate authority for a fiscal year shall be determined by the Committee on the Budget of the House of Representatives or the Senate, as the case may be.

"(e) EXCEEDING ALLOCATION TOTALS.—Whenever any Committee of the House of Representatives exceeds its allocation of aggregate 2-year mandate authority under subsection (b)(1), any Member of the House of Representatives may offer a bill in the House (which shall be highly privileged, unamendable, and debateable for 30 minutes) which shall only prohibit the issuance of mandates by any agency under the jurisdiction of that committee for the fiscal years covered by that allocation until that committee eliminates its breach.

"SEC. 334. ANALYSIS OF MANDATES COSTS BY CONGRESSIONAL BUDGET OFFICE.

"CBO shall prepare for each bill or resolution of a public character reported by any committee of the House of Representatives or the Senate (except the Committee on Appropriations of each House), and submit to such committee—

"(1) an estimate of the costs which would be incurred by States and local governments in carrying out or complying with such bill or resolution in the fiscal year in which it is to become effective and in each of the 4 fiscal years following such fiscal year, together with the basis of each such estimate; and

"(2) a comparison of the estimate of costs described in paragraph (1) with any available estimates of costs made by such committee or by any Federal agency.

"SEC. 335. DEFINITIONS.

"As used in this part:

"(1) The term 'CBO' refers to the Director of the Congressional Budget Office.

"(2) The term 'OMB' refers to the Director of the Office of Management and Budget.

"(3) The term 'costs' when referring to 'mandates' means the direct cost to States and local governments of complying with Federal mandates.

"(4) The term 'direct costs' means (recognizing that direct costs are not the only costs associated with Federal mandates) all expenditures occurring as a direct result of complying with Federal mandates, except those applying to the military or agency organization, management, and personnel.".

SEC. 10002. PRESIDENT'S ANNUAL BUDGET SUBMISSIONS.

Section 1105(a) of title 31, United States Code, as amended by section 4002 of this Act, is further amended by adding after paragraph (32) the following new paragraph:

"(33) a mandate authority budget analysis of the aggregate direct cost to States and local governments of complying with all current and proposed Federal mandates and proposals for complying with section 333 of the Congressional Budget Act of 1974 for the budget year and the outyears."

SEC. 10003. ESTIMATION AND DISCLOSURE OF COSTS OF FEDERAL MANDATES.

(a) COSTS TO STATE AND LOCAL GOVERNMENTS.—Chapter 6 of title 5, United States Code, popularly known as the "Regulatory Flexibility Act", is amended—

(1) in section 603, as amended by section 4003(2) of this Act, by adding after subsection (d) the following:

"(e) Each initial regulatory flexibility analysis for a proposed rule that establishes or implements a new Federal mandate shall also contain a description of the nature and amount of monetary costs that will be incurred by State and local governments in complying with the Federal mandate."; and

(2) in section 604(a), as amended by section 4003(3) of this Act—

(A) in paragraph (3) by striking "and" after the semicolon;

(B) in paragraph (4) by striking the period and inserting "; and"; and

(C) by adding after paragraph (4) the following:

"(5) in the case of an analysis for a rule that establishes or implements a new Federal mandate, a statement of the nature and amount of monetary costs that will be incurred by State and local governments in complying with the Federal mandate.".

(b) AGENCY REPORTS.—Each agency that under chapter 6 of title 5, United States Code, prepares an initial regulatory flexibility analysis for a proposed rule that establishes or implements a new Federal mandate shall at the same time submit to each House of Congress and to CBO and OMB a cost estimate and cost/benefit analysis of any new Federal mandate that would have an aggregate direct cost to State and local governments of at least $10,000,000 for any fiscal year.

TITLE XI—TAXPAYER DEBT BUY-DOWN

SEC. 11001. DESIGNATION OF AMOUNTS FOR REDUCTION OF PUBLIC DEBT.

(a) IN GENERAL.—Subchapter A of chapter 61 of the Internal Revenue Code of 1986 (relating to returns and records) is amended by adding at the end the following new part:

"PART IX—DESIGNATION FOR REDUCTION OF PUBLIC DEBT

"Sec. 6097. Designation.

"SEC. 6097. DESIGNATION.

"(a) IN GENERAL.—Every individual with adjusted income tax liability for any taxable year may designate that a portion of such liability (not to exceed 10 percent thereof) shall be used to reduce the public debt.

"(b) MANNER AND TIME OF DESIGNATION.—A designation under subsection (a) may be made with respect to any taxable year only at the time of filing the return of tax imposed by chapter 1 for the taxable year. The designation shall be made on the first page of the return or on the page bearing the taxpayer's signature.

"(c) ADJUSTED INCOME TAX LIABILITY.—For purposes of this section, the term 'adjusted income tax liability' means income tax liability (as defined in section 6096(b)) reduced by any amount designated under section 6096 (relating to designation of income tax payments to Presidential Election Campaign Fund)."

(b) CLERICAL AMENDMENT.—The table of parts for such subchapter A is amended by adding at the end the following new item:

"Part IX. Designation for reduction of public debt."

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years ending after the date of the enactment of this Act.

SEC. 11002. PUBLIC DEBT REDUCTION TRUST FUND.

(a) IN GENERAL.—Subchapter A of chapter 98 of the Internal Revenue Code of 1986 (relating to trust fund code) is amended by adding at the end the following section:

"SEC. 9512. PUBLIC DEBT REDUCTION TRUST FUND.

"(a) CREATION OF TRUST FUND.—There is established in the Treasury of the United States a trust fund to be known as the 'Public Debt Reduction Trust Fund', consisting of any amount appropriated or credited to the Trust Fund as provided in this section or section 9602(b).

"(b) TRANSFERS TO TRUST FUND.—There are hereby appropriated to the Public Debt Reduction Trust Fund amounts equivalent to the amounts designated under section 6097 (relating to designation for public debt reduction).

"(c) EXPENDITURES.—Amounts in the Public Debt Reduction Trust Fund shall be used by the Secretary of the Treasury for purposes of paying at maturity, or to redeem or buy before maturity, any obligation of the Federal Government included in the public debt (other than an obligation held by the Federal Old-Age and Survivors Insurance Trust Fund, the Civil Service Retirement and Disability Fund, or the Department of Defense Military Retirement Fund). Any obligation which is paid, redeemed, or bought with amounts from the Public Debt Reduction Trust Fund shall be canceled and retired and may not be reissued."

(b) CLERICAL AMENDMENT.—The table of sections for such subchapter is amended by adding at the end the following new item:

"Sec. 9512. Public Debt Reduction Trust Fund."

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to amounts received after the date of the enactment of this Act.

SEC. 11003. TAXPAYER-GENERATED SEQUESTRATION OF FEDERAL SPENDING TO REDUCE THE PUBLIC DEBT.

(a) SEQUESTRATION TO REDUCE THE PUBLIC DEBT.—Part C of the Balanced Budget and Emergency Deficit Control Act of 1985 is amended by adding after section 253 the following new section:

"SEC. 253A. SEQUESTRATION TO REDUCE THE PUBLIC DEBT.

"(a) SEQUESTRATION.—Notwithstanding sections 255 and 256, within 15 days after Congress adjourns to end a session, and on the same day as sequestration (if any) under sections 251, 252, and 253, but after any sequestration required by those sections, there shall be a sequestration equivalent to the estimated aggregate amount designated under section 6097 of the Internal Revenue Code of 1986 for the last taxable year ending one year before the beginning of that session of Congress, as estimated by the Department of the Treasury on October 1 and as modified by the total of (1) any amounts by which net discretionary spending is reduced by legislation below the discretionary spending limits enacted after the enactment of this section related to the fiscal year subject to the sequestration (or, in the absence of such limits, any net deficit change from the baseline amount calculated under section 257 (except that such baseline for fiscal year 1996 and thereafter shall be based upon fiscal year 1995 enacted appropriations less any 1995 sequesters)) and (2) the net deficit change that has resulted from all direct spending legislation enacted after the enactment of this section related to the fiscal year subject to the sequestration, as estimated by OMB. If the reduction in spending under paragraphs (1) and (2) for a fiscal year is greater than the estimated aggregate amount designated under section 6097 of the Internal Revenue Code of 1986 respecting that fiscal year, then there shall be no sequestration under this section.

"(b) APPLICABILITY.—

"(1) IN GENERAL.—Except as provided by paragraph (2), each account of the United States shall be reduced by a dollar amount calculated by multiplying the level of budgetary resources in that account at that time by the uniform percentage necessary to carry out subsection (a). All obligational authority reduced under this section shall be done in a manner that makes such reductions permanent.

"(2) EXEMPT ACCOUNTS.—No order issued under this part may—

"(A) reduce benefits payable the old-age and survivors insurance program established under title II of the Social Security Act;

"(B) reduce payments for net interest (all of major functional category 900); or

"(C) make any reduction in the following accounts:

"Federal Deposit Insurance Corporation, Bank Insurance Fund;

"Federal Deposit Insurance Corporation, FSLIC Resolution Fund;

"Federal Deposit Insurance Corporation, Savings Association Insurance Fund;

"National Credit Union Administration, credit union share insurance fund; or

"Resolution Trust Corporation."

(b) REPORTS.—Section 254 of the Balanced Budget and Emergency Deficit Control Act of 1985 is amended—

(1) in subsection (a), by inserting after the item relating to the GAO compliance report the following:

"October 1 . . . Department of Treasury report to Congress estimating amount of income tax designated pursuant to section 6097 of the Internal Revenue Code of 1986.";

(2) in subsection (d)(1), by inserting ", and sequestration to reduce the public debt,";

(3) in subsection (d), by redesignating paragraph (5) as paragraph (6) and by inserting after paragraph (4) the following new paragraph:

"(5) SEQUESTRATION TO REDUCE THE PUBLIC DEBT REPORTS.—The preview reports shall set forth for the budget year estimates for each of the following:

"(A) The aggregate amount designated under section 6097 of the Internal Revenue Code of 1986 for the last taxable year ending before the budget year.

"(B) The amount of reductions required under section 253A and the deficit remaining after those reductions have been made.

"(C) The sequestration percentage necessary to achieve the required reduction in accounts under section 253A(b)."; and

(4) in subsection (g), by redesignating paragraphs (4) and (5) as paragraphs (5) and (6), respectively, and by inserting after paragraph (3) the following new paragraph:

"(4) SEQUESTRATION TO REDUCE THE PUBLIC DEBT REPORTS.—The final reports shall contain all of the information contained in the public debt taxation designation report required on October 1.".

(c) EFFECTIVE DATE.—Notwithstanding section 275(b) of the Balanced Budget and Emergency Deficit Control Act of 1985, the expiration date set forth in that section shall not apply to the amendments made by this section. The amendments made by this section shall cease to have any effect after the first fiscal year during which there is no public debt.

TITLE XII—SMALL BUSINESS INCENTIVES

SEC. 12001. INCREASE IN UNIFIED ESTATE AND GIFT TAX CREDITS.

(a) ESTATE TAX CREDIT.—

(1) Subsection (a) of section 2010 of the Internal Revenue Code of 1986 (relating to unified credit against estate tax) is amended by striking "$192,800" and inserting "the applicable credit amount".

(2) Section 2010 of such Code is amended by redesignating subsection (c) as subsection (d) and by inserting after subsection (b) the following new subsection:

"(c) APPLICABLE CREDIT AMOUNT.—For purposes of this section—

"(1) IN GENERAL.—The applicable credit amount is the amount of the tentative tax which would be determined under the rate schedule set forth in section 2001(c) if the amount with respect to which such tentative tax is to be computed were the applicable exclusion amount determined in accordance with the following table:

"In the case of estates of decedents dying, and gifts made, during:	The applicable exclusion amount is:
1996	$700,000
1997	$725,000
1998 or thereafter	$750,000.

"(2) COST-OF-LIVING ADJUSTMENTS.—In the case of any decedent dying, and gift made, in a calendar year after 1998, the $750,000 amount set forth in paragraph (1) shall be increased by an amount equal to—

"(A) $750,000, multiplied by

"(B) the cost-of-living adjustment determined under section 1(f)(3) for such calendar year by substituting 'calendar year 1997' for 'calendar year 1992' in subparagraph (B) thereof.

Any increase determined under the preceding sentence shall be rounded to the nearest multiple of $1,000."

(3) Paragraph (1) of section 6018(a) of such Code is amended by striking "$600,000" and inserting "the applicable exclusion amount in effect under section 2010(c) (as adjusted under paragraph (2) thereof) for the calendar year which includes the date of death".

(4) Paragraph (2) of section 2001(c) of such Code is amended by striking "$21,040,000" and inserting "the amount at which the effective tax rate under this section is 55 percent".

(5) Subparagraph (A) of section 2102(c)(3) of such Code is amended by striking "$192,800" and inserting "the applicable credit amount in effect under section 2010(c) for the calendar year which includes the date of death".

(b) UNIFIED GIFT TAX CREDIT.—Paragraph (1) of section 2505(a) of such Code is amended by striking "$192,800" and inserting "the applicable credit amount in effect under section 2010(c) for such calendar year".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to the estates of decedents dying, and gifts made, after December 31, 1995.

SEC. 12002. INCREASE IN EXPENSE TREATMENT FOR SMALL BUSINESSES.

(a) GENERAL RULE.—Paragraph (1) of section 179(b) of the Internal Revenue Code of 1986 (relating to dollar limitation) is amended by striking "$17,500" and inserting "$25,000".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to taxable years beginning after December 31, 1995.

SEC. 12003. CLARIFICATION OF DEFINITION OF PRINCIPAL PLACE OF BUSINESS.

(a) IN GENERAL.—Subsection (f) of section 280A of the Internal Revenue Code of 1986 is amended by redesignating paragraphs (2), (3), and (4) as paragraphs (3), (4), and (5), respectively, and by inserting after paragraph (1) the following new paragraph:

"(2) PRINCIPAL PLACE OF BUSINESS.—For purposes of subsection (c), a home office shall in any case qualify as the principal place of business if—

"(A) the office is the location where the taxpayer's essential administrative or management activities are conducted on a regular and systematic (and not incidental) basis by the taxpayer, and

"(B) the office is necessary because the taxpayer has no other location for the performance of the administrative or management activities of the business.".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to taxable years beginning after December 31, 1995.

SEC. 12004. TREATMENT OF STORAGE OF PRODUCT SAMPLES.

(a) IN GENERAL.—Paragraph (2) of section 280A(c) of the Internal Revenue Code of 1986 is amended by striking "inventory" and inserting "inventory or product samples".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to taxable years beginning after December 31, 1995.

MOTION OFFERED BY MR. DELAY

Mr. DELAY. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Motion offered by Mr. DELAY: Mr. DELAY of Texas moves to strike all after section 1 of the bill and insert a text composed of four divisions as follows: (1) division A, consisting of the text of H.R. 830, as passed by the House; (2) division B, consisting of the text of H.R. 925, as passed by the House; (3) division C, consisting of the text of H.R. 926, as passed by the House, and (4) division D, consisting of the text of H.R. 1022, as passed by the House.

The text of the bills referred to in the foregoing motion; H.R. 830, H.R. 925, H.R. 926, and H.R. 1022, is as follows:

H.R. 830

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Paperwork Reduction Act of 1995".

SEC. 2. COORDINATION OF FEDERAL INFORMATION POLICY.

Chapter 35 of title 44, United States Code, is amended to read as follows:

"CHAPTER 35—COORDINATION OF FEDERAL INFORMATION POLICY

"Sec.
"3501. Purposes.
"3502. Definitions.
"3503. Office of Information and Regulatory Affairs.
"3504. Authority and functions of Director.
"3505. Assignment of tasks and deadlines.
"3506. Federal agency responsibilities.
"3507. Public information collection activities; submission to Director; approval and delegation.
"3508. Determination of necessity for information; hearing.
"3509. Designation of central collection agency.
"3510. Cooperation of agencies in making information available.
"3511. Establishment and operation of Government Information Locator Service.
"3512. Public protection.
"3513. Director review of agency activities; reporting; agency response.
"3514. Responsiveness to Congress.
"3515. Administrative powers.
"3516. Rules and regulations.
"3517. Consultation with other agencies and the public.
"3518. Effect on existing laws and regulations.

"3519. Access to information.
"3520. Authorization of appropriations.

"§ 3501. Purposes

"The purposes of this chapter are to—

"(1) minimize the paperwork burden for individuals, small businesses, educational and nonprofit institutions, Federal contractors, State, local and tribal governments, and other persons resulting from the collection of information by or for the Federal Government;

"(2) ensure the greatest possible public benefit from and maximize the utility of information created, collected, maintained, used, shared and disseminated by or for the Federal Government;

"(3) coordinate, integrate, and to the extent practicable and appropriate, make uniform Federal information resources management policies and practices as a means to improve the productivity, efficiency, and effectiveness of Government programs, including the reduction of information collection burdens on the public and the improvement of service delivery to the public;

"(4) improve the quality and use of Federal information to strengthen decisionmaking, accountability, and openness in Government and society;

"(5) minimize the cost to the Federal Government of the creation, collection, maintenance, use, dissemination, and disposition of information;

"(6) strengthen the partnership between the Federal Government and State, local, and tribal governments by minimizing the burden and maximizing the utility of information created, collected, maintained, used, disseminated, and retained by or for the Federal Government;

"(7) provide for the dissemination of public information on a timely basis, on equitable terms, and in a manner that promotes the utility of the information to the public and makes effective use of information technology;

"(8) ensure that the creation, collection, maintenance, use, dissemination, and disposition of information by or for the Federal Government is consistent with applicable laws, including laws relating to—

"(A) privacy and confidentiality, including section 552a of title 5;

"(B) security of information, including the Computer Security Act of 1987 (Public Law 100–235); and

"(C) access to information, including section 552 of title 5;

"(9) ensure the integrity, quality, and utility of the Federal statistical system;

"(10) ensure that information technology is acquired, used, and managed to improve performance of agency missions, including the reduction of information collection burdens on the public; and

"(11) improve the responsibility and accountability of the Office of Management and Budget and all other Federal agencies to Congress and to the public for implementing the information collection review process, information resources management, and related policies and guidelines established under this chapter.

"§ 3502. Definitions

"As used in this chapter—

"(1) the term 'agency' means any executive department, military department, Government corporation, Government controlled corporation, or other establishment in the executive branch of the Government (including the Executive Office of the President), or any independent regulatory agency, but does not include—

"(A) the General Accounting Office;

"(B) Federal Election Commission;

"(C) the governments of the District of Columbia and of the territories and possessions of the United States, and their various subdivisions; or

"(D) Government-owned contractor-operated facilities, including laboratories engaged in national defense research and production activities;

"(2) the term 'burden' means time, effort, or financial resources expended by persons to generate, maintain, or provide information to or for a Federal agency, including the resources expended for—

"(A) reviewing instructions;

"(B) acquiring, installing, and utilizing technology and systems;

"(C) adjusting the existing ways to comply with any previously applicable instructions and requirements;

"(D) searching data sources;

"(E) completing and reviewing the collection of information; and

"(F) transmitting, or otherwise disclosing the information;

"(3) the term 'collection of information' means the obtaining, causing to be obtained, soliciting, or requiring the disclosure to third parties or the public, of facts or opinions by or for an agency, regardless of form or format, calling for either—

"(A) answers to identical questions posed to, or identical reporting or recordkeeping requirements imposed on, ten or more persons, other than agencies, instrumentalities, or employees of the United States; or

"(B) answers to questions posed to agencies, instrumentalities, or employees of the United States which are to be used for general statistical purposes;

"(4) the term 'Director' means the Director of the Office of Management and Budget;

"(5) the term 'independent regulatory agency' means the Board of Governors of the Federal Reserve System, the Commodity Futures Trading Commission, the Consumer Product Safety Commission, the Federal Communications Commission, the Federal Deposit Insurance Corporation, the Federal Energy Regulatory Commission, the Federal Housing Finance Board, the Federal Maritime Commission, the Federal Trade Commission, the Interstate Commerce Commission, the Mine Enforcement Safety and Health Review Commission, the National Labor Relations Board, the Nuclear Regulatory Commission, the Occupational Safety and Health Review Commission, the Postal Rate Commission, the Securities and Exchange Commission, and any other similar agency designated by statute as a Federal independent regulatory agency or commission;

"(6) the term 'information resources' means information and related resources, such as personnel, equipment, funds, and information technology;

"(7) the term 'information resources management' means the process of managing information resources to accomplish agency missions and to improve agency performance, including through the reduction of information collection burdens on the public;

"(8) the term 'information system' means a discrete set of information resources and processes, automated or manual, organized for the collection, processing, maintenance, use, sharing, dissemination, or disposition of information;

"(9) the term 'information technology' has the same meaning as the term 'automatic data processing equipment' as defined by section 111(a)(2) of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 759(a)(2));

"(10) the term 'person' means an individual, partnership, association, corporation, business trust, or legal representative, an organized group of individuals, a State, territorial, or local government or branch thereof, or a political subdivision of a State, territory, or local government or a branch of a political subdivision;

"(11) the term 'practical utility' means the ability of an agency to use information, particularly the capability to process such information in a timely and useful fashion;

"(12) the term 'public information' means any information, regardless of form or format, that an agency discloses, disseminates, or makes available to the public; and

"(13) the term 'recordkeeping requirement' means a requirement imposed by or for an agency on persons to maintain specified records, including a requirement to—

"(A) retain such records;

"(B) notify third parties or the public of the existence of such records;

"(C) disclose such records to third parties or the public; or

"(D) report to third parties or the public regarding such records.

"§ 3503. Office of Information and Regulatory Affairs

"(a) There is established in the Office of Management and Budget an office to be known as the Office of Information and Regulatory Affairs.

"(b) There shall be at the head of the Office an Administrator who shall be appointed by the President, by and with the advice and consent of the Senate. The Director shall delegate to the Administrator the authority to administer all functions under this chapter, except that any such delegation shall not relieve the Director of responsibility for the administration of such functions. The Administrator shall serve as principal adviser to the Director on Federal information resources management policy.

"§ 3504. Authority and functions of Director

"(a)(1) The Director shall—

"(A) develop, coordinate and oversee the implementation of Federal information resources management policies, principles, standards, and guidelines; and

"(B) provide direction and oversee—

"(i) the review and approval of the collection of information and the reduction of the information collection burden;

"(ii) agency dissemination of and public access to information;

"(iii) statistical activities;

"(iv) records management activities;

"(v) privacy, confidentiality, security, disclosure, and sharing of information; and

"(vi) the acquisition and use of information technology.

"(2) The authority of the Director under this chapter shall be exercised consistent with applicable law.

"(b) With respect to general information resources management policy, the Director shall—

"(1) develop and oversee the implementation of uniform information resources management policies, principles, standards, and guidelines;

"(2) foster greater sharing, dissemination, and access to public information, including through—

"(A) the use of the Government Information Locator Service; and

"(B) the development and utilization of common standards for information collection, storage, processing and communication, including standards for security, interconnectivity and interoperability;

"(3) initiate and review proposals for changes in legislation, regulations, and agency procedures to improve information resources management practices;

"(4) oversee the development and implementation of best practices in information resources management, including training; and

"(5) oversee agency integration of program and management functions with information resources management functions.

"(c) With respect to the collection of information and the control of paperwork, the Director shall—

"(1) review and approve proposed agency collections of information;

"(2) coordinate the review of the collection of information associated with Federal procurement and acquisition by the Office of Information and Regulatory Affairs with the Office of Federal Procurement Policy, with particular emphasis on applying information technology to improve the efficiency and effectiveness of Federal procurement, acquisition, and payment and to reduce information collection burdens on the public;

"(3) minimize the Federal information collection burden, with particular emphasis on those individuals and entities most adversely affected;

"(4) maximize the practical utility of and public benefit from information collected by or for the Federal Government;

"(5) establish and oversee standards and guidelines by which agencies are to estimate the burden to comply with a proposed collection of information; and

"(6) place an emphasis on minimizing the burden on small businesses with 50 or fewer employees.

"(d) With respect to information dissemination, the Director shall develop and oversee the implementation of policies, principles, standards, and guidelines to—

"(1) apply to Federal agency dissemination of public information, regardless of the form or format in which such information is disseminated; and

"(2) promote public access to public information and fulfill the purposes of this chapter, including through the effective use of information technology.

"(e) With respect to statistical policy and coordination, the Director shall—

"(1) coordinate the activities of the Federal statistical system to ensure—

"(A) the efficiency and effectiveness of the system; and

"(B) the integrity, objectivity, impartiality, utility, and confidentiality of information collected for statistical purposes;

"(2) ensure that budget proposals of agencies are consistent with system-wide priorities for maintaining and improving the quality of Federal statistics and prepare an annual report on statistical program funding;

"(3) develop and oversee the implementation of Governmentwide policies, principles, standards, and guidelines concerning—

"(A) statistical collection procedures and methods;

"(B) statistical data classification;

"(C) statistical information presentation and dissemination;

"(D) timely release of statistical data; and

"(E) such statistical data sources as may be required for the administration of Federal programs;

"(4) evaluate statistical program performance and agency compliance with Governmentwide policies, principles, standards and guidelines;

"(5) promote the sharing of information collected for statistical purposes consistent with privacy rights and confidentiality pledges;

"(6) coordinate the participation of the United States in international statistical activities, including the development of comparable statistics;

"(7) appoint a chief statistician who is a trained and experienced professional statistician to carry out the functions described under this subsection;

"(8) establish an Interagency Council on Statistical Policy to advise and assist the Director in carrying out the functions under this subsection that shall—

"(A) be headed by the chief statistician; and

"(B) consist of—

"(i) the heads of the major statistical programs; and

"(ii) representatives of other statistical agencies under rotating membership; and

"(9) provide opportunities for training in statistical policy functions to employees of the Federal Government under which—

"(A) each trainee shall be selected at the discretion of the Director based on agency requests and shall serve under the chief statistician for at least 6 months and not more than 1 year; and

"(B) all costs of the training shall be paid by the agency requesting training.

"(f) With respect to records management, the Director shall—

"(1) provide advice and assistance to the Archivist of the United States and the Administrator of General Services to promote coordination in the administration of chapters 29, 31, and 33 of this title with the information resources management policies, principles, standards, and guidelines established under this chapter;

"(2) review compliance by agencies with—

"(A) the requirements of chapters 29, 31, and 33 of this title; and

"(B) regulations promulgated by the Archivist of the United States and the Administrator of General Services; and

"(3) oversee the application of records management policies, principles, standards, and guidelines, including requirements for archiving information maintained in electronic format, in the planning and design of information systems.

"(g) With respect to privacy and security, the Director shall—

"(1) develop and oversee the implementation of policies, principles, standards, and guidelines on privacy, confidentiality, security, disclosure and sharing of information collected or maintained by or for agencies;

"(2) oversee and coordinate compliance with sections 552 and 552a of title 5, the Computer Security Act of 1987 (40 U.S.C. 759 note), and related information management laws; and

"(3) require Federal agencies, consistent with the Computer Security Act of 1987 (40 U.S.C. 759 note), to identify and afford security protections commensurate with the risk and magnitude of the harm resulting from the loss, misuse, or unauthorized access to or modification of information collected or maintained by or on behalf of an agency.

"(h) With respect to Federal information technology, the Director shall—

"(1) in consultation with the Director of the National Institute of Standards and Technology and the Administrator of General Services—

"(A) develop and oversee the implementation of policies, principles, standards, and guidelines for information technology functions and activities of the Federal Government, including periodic evaluations of major information systems; and

"(B) oversee the development and implementation of standards under section 111(d) of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 759(d));

"(2) monitor the effectiveness of, and compliance with, directives issued under sections 110 and 111 of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 757 and 759);

"(3) coordinate the development and review by the Office of Information and Regulatory Affairs of policy associated with Federal procurement and acquisition of information technology with the Office of Federal Procurement Policy;

"(4) ensure, through the review of agency budget proposals, information resources management plans and other means—

"(A) agency integration of information resources management plans, program plans and budgets for acquisition and use of information technology; and

"(B) the efficiency and effectiveness of inter-agency information technology initiatives to improve agency performance and the accomplishment of agency missions; and

"(5) promote the use of information technology by the Federal Government to improve the productivity, efficiency, and effectiveness of Federal programs, including through dissemination of public information and the reduction of information collection burdens on the public.

"§ 3505. Assignment of tasks and deadlines

"(a) In carrying out the functions under this chapter, the Director shall—

"(1) in consultation with agency heads, set an annual Governmentwide goal for the reduction of information collection burdens by at least 10 percent, and set annual agency goals to—

"(A) reduce information collection burdens imposed on the public that—

"(i) represent the maximum practicable opportunity in each agency; and

"(ii) are consistent with improving agency management of the process for the review of collections of information established under section 3506(c); and

"(B) improve information resources management in ways that increase the productivity, efficiency and effectiveness of Federal programs, including service delivery to the public;

"(2) with selected agencies and non-Federal entities on a voluntary basis, initiate and conduct pilot projects to test alternative policies, practices, regulations, and procedures to fulfill the purposes of this chapter, particularly with regard to minimizing the Federal information collection burden; and

"(3) in consultation with the Administrator of General Services, the Director of the National Institute of Standards and Technology, the Archivist of the United States, and the Director of the Office of Personnel Management, develop and maintain a Governmentwide strategic plan for information resources management, that shall include—

"(A) a description of the objectives and the means by which the Federal Government shall apply information resources to improve agency and program performance;

"(B) plans for—

"(i) reducing information burdens on the public, including reducing such burdens through the elimination of duplication and

meeting shared data needs with shared resources;

"(ii) enhancing public access to and dissemination of, information, using electronic and other formats; and

"(iii) meeting the information technology needs of the Federal Government in accordance with the purposes of this chapter; and

"(C) a description of progress in applying information resources management to improve agency performance and the accomplishment of missions.

"(b) For purposes of any pilot project conducted under subsection (a)(2), the Director may waive the application of any regulation or administrative directive issued by an agency with which the project is conducted, including any regulation or directive requiring a collection of information, after giving timely notice to the public and the Congress regarding the need for such waiver.

"§ 3506. Federal agency responsibilities

"(a)(1) The head of each agency shall be responsible for—

"(A) carrying out the agency's information resources management activities to improve agency productivity, efficiency, and effectiveness; and

"(B) complying with the requirements of this chapter and related policies established by the Director.

"(2)(A) Except as provided under subparagraph (B), the head of each agency shall designate a senior official who shall report directly to such agency head to carry out the responsibilities of the agency under this chapter.

"(B) The Secretary of the Department of Defense and the Secretary of each military department may each designate a senior official who shall report directly to such Secretary to carry out the responsibilities of the department under this chapter. If more than one official is designated for the military departments, the respective duties of the officials shall be clearly delineated.

"(3) The senior official designated under paragraph (2) shall head an office responsible for ensuring agency compliance with and prompt, efficient, and effective implementation of the information policies and information resources management responsibilities established under this chapter, including the reduction of information collection burdens on the public. The senior official and employees of such office shall be selected with special attention to the professional qualifications required to administer the functions described under this chapter.

"(4) Each agency program official shall be responsible and accountable for information resources assigned to and supporting the programs under such official. In consultation with the senior official designated under paragraph (2) and the agency Chief Financial Officer (or comparable official), each agency program official shall define program information needs and develop strategies, systems, and capabilities to meet those needs.

"(b) With respect to general information resources management, each agency shall—

"(1) manage information resources to—

"(A) reduce information collection burdens on the public;

"(B) increase program efficiency and effectiveness; and

"(C) improve the integrity, quality, and utility of information to all users within and outside the agency, including capabilities for ensuring dissemination of public information, public access to government information, and protections for privacy and security;

"(2) in accordance with guidance by the Director, develop and maintain a strategic information resources management plan that shall describe how information resources management activities help accomplish agency missions;

"(3) develop and maintain an ongoing process to—

"(A) ensure that information resources management operations and decisions are integrated with organizational planning, budget, financial management, human resources management, and program decisions;

"(B) in cooperation with the agency Chief Financial Officer (or comparable official), develop a full and accurate accounting of information technology expenditures, related expenses, and results; and

"(C) establish goals for improving information resources management's contribution to program productivity, efficiency, and effectiveness, methods for measuring progress towards those goals, and clear roles and responsibilities for achieving those goals;

"(4) in consultation with the Director, the Administrator of General Services, and the Archivist of the United States, maintain a current and complete inventory of the agency's information resources, including directories necessary to fulfill the requirements of section 3511 of this chapter; and

"(5) in consultation with the Director and the Director of the Office of Personnel Management, conduct formal training programs to educate agency program and management officials about information resources management.

"(c) With respect to the collection of information and the control of paperwork, each agency shall—

"(1) establish a process within the office headed by the official designated under subsection (a), that is sufficiently independent of program responsibility to evaluate fairly whether proposed collections of information should be approved under this chapter, to—

"(A) review each collection of information before submission to the Director for review under this chapter, including—

"(i) an evaluation of the need for the collection of information;

"(ii) a functional description of the information to be collected;

"(iii) a plan for the collection of the information;

"(iv) a specific, objectively supported estimate of burden;

"(v) a test of the collection of information through a pilot program, if appropriate; and

"(vi) a plan for the efficient and effective management and use of the information to be collected, including necessary resources;

"(B) ensure that each information collection—

"(i) is inventoried, displays a control number and, if appropriate, an expiration date;

"(ii) indicates the collection is in accordance with the clearance requirements of section 3507; and

"(iii) contains a statement to inform the person receiving the collection of information—

"(I) the reasons the information is being collected;

"(II) the way such information is to be used;

"(III) an estimate, to the extent practicable, of the burden of the collection; and

"(IV) whether responses to the collection of information are voluntary, required to obtain a benefit, or mandatory; and

"(C) assess the information collection burden of proposed legislation affecting the agency;

"(2)(A) except for good cause or as provided under subparagraph (B), provide 60-day notice in the Federal Register, and otherwise consult with members of the public and affected agencies concerning each proposed collection of information, to solicit comment to—

"(i) evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility;

"(ii) evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information;

"(iii) enhance the quality, utility, and clarity of the information to be collected; and

"(iv) minimize the burden of the collection of information on those who are to respond, including through the use of automated collection techniques or other forms of information technology; and

"(B) for any proposed collection of information contained in a proposed rule (to be reviewed by the Director under section 3507(d)), provide notice and comment through the notice of proposed rulemaking for the proposed rule and such notice shall have the same purposes specified under subparagraph (A) (i) through (iv);

"(3) certify (and provide a record supporting such certification, including public comments received by the agency) that each collection of information submitted to the Director for review under section 3507—

"(A) is necessary for the proper performance of the functions of the agency, including that the information has practical utility;

"(B) is not unnecessarily duplicative of information otherwise reasonably accessible to the agency;

"(C) reduces to the extent practicable and appropriate the burden on persons who shall provide information to or for the agency, including with respect to small entities, as defined under section 601(6) of title 5, the use of such techniques as—

"(i) establishing differing compliance or reporting requirements or timetables that take into account the resources available to those who are to respond;

"(ii) the clarification, consolidation, or simplification of compliance and reporting requirements; or

"(iii) an exemption from coverage of the collection of information, or any part thereof;

"(D) is written using plain, coherent, and unambiguous terminology and is understandable to those who are to respond;

"(E) is to be implemented in ways consistent and compatible, to the maximum extent practicable, with the existing reporting and recordkeeping practices of those who are to respond;

"(F) indicates for each recordkeeping requirement the length of time persons are required to maintain the records specified;

"(G) contains the statement required under paragraph (1)(B)(iii);

"(H) has been developed by an office that has planned and allocated resources for the efficient and effective management and use of the information to be collected, including the processing of the information in a manner which shall enhance, where appropriate, the utility of the information to agencies and the public;

"(I) uses effective and efficient statistical survey methodology appropriate to the purpose for which the information is to be collected; and

"(J) to the maximum extent practicable, uses information technology to reduce burden and improve data quality, agency efficiency and responsiveness to the public; and

"(4) place an emphasis on minimizing the burden on small businesses with 50 or fewer employees.

"(d) With respect to information dissemination, each agency shall—

"(1) ensure that the public has timely, equal, and equitable access to the agency's public information, including ensuring such access through—

"(A) encouraging a diversity of public and private sources for information based on government public information;

"(B) in cases in which the agency provides public information maintained in electronic format, providing timely, equal, and equitable access to the underlying data (in whole or in part); and

"(C) agency dissemination of public information in an efficient, effective, and economical manner;

"(2) regularly solicit and consider public input on the agency's information dissemination activities;

"(3) provide adequate notice when initiating, substantially modifying, or terminating significant information dissemination products; and

"(4) not, except where specifically authorized by statute—

"(A) establish an exclusive, restricted, or other distribution arrangement that interferes with timely and equitable availability of public information to the public;

"(B) restrict or regulate the use, resale, or redissemination of public information by the public;

"(C) charge fees or royalties for resale or redissemination of public information; or

"(D) establish user fees for public information that exceed the cost of dissemination, except that the Director may waive the application of this subparagraph to an agency, if—

"(i) the head of the agency submits a written request to the Director, publishes a notice of the request in the Federal Register, and provides a copy of the request to the public upon request;

"(ii) the Director sets forth in writing a statement of the scope, conditions, and duration of the waiver and the reasons for granting it, and makes such statement available to the public upon request; and

"(iii) the granting of the waiver would not materially impair the timely and equitable availability of public information to the public.

"(e) With respect to statistical policy and coordination, each agency shall—

"(1) ensure the relevance, accuracy, timeliness, integrity, and objectivity of information collected or created for statistical purposes;

"(2) inform respondents fully and accurately about the sponsors, purposes, and uses of statistical surveys and studies;

"(3) protect respondents' privacy and ensure that disclosure policies fully honor pledges of confidentiality;

"(4) observe Federal standards and practices for data collection, analysis, documentation, sharing, and dissemination of information;

"(5) ensure the timely publication of the results of statistical surveys and studies, including information about the quality and limitations of the surveys and studies; and

"(6) make data available to statistical agencies and readily accessible to the public.

"(f) With respect to records management, each agency shall implement and enforce applicable policies and procedures, including requirements for archiving information maintained in electronic format, particularly in the planning, design and operation of information systems.

"(g) With respect to privacy and security, each agency shall—

"(1) implement and enforce applicable policies, procedures, standards, and guidelines on privacy, confidentiality, security, disclosure and sharing of information collected or maintained by or for the agency;

"(2) assume responsibility and accountability for compliance with and coordinated management of sections 552 and 552a of title 5, the Computer Security Act of 1987 (40 U.S.C. 759 note), and related information management laws; and

"(3) consistent with the Computer Security Act of 1987 (40 U.S.C. 759 note), identify and afford security protections commensurate with the risk and magnitude of the harm resulting from the loss, misuse, or unauthorized access to or modification of information collected or maintained by or on behalf of an agency.

"(h) With respect to Federal information technology, each agency shall—

"(1) implement and enforce applicable Governmentwide and agency information technology management policies, principles, standards, and guidelines;

"(2) assume responsibility and accountability for information technology investments;

"(3) promote the use of information technology by the agency to improve the productivity, efficiency, and effectiveness of agency programs, including the reduction of information collection burdens on the public and improved dissemination of public information;

"(4) propose changes in legislation, regulations, and agency procedures to improve information technology practices, including changes that improve the ability of the agency to use technology to reduce burden; and

"(5) assume responsibility for maximizing the value and assessing and managing the risks of major information systems initiatives through a process that is—

"(A) integrated with budget, financial, and program management decisions; and

"(B) used to select, control, and evaluate the results of major information systems initiatives.

"§ 3507. Public information collection activities; submission to Director; approval and delegation

"(a) An agency shall not conduct or sponsor the collection of information unless in advance of the adoption or revision of the collection of information—

"(1) the agency has—

"(A) conducted the review established under section 3506(c)(1);

"(B) evaluated the public comments received under section 3506(c)(2);

"(C) submitted to the Director the certification required under section 3506(c)(3), the proposed collection of information, copies of pertinent statutory authority, regulations, and other related materials as the Director may specify; and

"(D) published a notice in the Federal Register—

"(i) stating that the agency has made such submission; and

"(ii) setting forth—

"(I) a title for the collection of information;

"(II) a summary of the collection of information;

"(III) a brief description of the need for the information and the proposed use of the information;

"(IV) a description of the likely respondents and proposed frequency of response to the collection of information;

"(V) an estimate of the burden that shall result from the collection of information; and

"(VI) notice that comments may be submitted to the agency and Director;

"(2) the Director has approved the proposed collection of information or approval has been inferred, under the provisions of this section; and

"(3) the agency has obtained from the Director a control number to be displayed upon the collection of information.

"(b) The Director shall provide at least 30 days for public comment prior to making a decision under subsection (c), (d), or (h), except for good cause or as provided under subsection (j).

"(c)(1) For any proposed collection of information not contained in a proposed rule, the Director shall notify the agency involved of the decision to approve or disapprove the proposed collection of information.

"(2) The Director shall provide the notification under paragraph (1), within 60 days after receipt or publication of the notice under subsection (a)(1)(D), whichever is later.

"(3) If the Director does not notify the agency of a denial or approval within the 60-day period described under paragraph (2)—

"(A) the approval may be inferred;

"(B) a control number shall be assigned without further delay; and

"(C) the agency may collect the information for not more than 1 year.

"(d)(1) For any proposed collection of information contained in a proposed rule—

"(A) as soon as practicable, but no later than the date of publication of a notice of proposed rulemaking in the Federal Register, each agency shall forward to the Director a copy of any proposed rule which contains a collection of information and any information requested by the Director necessary to make the determination required under this subsection; and

"(B) within 60 days after the notice of proposed rulemaking is published in the Federal Register, the Director may file public comments pursuant to the standards set forth in section 3508 on the collection of information contained in the proposed rule;

"(2) When a final rule is published in the Federal Register, the agency shall explain—

"(A) how any collection of information contained in the final rule responds to the comments, if any, filed by the Director or the public; or

"(B) the reasons such comments were rejected.

"(3) If the Director has received notice and failed to comment on an agency rule within 60 days after the notice of proposed rulemaking, the Director may not disapprove any collection of information specifically contained in an agency rule.

"(4) No provision in this section shall be construed to prevent the Director, in the Director's discretion—

"(A) from disapproving any collection of information which was not specifically required by an agency rule;

"(B) from disapproving any collection of information contained in an agency rule, if the agency failed to comply with the requirements of paragraph (1) of this subsection;

"(C) from disapproving any collection of information contained in a final agency rule, if the Director finds within 60 days after the publication of the final rule, and after considering the agency's response to the Director's comments filed under paragraph (2),

that the collection of information cannot be approved under the standards set forth in section 3508; or

"(D) from disapproving any collection of information contained in a final rule, if—

"(i) the Director determines that the agency has substantially modified in the final rule the collection of information contained in the proposed rule; and

"(ii) the agency has not given the Director the information required under paragraph (1) with respect to the modified collection of information, at least 60 days before the issuance of the final rule.

"(5) This subsection shall apply only when an agency publishes a notice of proposed rulemaking and requests public comments.

"(6) The decision by the Director to approve or not act upon a collection of information contained in an agency rule shall not be subject to judicial review.

"(e)(1) Any decision by the Director under subsection (c), (d), (h), or (j) to disapprove a collection of information, or to instruct the agency to make substantive or material change to a collection of information, shall be publicly available and include an explanation of the reasons for such decision.

"(2) Any written communication between the Administrator of the Office of Information and Regulatory Affairs, or any employee of the Office of Information and Regulatory Affairs, and an agency or person not employed by the Federal Government concerning a proposed collection of information shall be made available to the public.

"(3) This subsection shall not require the disclosure of—

"(A) any information which is protected at all times by procedures established for information which has been specifically authorized under criteria established by an Executive order or an Act of Congress to be kept secret in the interest of national defense or foreign policy; or

"(B) any communication relating to a collection of information, the disclosure of which could lead to retaliation or discrimination against the communicator.

"(f)(1) An independent regulatory agency which is administered by 2 or more members of a commission, board, or similar body, may by majority vote void—

"(A) any disapproval by the Director, in whole or in part, of a proposed collection of information that agency; or

"(B) an exercise of authority under subsection (d) of section 3507 concerning that agency.

"(2) The agency shall certify each vote to void such disapproval or exercise to the Director, and explain the reasons for such vote. The Director shall without further delay assign a control number to such collection of information, and such vote to void the disapproval or exercise shall be valid for a period of 3 years.

"(g) The Director may not approve a collection of information for a period in excess of 3 years.

"(h)(1) If an agency decides to seek extension of the Director's approval granted for a currently approved collection of information, the agency shall—

"(A) conduct the review established under section 3506(c), including the seeking of comment from the public on the continued need for, and burden imposed by the collection of information; and

"(B) after having made a reasonable effort to seek public comment, but no later than 60 days before the expiration date of the control number assigned by the Director for the currently approved collection of information, submit the collection of information for review and approval under this section, which shall include an explanation of how the agency has used the information that it has collected.

"(2) If under the provisions of this section, the Director disapproves a collection of information contained in an existing rule, or recommends or instructs the agency to make a substantive or material change to a collection of information contained in an existing rule, the Director shall—

"(A) publish an explanation thereof in the Federal Register; and

"(B) instruct the agency to undertake a rulemaking within a reasonable time limited to consideration of changes to the collection of information contained in the rule and thereafter to submit the collection of information for approval or disapproval under this chapter.

"(3) An agency may not make a substantive or material modification to a collection of information after such collection has been approved by the Director, unless the modification has been submitted to the Director for review and approval under this chapter.

"(i)(1) If the Director finds that a senior official of an agency designated under section 3506(a) is sufficiently independent of program responsibility to evaluate fairly whether proposed collections of information should be approved and has sufficient resources to carry out this responsibility effectively, the Director may, by rule in accordance with the notice and comment provisions of chapter 5 of title 5, United States Code, delegate to such official the authority to approve proposed collections of information in specific program areas, for specific purposes, or for all agency purposes.

"(2) A delegation by the Director under this section shall not preclude the Director from reviewing individual collections of information if the Director determines that circumstances warrant such a review. The Director shall retain authority to revoke such delegations, both in general and with regard to any specific matter. In acting for the Director, any official to whom approval authority has been delegated under this section shall comply fully with the rules and regulations promulgated by the Director.

"(j)(1) The agency head may request the Director to authorize collection of information prior to expiration of time periods established under this chapter, if an agency head determines that—

"(A) a collection of information—

"(i) is needed prior to the expiration of such time periods; and

"(ii) is essential to the mission of the agency; and

"(B) the agency cannot reasonably comply with the provisions of this chapter within such time periods because—

"(i) public harm is reasonably likely to result if normal clearance procedures are followed; or

"(ii) an unanticipated event has occurred and the use of normal clearance procedures is reasonably likely to prevent or disrupt the collection of information related to the event or is reasonably likely to cause a statutory or court-ordered deadline to be missed.

"(2) The Director shall approve or disapprove any such authorization request within the time requested by the agency head and, if approved, shall assign the collection of information a control number. Any collection of information conducted under this subsection may be conducted without compliance with the provisions of this chapter for a maximum of 90 days after the date on which the Director received the request to authorize such collection.

"§ 3508. Determination of necessity for information; hearing

"Before approving a proposed collection of information, the Director shall determine whether the collection of information by the agency is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility. Before making a determination the Director may give the agency and other interested persons an opportunity to be heard or to submit statements in writing. To the extent, if any, that the Director determines that the collection of information by an agency is unnecessary for any reason, the agency may not engage in the collection of information.

"§ 3509. Designation of central collection agency

"The Director may designate a central collection agency to obtain information for two or more agencies if the Director determines that the needs of such agencies for information will be adequately served by a single collection agency, and such sharing of data is not inconsistent with applicable law. In such cases the Director shall prescribe (with reference to the collection of information) the duties and functions of the collection agency so designated and of the agencies for which it is to act as agent (including reimbursement for costs). While the designation is in effect, an agency covered by the designation may not obtain for itself information for the agency which is the duty of the collection agency to obtain. The Director may modify the designation from time to time as circumstances require. The authority to designate under this section is subject to the provisions of section 3507(f) of this chapter.

"§ 3510. Cooperation of agencies in making information available

"(a) The Director may direct an agency to make available to another agency, or an agency may make available to another agency, information obtained by a collection of information if the disclosure is not inconsistent with applicable law.

"(b)(1) If information obtained by an agency is released by that agency to another agency, all the provisions of law (including penalties which relate to the unlawful disclosure of information) apply to the officers and employees of the agency to which information is released to the same extent and in the same manner as the provisions apply to the officers and employees of the agency which originally obtained the information.

"(2) The officers and employees of the agency to which the information is released, in addition, shall be subject to the same provisions of law, including penalties, relating to the unlawful disclosure of information as if the information had been collected directly by that agency.

"§ 3511. Establishment and operation of Government Information Locator Service

"In order to assist agencies and the public in locating information and to promote information sharing and equitable access by the public, the Director shall—

"(1) cause to be established and maintained a distributed agency-based electronic Government Information Locator Service (hereafter in this section referred to as the 'Service'), which shall identify the major information systems, holdings, and dissemination products of each agency;

"(2) require each agency to establish and maintain an agency information locator service as a component of, and to support the establishment and operation of the Service;

"(3) in cooperation with the Archivist of the United States, the Administrator of General Services, the Public Printer, and the Librarian of Congress, establish an interagency committee to advise the Secretary of Commerce on the development of technical standards for the Service to ensure compatibility, promote information sharing, and uniform access by the public;

"(4) consider public access and other user needs in the establishment and operation of the Service;

"(5) ensure the security and integrity of the Service, including measures to ensure that only information which is intended to be disclosed to the public is disclosed through the Service; and

"(6) periodically review the development and effectiveness of the Service and make recommendations for improvement, including other mechanisms for improving public access to Federal agency public information.

"§ 3512. Public protection

"(a) Notwithstanding any other provision of law, no person shall be subject to any penalty for failing to maintain or provide information to any agency if the collection of information involved was made after December 31, 1981, and at the time of the failure did not display a current control number assigned by the Director, or fails to state that such request is not subject to this chapter.

"(b) Actions taken by agencies which are not in compliance with subsection (a) of this section shall give rise to a complete defense or bar to such action by an agency, which may be raised at any time during the agency decision making process or judicial review of the agency decision under any available process for judicial review.

"§ 3513. Director review of agency activities; reporting; agency response

"(a) In consultation with the Administrator of General Services, the Archivist of the United States, the Director of the National Institute of Standards and Technology, and the Director of the Office of Personnel Management, the Director shall periodically review selected agency information resources management activities to ascertain the efficiency and effectiveness of such activities to improve agency performance and the accomplishment of agency missions.

"(b) Each agency having an activity reviewed under subsection (a) shall, within 60 days after receipt of a report on the review, provide a written plan to the Director describing steps (including milestones) to—

"(1) be taken to address information resources management problems identified in the report; and

"(2) improve agency performance and the accomplishment of agency missions.

"§ 3514. Responsiveness to Congress

"(a)(1) The Director shall—

"(A) keep the Congress and congressional committees fully and currently informed of the major activities under this chapter; and

"(B) submit a report on such activities to the President of the Senate and the Speaker of the House of Representatives annually and at such other times as the Director determines necessary.

"(2) The Director shall include in any such report a description of the extent to which agencies have—

"(A) reduced information collection burdens on the public, including—

"(i) a summary of accomplishments and planned initiatives to reduce collection of information burdens;

"(ii) a list of all violations of this chapter and of any rules, guidelines, policies, and procedures issued pursuant to this chapter;

"(iii) a list of any increase in the collection of information burden, including the authority for each such collection; and

"(iv) a list of agencies that in the preceding year did not reduce information collection burdens by at least 10 percent pursuant to section 3505, a list of the programs and statutory responsibilities of those agencies that precluded that reduction, and recommendations to assist those agencies to reduce information collection burdens in accordance with that section;

"(B) improved the quality and utility of statistical information;

"(C) improved public access to Government information; and

"(D) improved program performance and the accomplishment of agency missions through information resources management.

"(b) The preparation of any report required by this section shall be based on performance results reported by the agencies and shall not increase the collection of information burden on persons outside the Federal Government.

"§ 3515. Administrative powers

"Upon the request of the Director, each agency (other than an independent regulatory agency) shall, to the extent practicable, make its services, personnel, and facilities available to the Director for the performance of functions under this chapter.

"§ 3516. Rules and regulations

"The Director shall promulgate rules, regulations, or procedures necessary to exercise the authority provided by this chapter.

"§ 3517. Consultation with other agencies and the public

"(a) In developing information resources management policies, plans, rules, regulations, procedures, and guidelines and in reviewing collections of information, the Director shall provide interested agencies and persons early and meaningful opportunity to comment.

"(b) Any person may request the Director to review any collection of information conducted by or for an agency to determine, if, under this chapter, the person shall maintain, provide, or disclose the information to or for the agency. Unless the request is frivolous, the Director shall, in coordination with the agency responsible for the collection of information—

"(1) respond to the request within 60 days after receiving the request, unless such period is extended by the Director to a specified date and the person making the request is given notice of such extension; and

"(2) take appropriate remedial action, if necessary.

"§ 3518. Effect on existing laws and regulations

"(a) Except as otherwise provided in this chapter, the authority of an agency under any other law to prescribe policies, rules, regulations, and procedures for Federal information resources management activities is subject to the authority of the Director under this chapter.

"(b) Nothing in this chapter shall be deemed to affect or reduce the authority of the Secretary of Commerce or the Director of the Office of Management and Budget pursuant to Reorganization Plan No. 1 of 1977 (as amended) and Executive order, relating to telecommunications and information policy, procurement and management of telecommunications and information systems, spectrum use, and related matters.

"(c)(1) Except as provided in paragraph (2), this chapter shall not apply to obtaining, causing to be obtained, soliciting, or requiring the disclosure to third parties or the public, of facts or opinions—

"(A) during the conduct of a Federal criminal investigation or prosecution, or during the disposition of a particular criminal matter;

"(B) during the conduct of—

"(i) a civil action to which the United States or any official or agency thereof is a party; or

"(ii) an administrative action or investigation involving an agency against specific individuals or entities;

"(C) by compulsory process pursuant to the Antitrust Civil Process Act and section 13 of the Federal Trade Commission Improvements Act of 1980; or

"(D) during the conduct of intelligence activities as defined in section 4-206 of Executive Order No. 12036, issued January 24, 1978, or successor orders, or during the conduct of cryptologic activities that are communications security activities.

"(2) This chapter applies to obtaining, causing to be obtained, soliciting, or requiring the disclosure to third parties or the public, of facts or opinions during the conduct of general investigations (other than information collected in an antitrust investigation to the extent provided in subparagraph (C) of paragraph (1)) undertaken with reference to a category of individuals or entities such as a class of licensees or an entire industry.

"(d) Nothing in this chapter shall be interpreted as increasing or decreasing the authority conferred by Public Law 89-306 on the Administrator of the General Services Administration, the Secretary of Commerce, or the Director of the Office of Management and Budget.

"(e) Nothing in this chapter shall be interpreted as increasing or decreasing the authority of the President, the Office of Management and Budget or the Director thereof, under the laws of the United States, with respect to the substantive policies and programs of departments, agencies and offices, including the substantive authority of any Federal agency to enforce the civil rights laws.

"§ 3519. Access to information

"Under the conditions and procedures prescribed in section 716 of title 31, the Director and personnel in the Office of Information and Regulatory Affairs shall furnish such information as the Comptroller General may require for the discharge of the responsibilities of the Comptroller General. For the purpose of obtaining such information, the Comptroller General or representatives thereof shall have access to all books, documents, papers and records, regardless of form or format, of the Office.

"§ 3520. Authorization of appropriations

"There are authorized to be appropriated to the Office of Information and Regulatory Affairs to carry out the provisions of this chapter such sums as may be necessary.".

SEC. 3. EFFECTIVE DATE.

The amendments made by this Act shall take effect October 1, 1995.

H.R. 925

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Private Property Protection Act of 1995".

SEC. 2. FEDERAL POLICY AND DIRECTION.

(a) GENERAL POLICY.—It is the policy of the Federal Government that no law or agency action should limit the use of privately owned property so as to diminish its value.

(b) APPLICATION TO FEDERAL AGENCY ACTION.—Each Federal agency, officer, and employee should exercise Federal authority to ensure that agency action will not limit the use of privately owned property so as to diminish its value.

SEC. 3. RIGHT TO COMPENSATION.

(a) IN GENERAL.—The Federal Government shall compensate an owner of property whose use of any portion of that property has been limited by an agency action, under a specified regulatory law, that diminishes the fair market value of that portion by 20 percent or more. The amount of the compensation shall equal the diminution in value that resulted from the agency action. If the diminution in value of a portion of that property is greater than 50 percent, at the option of the owner, the Federal Government shall buy that portion of the property for its fair market value.

(b) DURATION OF LIMITATION ON USE.—Property with respect to which compensation has been paid under this Act shall not thereafter be used contrary to the limitation imposed by the agency action, even if that action is later rescinded or otherwise vitiated. However, if that action is later rescinded or otherwise vitiated, and the owner elects to refund the amount of the compensation, adjusted for inflation, to the Treasury of the United States, the property may be so used.

SEC. 4. EFFECT OF STATE LAW.

If a use is a nuisance as defined by the law of a State or is already prohibited under a local zoning ordinance, no compensation shall be made under this Act with respect to a limitation on that use.

SEC. 5. EXCEPTIONS.

(a) PREVENTION OF HAZARD TO HEALTH OR SAFETY OR DAMAGE TO SPECIFIC PROPERTY.—No compensation shall be made under this Act with respect to an agency action the primary purpose of which is to prevent an identifiable—

(1) hazard to public health or safety; or

(2) damage to specific property other than the property whose use is limited.

(b) NAVIGATION SERVITUDE.—No compensation shall be made under this Act with respect to an agency action pursuant to the Federal navigation servitude, as defined by the courts of the United States, except to the extent such servitude is interpreted to apply to wetlands.

SEC. 6. PROCEDURE.

(a) REQUEST OF OWNER.—An owner seeking compensation under this Act shall make a written request for compensation to the agency whose agency action resulted in the limitation. No such request may be made later than 180 days after the owner receives actual notice of that agency action.

(b) NEGOTIATIONS.—The agency may bargain with that owner to establish the amount of the compensation. If the agency and the owner agree to such an amount, the agency shall promptly pay the owner the amount agreed upon.

(c) CHOICE OF REMEDIES.—If, not later than 180 days after the written request is made, the parties do not come to an agreement as to the right to and amount of compensation, the owner may choose to take the matter to binding arbitration or seek compensation in a civil action.

(d) ARBITRATION.—The procedures that govern the arbitration shall, as nearly as practicable, be those established under title 9, United States Code, for arbitration proceedings to which that title applies. An award made in such arbitration shall include a reasonable attorney's fee and other arbitration costs (including appraisal fees). The agency shall promptly pay any award made to the owner.

(e) CIVIL ACTION.—An owner who does not choose arbitration, or who does not receive prompt payment when required by this section, may obtain appropriate relief in a civil action against the agency. An owner who prevails in a civil action under this section shall be entitled to, and the agency shall be liable for, a reasonable attorney's fee and other litigation costs (including appraisal fees). The court shall award interest on the amount of any compensation from the time of the limitation.

(f) SOURCE OF PAYMENTS.—Any payment made under this section to an owner, and any judgment obtained by an owner in a civil action under this section shall, notwithstanding any other provision of law, be made from the annual appropriation of the agency whose action occasioned the payment or judgment. If the agency action resulted from a requirement imposed by another agency, then the agency making the payment or satisfying the judgment may seek partial or complete reimbursement from the appropriated funds of the other agency. For this purpose the head of the agency concerned may transfer or reprogram any appropriated funds available to the agency. If insufficient funds exist for the payment or to satisfy the judgment, it shall be the duty of the head of the agency to seek the appropriation of such funds for the next fiscal year.

SEC. 7. LIMITATION.

Notwithstanding any other provision of law, any obligation of the United States to make any payment under this Act shall be subject to the availability of appropriations.

SEC. 8. DUTY OF NOTICE TO OWNERS.

Whenever an agency takes an agency action limiting the use of private property, the agency shall give appropriate notice to the owners of that property explaining their rights under this Act and the procedures directly affected for obtaining any compensation that may be due to them under this Act.

SEC. 9. RULES OF CONSTRUCTION.

(a) EFFECT ON CONSTITUTIONAL RIGHT TO COMPENSATION.—Nothing in this Act shall be construed to limit any right to compensation that exists under the Constitution or under other laws of the United States.

(b) EFFECT OF PAYMENT.—Payment of compensation under this Act (other than when the property is bought by the Federal Government at the option of the owner) shall not confer any rights on the Federal Government other than the limitation on use resulting from the agency action.

SEC. 9. DEFINITIONS.

For the purposes of this Act—

(1) the term "property" means land and includes the right to use or receive water;

(2) a use of property is limited by an agency action if a particular legal right to use that property no longer exists because of the action;

(3) the term "agency action" has the meaning given that term in section 551 of title 5, United States Code, but also includes the making of a grant to a public authority conditioned upon an action by the recipient that would constitute a limitation if done directly by the agency;

(4) the term "agency" has the meaning given that term in section 551 of title 5, United States Code;

(5) the term "specified regulatory law" means—

(A) section 404 of the Federal Water Pollution Control Act (33 U.S.C. 1344);

(B) the Endangered Species Act of 1979 (16 U.S.C. 1531 et seq.);

(C) title XII of the Food Security Act of 1985 (16 U.S.C. 3821 et seq.); or

(D) with respect to an owner's right to use or receive water only—

(i) the Act of June 17, 1902, and all Acts amendatory thereof or supplementary thereto, popularly called the "Reclamation Acts" (43 U.S.C. 371 et seq.);

(ii) the Federal Land Policy Management Act (43 U.S.C. 1701 et seq.); or

(iii) section 6 of the Forest and Rangeland Renewable Resources Planning Act of 1974 (16 U.S.C. 1604);

(6) the term "fair market value" means the most probable price at which property would change hands, in a competitive and open market under all conditions requisite to a fair sale, between a willing buyer and a willing seller, neither being under any compulsion to buy or sell and both having reasonable knowledge of relevant facts, at the time the agency action occurs;

(7) the term "State" includes the District of Columbia, Puerto Rico, and any other territory or possession of the United States; and

(8) the term "law of the State" includes the law of a political subdivision of a State.

H.R. 926

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Regulatory Reform and Relief Act".

TITLE I—STRENGTHENING REGULATORY FLEXIBILITY

SEC. 101. JUDICIAL REVIEW.

(a) AMENDMENT.—Section 611 of title 5, United States Code, is amended to read as follows:

"§ 611. Judicial review

"(a)(1) Except as provided in paragraph (2), not later than one year notwithstanding any other provision of law after the effective date of a final rule with respect to which an agency—

"(A) certified, pursuant to section 605(b), that such rule would not have a significant economic impact on a substantial number of small entities; or

"(B) prepared a final regulatory flexibility analysis pursuant to section 604,

an affected small entity may petition for the judicial review of such certification or analysis in accordance with the terms of this subsection. A court having jurisdiction to review such rule for compliance with the provisions of section 553 or under any other provision of law shall have jurisdiction to review such certification or analysis. In the case where an agency delays the issuance of a final regulatory flexibility analysis pursuant to section 608(b), a petition for judicial review under this subsection shall be filed not later than one year notwithstanding any other provision of law after the date the analysis is made available to the public.

"(2) For purposes of this subsection, the term 'affected small entity' means a small entity that is or will be adversely affected by the final rule.

"(3) Nothing in this subsection shall be construed to affect the authority of any

court to stay the effective date of any rule or provision thereof under any other provision of law.

"(4)(A) In the case where the agency certified that such rule would not have a significant economic impact on a substantial number of small entities, the court may order the agency to prepare a final regulatory flexibility analysis pursuant to section 604 if the court determines, on the basis of the rulemaking record, that the certification was arbitrary, capricious, an abuse of discretion, or otherwise not in accordance with law.

"(B) In the case where the agency prepared a final regulatory flexibility analysis, the court may order the agency to take corrective action consistent with the requirements of section 604 if the court determines, on the basis of the rulemaking record, that the final regulatory flexibility analysis was prepared by the agency without observance of procedure required by section 604.

"(5) If, by the end of the 90-day period beginning on the date of the order of the court pursuant to paragraph (4) (or such longer period as the court may provide), the agency fails, as appropriate—

"(A) to prepare the analysis required by section 604; or

"(B) to take corrective action consistent with the requirements of section 604,

the court may stay the rule or grant such other relief as it deems appropriate.

"(6) In making any determination or granting any relief authorized by this subsection, the court shall take due account of the rule of prejudicial error.

"(b) In an action for the judicial review of a rule, any regulatory flexibility analysis for such rule (including an analysis prepared or corrected pursuant to subsection (a)(4)) shall constitute part of the whole record of agency action in connection with such review.

"(c) Nothing in this section bars judicial review of any other impact statement or similar analysis required by any other law if judicial review of such statement or analysis is otherwise provided by law.".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply only to final agency rules issued after the date of enactment of this Act.

SEC. 102. RULES COMMENTED ON BY SBA CHIEF COUNSEL FOR ADVOCACY.

(a) IN GENERAL.—Section 612 of title 5, United States Code, is amended by adding at the end the following new subsection:

"(d) ACTION BY THE SBA CHIEF COUNSEL FOR ADVOCACY.—

"(1) TRANSMITTAL OF PROPOSED RULES AND INITIAL REGULATORY FLEXIBILITY ANALYSIS TO SBA CHIEF COUNSEL FOR ADVOCACY.—On or before the 30th day preceding the date of publication by an agency of general notice of proposed rulemaking for a rule, the agency shall transmit to the Chief Counsel for Advocacy of the Small Business Administration—

"(A) a copy of the proposed rule; and

"(B)(i) a copy of the initial regulatory flexibility analysis for the rule if required under section 603; or

"(ii) a determination by the agency that an initial regulatory flexibility analysis is not required for the proposed rule under section 603 and an explanation for the determination.

"(2) STATEMENT OF EFFECT.—On or before the 15th day following receipt of a proposed rule and initial regulatory flexibility analysis from an agency under paragraph (1), the Chief Counsel for Advocacy may transmit to the agency a written statement of the effect of the proposed rule on small entities.

"(3) RESPONSE.—If the Chief Counsel for Advocacy transmits to an agency a statement of effect on a proposed rule in accordance with paragraph (2), the agency shall publish the statement, together with the response of the agency to the statement, in the Federal Register at the time of publication of general notice of proposed rulemaking for the rule.

"(4) SPECIAL RULE.—Any proposed rules issued by an appropriate Federal banking agency (as that term is defined in section 3(q) of the Federal Deposit Insurance Act (12 U.S.C. 1813(q)), the National Credit Union Administration, or the Office of Federal Housing Enterprise Oversight, in connection with the implementation of monetary policy or to ensure the safety and soundness of federally insured depository institutions, any affiliate of such an institution, credit unions, or government sponsored housing enterprises or to protect the Federal deposit insurance funds shall not be subject to the requirements of this subsection.".

(b) CONFORMING AMENDMENT.—Section 603(a) of title 5, United States Code, is amended by inserting "in accordance with section 612(d)" before the period at the end of the last sentence.

SEC. 103. SENSE OF CONGRESS REGARDING SBA CHIEF COUNSEL FOR ADVOCACY.

It is the sense of Congress that the Chief Counsel for Advocacy of the Small Business Administration should be permitted to appear as amicus curiae in any action or case brought in a court of the United States for the purpose of reviewing a rule.

TITLE II—REGULATORY IMPACT ANALYSES

SEC. 201. DEFINITIONS.

Section 551 of title 5, United States Code, is amended by striking "and" at the end of paragraph (13), by striking the period at the end of paragraph (14) and inserting a semicolon, and by adding at the end the following:

"(15) 'major rule' means any rule subject to section 553(c) that is likely to result in—

"(A) an annual effect on the economy of $50,000,000 or more;

"(B) a major increase in costs or prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions, or

"(C) significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic and export markets; and

"(16) 'Director' means the Director of the Office of Management and Budget.".

SEC. 202. RULEMAKING NOTICES FOR MAJOR RULES.

Section 553 of title 5, United States Code, is amended by adding at the end the following:

"(f)(1) Each agency shall for a proposed major rule publish in the Federal Register, at least 90 days before the date of publication of the general notice required under subsection (b), a notice of intent to engage in rulemaking.

"(2) A notice under paragraph (1) for a proposed major rule shall include, to the extent possible, the information required to be included in a regulatory impact analysis for the rule under subsection (i)(4)(B) and (D).

"(3) For a major rule proposed by an agency, the head of the agency shall include in a general notice under subsection (b), a preliminary regulatory impact analysis for the rule prepared in accordance with subsection (i).

"(4) For a final major rule, the agency shall include with the statement of basis and purpose—

"(A) a summary of a final regulatory impact analysis of the rule in accordance with subsection (i); and

"(B) a clear delineation of all changes in the information included in the final regulatory impact analysis under subsection (i) from any such information that was included in the notice for the rule under subsection (b).

The agency shall provide the complete text of a final regulatory impact analysis upon request.

"(5) The issuance of a notice of intent to engage in rulemaking under paragraph (1) and the issuance of a preliminary regulatory impact analysis under paragraph (3) shall not be considered final agency action for purposes of section 704.

"(6) In a rulemaking involving a major rule, the agency conducting the rulemaking shall make a written record describing the subject of all contacts the agency made with persons outside the agency relating to such rulemaking. If the contact was made with a non-governmental person, the written record of such contact shall be made available, upon request to the public.".

SEC. 203. HEARING REQUIREMENT FOR PROPOSED RULES; AND EXTENSION OF COMMENT PERIOD.

(a) HEARING REQUIREMENT.—Section 553 of title 5, United States Code, as amended by section 202, is further amended by adding after subsection (f) the following:

"(g) If more than 100 interested persons acting individually submit requests for a hearing to an agency regarding any major rule proposed by the agency, the agency shall hold such a hearing on the proposed rule.".

(b) EXTENSION OF COMMENT PERIOD.—Section 553 of title 5, United States Code, as amended by subsection (a), is further amended by adding after subsection (g) the following:

"(h) If during the 90-day period beginning on the date of publication of a notice under subsection (f) for a proposed major rule, or if during the period beginning on the date of publication or service of notice required by subsection (b) for a proposed major rule, more than 100 persons individually contact the agency to request an extension of the period for making submissions under subsection (c) pursuant to the notice, the agency—

"(1) shall provide an additional 30-day period for making those submissions; and

"(2) may not adopt the rule until after the additional period.".

(c) RESPONSE TO COMMENTS.—Section 553(c) of title 5, United States Code, is amended—

(1) by inserting "(1)" after "(c)"; and

(2) by adding at the end the following:

"(2) Each agency shall publish in the Federal Register, with each rule published under section 552(a)(1)(D), responses to the substance of the comments received by the agency regarding the rule.".

SEC. 204. REGULATORY IMPACT ANALYSIS.

Section 553 of title 5, United States Code, as amended by section 203, is amended by adding after subsection (h) the following:

"(i)(1) Each agency shall, in connection with every major rule, prepare, and, to the extent permitted by law, consider, a regulatory impact analysis. Such analysis may be combined with any regulatory flexibility analysis performed under sections 603 and 604.

"(2) Each agency shall initially determine whether a rule it intends to propose or issue

is a major rule. The Director shall have authority to order a rule to be treated as a major rule and to require any set of related rules to be considered together as a major rule.

"(3) Except as provided in subsection (j), agencies shall prepare—

"(A) a preliminary regulatory impact analysis, which shall be transmitted, along with a notice of proposed rulemaking, to the Director at least 60 days prior to the publication of notice of proposed rulemaking, and

"(B) a final regulatory impact analysis, which shall be transmitted along with the final rule at least 30 days prior to the publication of a major rule.

"(4) Each preliminary and final regulatory impact analysis shall contain the following information:

"(A) A description of the potential benefits of the rule, including any beneficial effects that cannot be quantified in monetary terms and the identification of those likely to receive the benefits.

"(B) An explanation of the necessity, legal authority, and reasonableness of the rule and a description of the condition that the rule is to address.

"(C) A description of the potential costs of the rule, including any adverse effects that cannot be quantified in monetary terms, and the identification of those likely to bear the costs.

"(D) An analysis of alternative approaches, including market based mechanisms, that could substantially achieve the same regulatory goal at a lower cost and an explanation of the reasons why such alternative approaches were not adopted, together with a demonstration that the rule provides for the least costly approach.

"(E) A statement that the rule does not conflict with, or duplicate, any other rule or a statement of the reasons why such a conflict or duplication exists.

"(F) A statement of whether the rule will require on-site inspections or whether persons will be required by the rule to maintain any records which will be subject to inspection, and a statement of whether the rule will require persons to obtain licenses, permits, or other certifications including specification of any associated fees or fines.

"(G) An estimate of the costs to the agency for implementation and enforcement of the rule and of whether the agency can be reasonably expected to implement the rule with the current level of appropriations.

"(5)(A) the Director is authorized to review and prepare comments on any preliminary or final regulatory impact analysis, notice of proposed rulemaking, or final rule based on the requirements of this subsection.

"(B) Upon the request of the Director, an agency shall consult with the Director concerning the review of a preliminary impact analysis or notice of proposed rulemaking and shall refrain from publishing its preliminary regulatory impact analysis or notice of proposed rulemaking until such review is concluded. The Director's review may not take longer than 90 days after the date of the request of the Director.

"(6)(A) An agency may not adopt a major rule unless the final regulatory impact analysis for the rule is approved or commented upon in writing by the Director or by an individual designated by the Director for that purpose.

"(B) Upon receiving notice that the Director intends to comment in writing with respect to any final regulatory impact analysis or final rule, the agency shall refrain from publishing its final regulatory impact analysis or final rule until the agency has responded to the Director's comments and incorporated those comments in the agency's response in the rulemaking file. If the Director fails to make such comments in writing with respect to any final regulatory impact analysis or final rule within 90 days of the date the Director gives such notice, the agency may adopt such final regulatory impact analysis or final rule.

"(7) Notwithstanding section 551(16), for purposes of this subsection with regard to any rule proposed or issued by an appropriate Federal banking agency (as that term is defined in section 3(q) of the Federal Deposit Insurance Act (12 U.S.C. 1813(q)), the National Credit Union Administration, or the Office of Federal Housing Enterprise Oversight, the term 'Director' means the head of such agency, Administration, or Office.".

SEC. 205. STANDARD OF CLARITY.

Section 553 of title 5, United States Code, as amended in section 204, is amended by adding after subsection (i) the following:

"(j) To the extent practicable, the head of an agency shall seek to ensure that any proposed major rule or regulatory impact analysis of such a rule is written in a reasonably simple and understandable manner and provides adequate notice of the content of the rule to affected persons.".

SEC. 206. EXEMPTIONS.

Section 553 of title 5, United States Code, as amended by section 205, is further amended by adding after subsection (j) the following:

"(k)(1) The provisions of this section regarding major rules shall not apply to—

"(A) any regulation that responds to an emergency situation if such regulation is reported to the Director as soon as is practicable;

"(B) any regulation for which consideration under the procedures of this section would conflict with deadlines imposed by statute or by judicial order;

"(C) any regulation proposed or issued in connection with the implementation of monetary policy or to ensure the safety and soundness of federally insured depository institutions, any affiliate of such institution, credit unions, or government sponsored housing enterprises regulated by the Office of Federal Housing Enterprise Oversight;

"(D) any agency action that the head of the agency certifies is limited to interpreting, implementing, or administering the internal revenue laws of the United States, including any regulation proposed or issued in connection with ensuring the collection of taxes from a subsidiary of a foreign company doing business in the United States; and

"(E) any regulation proposed or issued pursuant to section 553 of title 5, United States Code, in connection with imposing trade sanctions against any country that engages in illegal trade activities against the United States that are injurious to American technology, jobs, pensions, or general economic well-being.

A regulation described in subparagraph (B) shall be reported to the Director with a brief explanation of the conflict and the agency, in consultation with the Director, shall, to the extent permitted by statutory or judicial deadlines, adhere to the process of this section.

"(2) The Director may in accordance with the purposes of this section exempt any class or category of regulations from any or all requirements of this section.

"(3) For purposes of paragraph (1), the term 'emergency situation' means a situation that is—

"(A) immediately impending and extraordinary in nature, or

"(B) demanding attention due to a condition, circumstance, or practice reasonably expected to cause death, serious illness, or severe injury to humans or substantial endangerment to private property or the environment if no action is taken.".

SEC. 207. REPORT.

The Director of the Office of Management and Budget shall submit a report to the Congress no later than 24 months after the date of the enactment of this Act containing an analysis of rulemaking procedures of Federal agencies and an analysis of the impact of those rulemaking procedures on the regulated public and regulatory process.

SEC. 208. EFFECTIVE DATE.

The amendment made by this title shall apply only to final agency rules issued after rulemaking begun after the date of enactment of this Act.

TITLE III—PROTECTIONS

SEC. 301. PRESIDENTIAL ACTION.

Pursuant to the authority of section 7301 of title 5, United States Code, the President shall, within 180 days of the date of the enactment of this title, prescribe regulations for employees of the executive branch to ensure that Federal laws and regulations shall be administered consistent with the principle that any person shall, in connection with the enforcement of such laws and regulations—

(1) be protected from abuse, reprisal, or retaliation, and

(2) be treated fairly, equitably, and with due regard for such person's rights under the Constitution.

H.R. 1022

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Risk Assessment and Cost-Benefit Act of 1995".

SEC. 2. FINDINGS.

The Congress finds that:

(1) Environmental, health, and safety regulations have led to dramatic improvements in the environment and have significantly reduced human health risk; however, the Federal regulations that have led to these improvements have been more costly and less effective than they could have been; too often, regulatory priorities have not been based upon a realistic consideration of risk, risk reduction opportunities, and costs.

(2) The public and private resources available to address health, safety, and environmental concerns are not unlimited; those resources need to be allocated to address the greatest needs in the most cost-effective manner and so that the incremental costs of regulatory alternatives are reasonably related to the incremental benefits.

(3) To provide more cost-effective and cost-reasonable protection to human health and the environment, regulatory priorities should be based upon realistic consideration of risk; the priority setting process must include scientifically sound, objective, and unbiased risk assessments, comparative risk analysis, and risk management choices that are grounded in cost-benefit principles.

(4) Risk assessment has proven to be a useful decision making tool; however, improvements are needed in both the quality of assessments and the characterization and communication of findings; scientific and other data must be better collected, organized, and evaluated; most importantly, the critical information resulting from a risk assessment

must be effectively communicated in an objective and unbiased manner to decision makers, and from decision makers to the public.

(5) The public stake holders must be fully involved in the risk-decision making process. They have the right-to-know about the risks addressed by regulation, the amount of risk to be reduced, the quality of the science used to support decisions, and the cost of implementing and complying with regulations. This knowledge will allow for public scrutiny and promote quality, integrity, and responsiveness of agency decisions.

(6) Although risk assessment is one important method to improve regulatory decision-making, other approaches to secure prompt relief from the burden of unnecessary and overly complex regulations will also be necessary.

SEC. 3. COVERAGE OF ACT.

This Act does not apply to any of the following:

(1) A situation that the head of an affected Federal agency determines to be an emergency. In such circumstance, the head of the agency shall comply with the provisions of this Act within as reasonable a time as is practical.

(2) Activities necessary to maintain military readiness.

(3) Any individual food, drug, or other product label, or to any risk characterization appearing on any such label, if the individual product label is required by law to be approved by a Federal department or agency prior to use.

(4) Approval of State programs or plans by Federal agencies.

SEC. 4. UNFUNDED MANDATES.

Nothing in this Act itself shall, without Federal funding and further Federal agency action, create any new obligation or burden on any State or local government or otherwise impose any financial burden on any State or local government in the absence of Federal funding, except with respect to routine information requests.

SEC. 5. DEFINITIONS.

For purposes of this Act:

(1) COSTS.—The term "costs" includes the direct and indirect costs to the United States Government, to State, local, and tribal governments, and to the private sector, wage earners, consumers, and the economy, of implementing and complying with a rule or alternative strategy.

(2) BENEFIT.—The term "benefit" means the reasonably identifiable significant health, safety, environmental, social and economic benefits that are expected to result directly or indirectly from implementation of a rule or alternative strategy.

(3) MAJOR RULE.—The term "major rule" means any regulation that is likely to result in an annual increase in costs of $25,000,000 or more. Such term does not include any regulation or other action taken by an agency to authorize or approve any individual substance or product.

(4) PROGRAM DESIGNED TO PROTECT HUMAN HEALTH.—The term "program designed to protect human health" does not include regulatory programs concerning health insurance, health provider services, or health care diagnostic services.

(5) EMERGENCY.—As used in this Act, the term "emergency" means a situation that is immediately impending and extraordinary in nature, demanding attention due to a condition, circumstance, or practice reasonably expected to cause death, serious illness, or severe injury to humans, or substantial endangerment to private property or the environment if no action is taken.

SEC. 6. AVAILABILITY OF INFORMATION AMONG FEDERAL AGENCIES.

Covered Federal agencies shall make existing databases and information developed under this Act available to other Federal agencies, subject to applicable confidentiality requirements, for the purpose of meeting the requirements of this Act. Within 15 months after the date of enactment of this Act, the President shall issue guidelines for Federal agencies to comply with this section.

TITLE I—RISK ASSESSMENT AND COMMUNICATION

SEC. 101. SHORT TITLE.

This title may be cited as the "Risk Assessment and Communication Act of 1995".

SEC. 102. PURPOSES.

The purposes of this title are—

(1) to present the public and executive branch with the most scientifically objective and unbiased information concerning the nature and magnitude of health, safety, and environmental risks in order to provide for sound regulatory decisions and public education;

(2) to provide for full consideration and discussion of relevant data and potential methodologies;

(3) to require explanation of significant choices in the risk assessment process which will allow for better peer review and public understanding; and

(4) to improve consistency within the executive branch in preparing risk assessments and risk characterizations.

SEC. 103. EFFECTIVE DATE; APPLICABILITY; SAVINGS PROVISIONS.

(a) EFFECTIVE DATE.—Except as otherwise specifically provided in this title, the provisions of this title shall take effect 18 months after the date of enactment of this title.

(b) APPLICABILITY.—

(1) IN GENERAL.—Except as provided in paragraph (3), this title applies to all significant risk assessment documents and significant risk characterization documents, as defined in paragraph (2).

(2) SIGNIFICANT RISK ASSESSMENT DOCUMENT OR SIGNIFICANT RISK CHARACTERIZATION DOCUMENT.—(A) As used in this title, the terms "significant risk assessment document" and "significant risk characterization document" include, at a minimum, risk assessment documents or risk characterization documents prepared by or on behalf of a covered Federal agency in the implementation of a regulatory program designed to protect human health, safety, or the environment, used as a basis for one of the items referred to in subparagraph (B), and—

(i) included by the agency in that item; or

(ii) inserted by the agency in the administrative record for that item.

(B) The items referred to in subparagraph (A) are the following:

(i) Any proposed or final major rule, including any analysis or certification under title II, promulgated as part of any Federal regulatory program designed to protect human health, safety, or the environment.

(ii) Any proposed or final environmental clean-up plan for a facility or Federal guidelines for the issuance of any such plan. As used in this clause, the term "environmental clean-up" means a corrective action under the Solid Waste Disposal Act, a removal or remedial action under the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, and any other environmental restoration and waste management carried out by or on behalf of a covered Federal agency with respect to any substance other than municipal waste.

(iii) Any proposed or final permit condition placing a restriction on facility siting or operation under Federal laws administered by the Environmental Protection Agency or the Department of the Interior. Nothing in this section (iii) shall apply to the requirements of section 404 of the Clean Water Act.

(iv) Any report to Congress.

(v) Any regulatory action to place a substance on any official list of carcinogens or toxic or hazardous substances or to place a new health effects value on such list, including the Integrated Risk Information System Database maintained by the Environmental Protection Agency.

(vi) Any guidance, including protocols of general applicability, establishing policy regarding risk assessment or risk characterization.

(C) The terms "significant risk assessment document" and "significant risk characterization document" shall also include the following:

(i) Any such risk assessment and risk characterization documents provided by a covered Federal agency to the public and which are likely to result in an annual increase in costs of $25,000,000 or more.

(ii) Environmental restoration and waste management carried out by or on behalf of the Department of Defense with respect to any substance other than municipal waste.

(D) Within 15 months after the date of the enactment of this Act, each covered Federal agency administering a regulatory program designed to protect human health, safety, or the environment shall promulgate a rule establishing those additional categories, if any, of risk assessment and risk characterization documents prepared by or on behalf of the covered Federal agency that the agency will consider significant risk assessment documents or significant risk characterization documents for purposes of this title. In establishing such categories, the head of the agency shall consider each of the following:

(i) The benefits of consistent compliance by documents of the covered Federal agency in the categories.

(ii) The administrative burdens of including documents in the categories.

(iii) The need to make expeditious administrative decisions regarding documents in the categories.

(iv) The possible use of a risk assessment or risk characterization in any compilation of risk hazards or health or environmental effects prepared by an agency and commonly made available to, or used by, any Federal, State, or local government agency.

(v) Such other factors as may be appropriate.

(E)(i) Not later than 18 months after the date of the enactment of this Act, the President, acting through the Director of the Office of Management and Budget, shall determine whether any other Federal agencies should be considered covered Federal agencies for purposes of this title. Such determination, with respect to a particular Federal agency, shall be based on the impact of risk assessment documents and risk characterization documents on—

(I) regulatory programs administered by that agency; and

(II) the communication of risk information by that agency to the public.

The effective date of such a determination shall be no later than 6 months after the date of the determination.

(ii) Not later than 15 months after the President, acting through the Director of the

Office of Management and Budget, determines pursuant to clause (i) that a Federal agency should be considered a covered Federal agency for purposes of this title, the head of that agency shall promulgate a rule pursuant to subparagraph (D) to establish additional categories of risk assessment and risk characterization documents described in that subparagraph.

(3) EXCEPTIONS.—(A) This title does not apply to risk assessment or risk characterization documents containing risk assessments or risk characterizations performed with respect to the following:

(i) A screening analysis, where appropriately labeled as such, including a screening analysis for purposes of product regulation or premanufacturing notices.

(ii) Any health, safety, or environmental inspections.

(iii) The sale or lease of Federal resources or regulatory activities that directly result in the collection of Federal receipts.

(B) No analysis shall be treated as a screening analysis for purposes of subparagraph (A) if the results of such analysis are used as the basis for imposing restrictions on substances or activities.

(C) The risk assessment principle set forth in section 104(b)(1) need not apply to any risk assessment or risk characterization document described in clause (iii) of paragraph (2)(B). The risk characterization and communication principle set forth in section 105(4) need not apply to any risk assessment or risk characterization document described in clause (v) or (vi) of paragraph (2)(B).

(c) SAVINGS PROVISIONS.—The provisions of this title shall be supplemental to any other provisions of law relating to risk assessments and risk characterizations, except that nothing in this title shall be construed to modify any statutory standard or statutory requirement designed to protect health, safety, or the environment. Nothing in this title shall be interpreted to preclude the consideration of any data or the calculation of any estimate to more fully describe risk or provide examples of scientific uncertainty or variability. Nothing in this title shall be construed to require the disclosure of any trade secret or other confidential information.

SEC. 104. PRINCIPLES FOR RISK ASSESSMENT.

(a) IN GENERAL.—The head of each covered Federal agency shall apply the principles set forth in subsection (b) in order to assure that significant risk assessment documents and all of their components distinguish scientific findings from other considerations and are, to the extent feasible, scientifically objective, unbiased, and inclusive of all relevant data and rely, to the extent available and practicable, on scientific findings. Discussions or explanations required under this section need not be repeated in each risk assessment document as long as there is a reference to the relevant discussion or explanation in another agency document which is available to the public.

(b) PRINCIPLES.—The principles to be applied are as follows:

(1) When discussing human health risks, a significant risk assessment document shall contain a discussion of both relevant laboratory and relevant epidemiological data of sufficient quality which finds, or fails to find, a correlation between health risks and a potential toxin or activity. Where conflicts among such data appear to exist, or where animal data is used as a basis to assess human health, the significant risk assessment document shall, to the extent feasible and appropriate, include discussion of possible reconciliation of conflicting information, and as relevant, differences in study designs, comparative physiology, routes of exposure, bioavailability, pharmacokinetics, and any other relevant factor, including the sufficiency of basic data for review. The discussion of possible reconciliation should indicate whether there is a biological basis to assume a resulting harm in humans. Animal data shall be reviewed with regard to its relevancy to humans.

(2) Where a significant risk assessment document involves selection of any significant assumption, inference, or model, the document shall, to the extent feasible—

(A) present a representative list and explanation of plausible and alternative assumptions, inferences, or models;

(B) explain the basis for any choices;

(C) identify any policy or value judgments;

(D) fully describe any model used in the risk assessment and make explicit the assumptions incorporated in the model; and

(E) indicate the extent to which any significant model has been validated by, or conflicts with, empirical data.

SEC. 105. PRINCIPLES FOR RISK CHARACTERIZATION AND COMMUNICATION.

Each significant risk characterization document shall meet each of the following requirements:

(1) ESTIMATES OF RISK.—The risk characterization shall describe the populations or natural resources which are the subject of the risk characterization. If a numerical estimate of risk is provided, the agency shall, to the extent feasible, provide—

(A) the best estimate or estimates for the specific populations or natural resources which are the subject of the characterization (based on the information available to the Federal agency); and

(B) a statement of the reasonable range of scientific uncertainties.

In addition to such best estimate or estimates, the risk characterization document may present plausible upper-bound or conservative estimates in conjunction with plausible lower bounds estimates. Where appropriate, the risk characterization document may present, in lieu of a single best estimate, multiple best estimates based on assumptions, inferences, or models which are equally plausible, given current scientific understanding. To the extent practical and appropriate, the document shall provide descriptions of the distribution and probability of risk estimates to reflect differences in exposure variability or sensitivity in populations and attendant uncertainties. Sensitive subpopulations or highly exposed subpopulations include, where relevant and appropriate, children, the elderly, pregnant women, and disabled persons.

(2) EXPOSURE SCENARIOS.—The risk characterization document shall explain the exposure scenarios used in any risk assessment, and, to the extent feasible, provide a statement of the size of the corresponding population at risk and the likelihood of such exposure scenarios.

(3) COMPARISONS.—The document shall contain a statement that places the nature and magnitude of risks to human health, safety, or the environment in context. Such statement shall, to the extent feasible, provide comparisons with estimates of greater, lesser, and substantially equivalent risks that are familiar to and routinely encountered by the general public as well as other risks, and, where appropriate and meaningful, comparisons of those risks with other similar risks regulated by the Federal agency resulting from comparable activities and exposure pathways. Such comparisons should consider relevant distinctions among risks, such as the voluntary or involuntary nature of risks and the preventability or nonpreventability of risks.

(4) SUBSTITUTION RISKS.—Each significant risk assessment or risk characterization document shall include a statement of any significant substitution risks to human health, where information on such risks has been provided to the agency.

(5) SUMMARIES OF OTHER RISK ESTIMATES.—If—

(A) a commenter provides a covered Federal agency with a relevant risk assessment document or a risk characterization document, and a summary thereof, during a public comment provided by the agency for a significant risk assessment document or a significant risk characterization document, or, where no comment period is provided but a commenter provides the covered Federal agency with the relevant risk assessment document or risk characterization document, and a summary thereof, in a timely fashion, and

(B) the risk assessment document or risk characterization document is consistent with the principles and the guidance provided under this title,

the agency shall, to the extent feasible, present such summary in connection with the presentation of the agency's significant risk assessment document or significant risk characterization document. Nothing in this paragraph shall be construed to limit the inclusion of any comments or material supplied by any person to the administrative record of any proceeding.

A document may satisfy the requirements of paragraph (3), (4) or (5) by reference to information or material otherwise available to the public if the document provides a brief summary of such information or material.

SEC. 106. RECOMMENDATIONS OR CLASSIFICATIONS BY A NON-UNITED STATES-BASED ENTITY.

No covered Federal agency shall automatically incorporate or adopt any recommendation or classification made by a non-United States-based entity concerning the health effects value of a substance without an opportunity for notice and comment, and any risk assessment document or risk characterization document adopted by a covered Federal agency on the basis of such a recommendation or classification shall comply with the provisions of this title. For the purposes of this section, the term "non-United States-based entity" means—

(1) any foreign government and its agencies;

(2) the United Nations or any of its subsidiary organizations;

(3) any other international governmental body or international standards-making organization; or

(4) any other organization or private entity without a place of business located in the United States or its territories.

SEC. 107. GUIDELINES AND REPORT.

(a) GUIDELINES.—Within 15 months after the date of enactment of this title, the President shall issue guidelines for Federal agencies consistent with the risk assessment and characterization principles set forth in sections 104 and 105 and shall provide a format for summarizing risk assessment results. In addition, such guidelines shall include guidance on at least the following subjects: criteria for scaling animal studies to assess risks to human health; use of different types of dose-response models; thresholds; definitions, use, and interpretations of the maximum tolerated dose; weighting of evidence

with respect to extrapolating human health risks from sensitive species; evaluation of benign tumors, and evaluation of different human health endpoints.

(b) REPORT.—Within 3 years after the enactment of this title, each covered Federal agency shall provide a report to the Congress evaluating the categories of policy and value judgments identified under subparagraph (C) of section 104(b)(2).

(c) PUBLIC COMMENT AND CONSULTATION.—The guidelines and report under this section, shall be developed after notice and opportunity for public comment, and after consultation with representatives of appropriate State, local, and tribal governments, and such other departments and agencies, offices, organizations, or persons as may be advisable.

(d) REVIEW.—The President shall review and, where appropriate, revise the guidelines published under this section at least every 4 years.

SEC. 108. RESEARCH AND TRAINING IN RISK ASSESSMENT.

(a) EVALUATION.—The head of each covered agency shall regularly and systematically evaluate risk assessment research and training needs of the agency, including, where relevant and appropriate, the following:

(1) Research to reduce generic data gaps, to address modelling needs (including improved model sensitivity), and to validate default options, particularly those common to multiple risk assessments.

(2) Research leading to improvement of methods to quantify and communicate uncertainty and variability among individuals, species, populations, and, in the case of ecological risk assessment, ecological communities.

(3) Emerging and future areas of research, including research on comparative risk analysis, exposure to multiple chemicals and other stressors, noncancer endpoints, biological markers of exposure and effect, mechanisms of action in both mammalian and nonmammalian species, dynamics and probabilities of physiological and ecosystem exposures, and prediction of ecosystem-level responses.

(4) Long-term needs to adequately train individuals in risk assessment and risk assessment application. Evaluations under this paragraph shall include an estimate of the resources needed to provide necessary training.

(b) STRATEGY AND ACTIONS TO MEET IDENTIFIED NEEDS.—The head of each covered agency shall develop a strategy and schedule for carrying out research and training to meet the needs identified in subsection (a).

(c) REPORT.—Not later than 6 months after the date of the enactment of this Act, the head of each covered agency shall submit to the Congress a report on the evaluations conducted under subsection (a) and the strategy and schedule developed under subsection (b). The head of each covered agency shall report to the Congress periodically on the evaluations, strategy, and schedule.

SEC. 109. STUDY OF COMPARATIVE RISK ANALYSIS.

(a) IN GENERAL.—(1) The Director of the Office of Management and Budget, in consultation with the Office of Science and Technology Policy, shall conduct, or provide for the conduct of, a study using comparative risk analysis to rank health, safety, and environmental risks and to provide a common basis for evaluating strategies for reducing or preventing those risks. The goal of the study shall be to improve methods of comparative risk analysis.

(2) Not later than 90 days after the date of the enactment of this Act, the Director, in collaboration with the heads of appropriate Federal agencies, shall enter into a contract with the National Research Council to provide technical guidance on approaches to using comparative risk analysis and other considerations in setting health, safety, and environmental risk reduction priorities.

(b) SCOPE OF STUDY.—The study shall have sufficient scope and breadth to evaluate comparative risk analysis and to test approaches for improving comparative risk analysis and its use in setting priorities for health, safety, and environmental risk reduction. The study shall compare and evaluate a range of diverse health, safety, and environmental risks.

(c) STUDY PARTICIPANTS.—In conducting the study, the Director shall provide for the participation of a range of individuals with varying backgrounds and expertise, both technical and nontechnical, comprising broad representation of the public and private sectors.

(d) DURATION.—The study shall begin within 180 days after the date of the enactment of this Act and terminate within 2 years after the date on which it began.

(e) RECOMMENDATIONS FOR IMPROVING COMPARATIVE RISK ANALYSIS AND ITS USE.—Not later than 90 days after the termination of the study, the Director shall submit to the Congress the report of the National Research Council with recommendations regarding the use of comparative risk analysis and ways to improve the use of comparative risk analysis for decision-making in appropriate Federal agencies.

SEC. 110. DEFINITIONS.

For purposes of this title:

(1) RISK ASSESSMENT DOCUMENT.—The term "risk assessment document" means a document containing the explanation of how hazards associated with a substance, activity, or condition have been identified, quantified, and assessed. The term also includes a written statement accepting the findings of any such document.

(2) RISK CHARACTERIZATION DOCUMENT.—The term "risk characterization document" means a document quantifying or describing the degree of toxicity, exposure, or other risk posed by hazards associated with a substance, activity, or condition to which individuals, populations, or resources are exposed. The term also includes a written statement accepting the findings of any such document.

(3) BEST ESTIMATE.—The term "best estimate" means a scientifically appropriate estimate which is based, to the extent feasible, on one of the following:

(A) Central estimates of risk using the most plausible assumptions.

(B) An approach which combines multiple estimates based on different scenarios and weighs the probability of each scenario.

(C) Any other methodology designed to provide the most unbiased representation of the most plausible level of risk, given the current scientific information available to the Federal agency concerned.

(4) SUBSTITUTION RISK.—The term "substitution risk" means a potential risk to human health, safety, or the environment from a regulatory alternative designed to decrease other risks.

(5) COVERED FEDERAL AGENCY.—The term "covered Federal agency" means each of the following:

(A) The Environmental Protection Agency.

(B) The Occupational Safety and Health Administration.

(C) The Department of Transportation (including the National Highway Transportation Safety Administration).

(D) The Food and Drug Administration.

(E) The Department of Energy.

(F) The Department of the Interior.

(G) The Department of Agriculture.

(H) The Consumer Product Safety Commission.

(I) The National Oceanic and Atmospheric Administration

(J) The United States Army Corps of Engineers.

(K) The Mine Safety and Health Administration.

(L) The Nuclear Regulatory Commission.

(M) Any other Federal agency considered a covered Federal agency pursuant to section 103(b)(2)(E).

(6) FEDERAL AGENCY.—The term "Federal agency" means an executive department, military department, or independent establishment as defined in part I of title 5 of the United States Code, except that such term also includes the Office of Technology Assessment.

(7) DOCUMENT.—The term "document" includes material stored in electronic or digital form.

TITLE II—ANALYSIS OF RISK REDUCTION BENEFITS AND COSTS

SEC. 201. ANALYSIS OF RISK REDUCTION BENEFITS AND COSTS.

(a) IN GENERAL.—The President shall require each Federal agency to prepare the following for each major rule within a program designed to protect human health, safety, or the environment that is proposed or promulgated by the agency after the date of enactment of this Act:

(1) An identification of reasonable alternative strategies, including strategies that—

(A) require no government action;

(B) will accommodate differences among geographic regions and among persons with different levels of resources with which to comply; and

(C) employ performance or other market-based mechanisms that permit the greatest flexibility in achieving the identified benefits of the rule.

The agency shall consider reasonable alternative strategies proposed during the comment period.

(2) An analysis of the incremental costs and incremental risk reduction or other benefits associated with each alternative strategy identified or considered by the agency. Costs and benefits shall be quantified to the extent feasible and appropriate and may otherwise be qualitatively described.

(3) A statement that places in context the nature and magnitude of the risks to be addressed and the residual risks likely to remain for each alternative strategy identified or considered by the agency. Such statement shall, to the extent feasible, provide comparisons with estimates of greater, lesser, and substantially equivalent risks that are familiar to and routinely encountered by the general public as well as other risks, and, where appropriate and meaningful, comparisons of those risks with other similar risks regulated by the Federal agency resulting from comparable activities and exposure pathways. Such comparisons should consider relevant distinctions among risks, such as the voluntary or involuntary nature of risks and the preventability or nonpreventability of risks.

(4) For each final rule, an analysis of whether the identified benefits of the rule are likely to exceed the identified costs of the rule.

(5) An analysis of the effect of the rule—

(A) on small businesses with fewer than 100 employees;

(B) on net employment; and

(C) to the extent practicable, on the cumulative financial burden of compliance with the rule and other existing regulations on persons producing products.

(b) PUBLICATION.—For each major rule referred to in subsection (a) each Federal agency shall publish in a clear and concise manner in the Federal Register along with the proposed and final regulation, or otherwise make publicly available, the information required to be prepared under subsection (a).

SEC. 202. DECISION CRITERIA.

(a) IN GENERAL.—No final rule subject to the provisions of this title shall be promulgated unless the agency certifies the following:

(1) That the analyses under section 201 are based on objective and unbiased scientific and economic evaluations of all significant and relevant information and risk assessments provided to the agency by interested parties relating to the costs, risks, and risk reduction and other benefits addressed by the rule.

(2) That the incremental risk reduction or other benefits of any strategy chosen will be likely to justify, and be reasonably related to, the incremental costs incurred by State, local, and tribal governments, the Federal Government, and other public and private entities.

(3) That other alternative strategies identified or considered by the agency were found either (A) to be less cost-effective at achieving a substantially equivalent reduction in risk, or (B) to provide less flexibility to State, local, or tribal governments or regulated entities in achieving the otherwise applicable objectives of the regulation, along with a brief explanation of why alternative strategies that were identified or considered by the agency were found to be less cost-effective or less flexible.

(b) EFFECT OF DECISION CRITERIA.—

(1) IN GENERAL.—Notwithstanding any other provision of Federal law, the decision criteria of subsection (a) shall supplement and, to the extent there is a conflict, supersede the decision criteria for rulemaking otherwise applicable under the statute pursuant to which the rule is promulgated.

(2) SUBSTANTIAL EVIDENCE.—Notwithstanding any other provision of Federal law, no major rule shall be promulgated by any Federal agency pertaining to the protection of health, safety, or the environment unless the requirements of section 201 and subsection (a) are met and the certifications required therein are supported by substantial evidence of the rulemaking record.

(c) PUBLICATION.—The agency shall publish in the Federal Register, along with the final regulation, the certifications required by subsection (a).

(d) NOTICE.—Where the agency finds a conflict between the decision criteria of this section and the decision criteria of an otherwise applicable statute, the agency shall so notify the Congress in writing.

SEC. 203. OFFICE OF MANAGEMENT AND THE BUDGET GUIDANCE.

The Office of Management and Budget shall issue guidance consistent with this title—

(1) to assist the agencies, the public, and the regulated community in the implementation of this title, including any new requirements or procedures needed to supplement prior agency practice; and

(2) governing the development and preparation of analyses of risk reduction benefits and costs.

SEC. 204. ENVIRONMENTAL CLEAN-UP.

For purposes of this title, any determination by a Federal agency to approve or reject any proposed or final environmental clean-up plan for a facility the costs of which are likely to exceed $5,000,000 shall be treated as major rule subject to the provisions of this title (other than the provisions of section 201(a)(5)). As used in this section, the term "environmental clean-up" means a corrective action under the Solid Waste Disposal Act, a remedial action under the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, and any other environmental restoration and waste management carried out by or on behalf of a Federal agency with respect to any substance other than municipal waste.

TITLE III—PEER REVIEW

SEC. 301. PEER REVIEW PROGRAM.

(a) ESTABLISHMENT.—For regulatory programs designed to protect human health, safety, or the environment, the head of each Federal agency shall develop a systematic program for independent and external peer review required by subsection (b). Such program shall be applicable across the agency and—

(1) shall provide for the creation of peer review panels consisting of experts and shall be broadly representative and balanced and to the extent relevant and appropriate, may include representatives of State, local, and tribal governments, small businesses, other representatives of industry, universities, agriculture, labor, consumers, conservation organizations, or other public interest groups and organizations;

(2) may provide for differing levels of peer review and differing numbers of experts on peer review panels, depending on the significance or the complexity of the problems or the need for expeditiousness;

(3) shall not exclude peer reviewers with substantial and relevant expertise merely because they represent entities that may have a potential interest in the outcome, provided that interest is fully disclosed to the agency and in the case of a regulatory decision affecting a single entity, no peer reviewer representing such entity may be included on the panel;

(4) may provide specific and reasonable deadlines for peer review panels to submit reports under subsection (c); and

(5) shall provide adequate protections for confidential business information and trade secrets, including requiring peer reviewers to enter into confidentiality agreements.

(b) REQUIREMENT FOR PEER REVIEW.—In connection with any rule that is likely to result in an annual increase in costs of $100,000,000 or more (other than any rule or other action taken by an agency to authorize or approve any individual substance or product), each Federal agency shall provide for peer review in accordance with this section of any risk assessment or cost analysis which forms the basis for such rule or of any analysis under section 201(a). In addition, the Director of the Office of Management and Budget may order that peer review be provided for any major risk assessment or cost assessment that is likely to have a significant impact on public policy decisions.

(c) CONTENTS.—Each peer review under this section shall include a report to the Federal agency concerned with respect to the scientific and economic merit of data and methods used for the assessments and analyses.

(d) RESPONSE TO PEER REVIEW.—The head of the Federal agency shall provide a written response to all significant peer review comments.

(e) AVAILABILITY TO PUBLIC.—All peer review comments or conclusions and the agency's responses shall be made available to the public and shall be made part of the administrative record.

(f) PREVIOUSLY REVIEWED DATA AND ANALYSIS.—No peer review shall be required under this section for any data or method which has been previously subjected to peer review or for any component of any analysis or assessment previously subjected to peer review.

(g) NATIONAL PANELS.—The President shall appoint National Peer Review Panels to annually review the risk assessment and cost assessment practices of each Federal agency for programs designed to protect human health, safety, or the environment. The Panel shall submit a report to the Congress no less frequently than annually containing the results of such review.

TITLE IV—JUDICIAL REVIEW

SEC. 401. JUDICIAL REVIEW.

Compliance or noncompliance by a Federal agency with the requirements of this Act shall be reviewable pursuant to the statute granting the agency authority to act or, as applicable, that statute and the Administrative Procedure Act. The court with jurisdiction to review final agency action under the statute granting the agency authority to act shall have jurisdiction to review, at the same time, the agency's compliance with the requirements of this Act. When a significant risk assessment document or risk characterization document subject to title I is part of the administrative record in a final agency action, in addition to any other matters that the court may consider in deciding whether the agency's action was lawful, the court shall consider the agency action unlawful if such significant risk assessment document or significant risk characterization document does not substantially comply with the requirements of sections 104 and 105.

TITLE V—PLAN

SEC. 501. PLAN FOR ASSESSING NEW INFORMATION.

(a) PLAN.—Within 18 months after the date of enactment of this Act, each covered Federal agency (as defined in title I) shall publish a plan to review and, where appropriate revise any significant risk assessment document or significant risk characterization document published prior to the expiration of such 18-month period if, based on information available at the time of such review, the agency head determines that the application of the principles set forth in sections 104 and 105 would be likely to significantly alter the results of the prior risk assessment or risk characterization. The plan shall provide procedures for receiving and considering new information and risk assessments from the public. The plan may set priorities and procedures for review and, where appropriate, revision of such risk assessment documents and risk characterization documents and of health or environmental effects values. The plan may also set priorities and procedures for review, and, where appropriate, revision or repeal of major rules promulgated prior to the expiration of such period. Such priorities and procedures shall be based on the potential to more efficiently focus national economic resources within Federal regulatory programs designed to protect human health, safety, or the environment on the most important priorities and on such other factors

as such Federal agency considers appropriate.

(b) PUBLIC COMMENT AND CONSULTATION.—The plan under this section, shall be developed after notice and opportunity for public comment, and after consultation with representatives of appropriate State, local, and tribal governments, and such other departments and agencies, offices, organizations, or persons as may be advisable.

TITLE VI—PRIORITIES

SEC. 601. PRIORITIES.

(a) IDENTIFICATION OF OPPORTUNITIES.—In order to assist in the public policy and regulation of risks to public health, the President shall identify opportunities to reflect priorities within existing Federal regulatory programs designed to protect human health in a cost-effective and cost-reasonable manner. The President shall identify each of the following:

(1) The likelihood and severity of public health risks addressed by current Federal programs.

(2) The number of individuals affected.

(3) The incremental costs and risk reduction benefits associated with regulatory or other strategies.

(4) The cost-effectiveness of regulatory or other strategies to reduce risks to public health.

(5) Intergovernmental relationships among Federal, State, and local governments among programs designed to protect public health.

(6) Statutory, regulatory, or administrative obstacles to allocating national economic resources based on the most cost-effective, cost-reasonable priorities considering Federal, State, and local programs.

(b) STATE, LOCAL, AND TRIBAL PRIORITIES.—In identifying national priorities, the President shall consider priorities developed and submitted by State, local, and tribal governments.

(c) BIENNIAL REPORTS.—The President shall issue biennial reports to Congress, after notice and opportunity for public comment, to recommend priorities for modifications to, elimination of, or strategies for existing Federal regulatory programs designed to protect public health. Within 6 months after the issuance of the report, the President shall notify the Congress in writing of the recommendations which can be implemented without further legislative changes and the agency shall consider the priorities set forth in the report and priorities developed and submitted by State, local, and tribal governments when preparing a budget or strategic plan for any such regulatory program.

The SPEAKER pro tempore. Pursuant to section 2 of House Resolution 101, the previous question is ordered on the motion to amend and on the bill.

The previous question was ordered.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Texas [Mr. DELAY].

The amendment was 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. SPRATT

Mr. SPRATT. Mr. Speaker, I offer a motion to recommit.

The SPEAKER pro tempore. Is the gentleman opposed to the bill?

Mr. SPRATT. 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. SPRATT moves to recommit the bill H.R. 9 to the Committee on Science with instructions to report the same back to the House forthwith with the following amendment:

In Division D of H.R. 9, consisting of the text of H.R. 1022, as passed by the House, strike the following text:

"Section 204. Environmental Clean-up.

"For the purposes of this title, any determination by a Federal agency to approve or reject any proposed or final environmental clean-up plan for a facility the costs of which are likely to exceed $5,000,000 shall be treated as a major rule subject to the provisions of this title (other than the provisions of section 205(a)(5)). As used in this section, "environmental clean-up" means a corrective action under the Solid Waste Disposal Act, a remedial action under the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, and any other environmental restoration and waste management carried out by or on behalf of a Federal agency with respect to any substance other than municipal waste."

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

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

There was no objection.

The SPEAKER pro tempore. The gentleman from South Carolina [Mr. SPRATT] is recognized for 5 minutes.

Mr. SPRATT. Mr. Speaker, in the waning minutes of debate on H.R. 1022, the Risk Assessment and Cost-Benefit Analysis Act, Mr. WALKER offered a final amendment which was barely considered at all because we had run out of time. The Walker amendment then passed on a voice vote. This amendment expands the scope of H.R. 1022 far beyond what I think most Members appreciated, because there was no time to explain it when it came before us.

Basically, this Walker amendment provides that when any Federal agency approves or rejects any environmental cleanup plan, and the costs of the clean up plan will exceed $5 million, then the Risk Assessment Cost-Benefit Act is triggered. What in turn that means is that a full-blown risk assessment and cost-benefit analysis is required before the agency can move forward with the plan. If the benefits do not exceed the costs under the act, then the plan cannot be carried forward.

What is the environmental cleanup plan, a $5 million cleanup plan? First of all, the amendment says an environmental cleanup plan is any corrective action taken under CERCLA, the Superfund Act, or under the Solid Waste Disposal Act. That is the first application of it.

Mr. Speaker, I think we all agree that CERCLA or Superfund has taken too much time and involved too many lawyers. If we allow this amendment to stand in this bill, then we have just found another way to take more time and involve more lawyers, and I do not think that is the direction we want to move in. That is enough of a problem with the amendment.

But it goes beyond that, because it also says an environmental clean up decision is "any other environmental restoration and waste management carried out on behalf of a Federal agency with respect to any substance other than municipal waste." So this amendment applies to any environmental restoration decision taken with respect to a Federal facility and any waste management decision. That is Clean Water Act disposal, even Clean Air Act disposal problems. What does this mean?

All DOE facilities, Department of Energy facilities scattered across 17 States, from Savannah River to Oak Ridge, TN to Rocky Flats, to Hanford, WA, there is an enormous array of cleanup problems that could cost billions upon billions of approximate dollars, approximate, that have been accumulated over 50 years, toxic waste, hazardous waste, and very, very dangerous radioactive waste.

This amendment means that the Department of Energy does not have to deal with these nuclear and toxic waste problems if the cost-benefit analysis does not show the benefits will exceed costs.

This means that these problems, which have been overlooked and delayed for 50 years, will have to go through further delay because before DOE can do anything with respect to them, they have to put them through risk assessment and cost-benefit analysis. And this means that the risk assessment/cost-benefit analysis track becomes preempted.

Each one of these 17 sites now in the DOE complex now has a complicated, difficult negotiation ongoing with the State regulatory authorities, and most of them have compliance agreements. The States are no longer involved. what rules is risk assessment and cost-benefit analysis. At Hanford, at Rocky Flats, at Savannah River, all across the country.

The Department of Defense also has major cleanup decisions to make with respect to all the bases it closes. In fact, when we adopted the Base Closing Act, we said you cannot close a base and leave it and turn it over to local communities or new developers until you have resolved all the environmental cleanup problems.

Now the Department of Defense must add on to the time delays it is already experiencing the additional burden of doing cost-benefit analysis. If the cost-benefit analysis does not show the benefits will exceed the costs, then DOD will simply leave those problems unattended. They have been immunized by

this bill if the benefits do not exceed the costs, leave them unattended, turn them over to a local community, and then guess what? The next landowner inherits the property with the sites there, but without immunity.

If that is not enough, this also applies to waste management. The term "waste management" is used. Waste management does not mean environmental problems that have accumulated through neglect or ignorance of the law over the past years. It means management of ongoing waste streams, waste water emissions into streams. This means DOD, DOE, and others that discharge in a waste management scheme, do not have to comply with waste management decisions unless the benefits can be proven to exceed the costs.

Now, we do not know all the ramifications of this provision, but think a few things are clear. This is not good law; it was made too hastily, it is ill-considered, ill-conceived, and should be stricken from the bill. Let us start over.

Mr. BROWN of California. Mr. Speaker, on February 28, in the waning minutes of the debate on the Risk Assessment and Cost-Benefit Act, H.R. 1022, the House added 17 short lines that potentially do a lot of damage. In adopting the Walker amendment, we have classified virtually every proposed or final environmental cleanup plan for a facility as a major rule subject to all the exacting provisions of the act.

This is yet another instance where, in our rush to pass legislation that improves the regulatory process, we have unnecessarily created a bigger mess than we started with.

Earlier in the debate we dramatically shrunk agency emergency exemption powers to get out from under this burden. Under the Walker amendment, we have dramatically reduced the dollar limit. The combination of these two provisions will end environmental enforcement as we know it to the detriment of anyone who lives near a site which could benefit from a federally aided cleanup. It also will be the last straw for many who would consider rehabbing industrial and Government sites to provide badly needed jobs.

Not all of the ramifications of this provision are known, but this we do know: First, it is going to cost a great deal more time and money to clean up a brownfield site and make it economically useful.

Second, any unemployed regulatory lawyers or environmental lawyers should be shouting hallelujah because they can prolong in court most facility cleanups under the Clean Air Act, the Clean Water Act, the Superfund law, the Department of Defense cleanup programs, and the Department of Energy cleanups.

Third, anyone in the business of doing environmental studies is set for life.

Fourth, since cleanups are now to be based strictly on cost-benefit analyses, States rights to participate in the process and the needs and preferences of local communities no longer matter.

Since this provision applies to every agency of the Federal Government, we do not know what else has been swept up. What is the effect on the Coast Guard, on FEMA, on the Nuclear Regulatory Commission, on our international commitments? No one knows.

Once again we have rushed through an amendment without thinking, without hearings, and without understanding the consequences of our actions. Let's recommit this bill with instructions so that we can avoid the economic and environmental harm that we will otherwise inadvertently spread throughout the country.

I urge my colleagues to vote for the motion to recommit.

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

Mr. Speaker, the motion would direct the deletion of the Walker amendment on environmental cleanup. Rarely has such an ill-considered provision been added to legislation with so little discussion of its broad consequences.

Let me talk about the broad consequences of the amendment. This amendment will greatly delay environmental cleanups, undercut community participation in determining the level of cleanup, preempt States, and slow down the base closure and transfer process. I don't believe we should support any of those results.

What is the major complaint we have heard about Superfund? It takes too long to achieve cleanup and it is a field day for lawyers.

Let me be clear, adding the entire cost-benefit and risk analysis provisions of this bill on top of the current requirements of Superfund will surely delay cleanups. The law today precludes parties from delaying cleanup through court action. Don't forget that this bill also allows for judicial review of agency decisions. Lawyers will have the time of their lives and delay cleanups for years.

Delaying cleanups will have nothing but disastrous effects on the cost of cleanups. Although the proponents of the bill think they are reducing costs, this bill could result in greatly increased costs with less protection to show for it. The human cost through additional time of exposure is immeasurable, but we can measure the additional cost of cleanup which will occur if contaminants are allowed to migrate while the cleanup decision is tied up in court. I cannot support additional work for lawyers while human health is endangered and costs are increasing.

In addition, because this bill also applies to Department of Defense cleanups, the entire base closure process will be brought to its knees. What is the most important issue to local governments in the base closure process? Getting the property out of Federal ownership and into productive use. The Walker amendment will delay that process for years.

The Walker amendment preempts State and local governments from any effective role in determining cleanups. Currently, Federal cleanups are required to consider State laws and local preferences. The amendment overlays a Federal cost-benefit test over any local preference.

This could lead to less protective standards in direct contravention to local desires. Local input on long-term protectiveness, redevelopment considerations, and preservation of local amenities will fall silent in the face of cost considerations, even if the State or local government is willing to pay for them.

If you favor further delays in environmental cleanup; if you favor creating another new issue for lawyers to fight about in court; if you favor delaying the transfer of closed military installations to the local government; if you favor increasing the cost of cleanup; if you favor preempting the States in protecting their citizens; if you favor ignoring the desires of local government in addressing cleanups, then you can vote "no."

But if you want to look out for the interests of your constituents and the interests of State and local governments, you should support the motion to recommit.

The SPEAKER pro tempore. The gentleman from Texas [Mr. DELAY] is recognized for 5 minutes in opposition to the motion to recommit.

Mr. DELAY. Mr. Speaker, I rise in opposition to this motion to recommit, and in support of H.R. 9.

Over the last week, in a bipartisan fashion, the House has taken a dramatic step in favor of the American people. We have finally started the process of freeing small business, of protecting private property owners, of inserting some sanity into our rulemaking process.

Today, with H.R. 9, we put the Federal Government on notice: Don't tread unfairly on the American taxpayer.

As we all know, over the last several decades, the Federal Government has run roughshod over the American people. We have taxed them. We have taken their land. We have taken their businesses.

In this last election, the people said enough. They voted out incumbents in huge numbers, and threw out the leadership in both Houses of Congress for the first time in 40 years.

This 104th Congress has been called a second American revolution.

H.R. 9 is an important battle in the second American revolution.

If you are for real change and real reform, you will support H.R. 9. If you want to defend the status quo, if you believe that the American people are wrong in their disregard for the heavy hand of the Federal Government, you will vote for the motion to recommit.

I urge my colleagues to vote down the motion to recommit, and vote for H.R. 9.

□ 1345

The SPEAKER pro tempore (Mr. HANSEN). Without objection, the previous question is ordered on the motion to recommit.

There was no objection.

The SPEAKER pro tempore. The question is on the motion to recommit.

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

RECORDED VOTE

Mr. SPRATT. Mr. Speaker, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 180, noes 239, not voting 15, as follows:

[Roll No. 198]

AYES—180

Abercrombie
Ackerman
Andrews
Baldacci
Barrett (WI)
Becerra
Beilenson
Bentsen
Berman
Bevill
Bishop
Boehlert
Bonior
Borski
Boucher
Browder
Brown (FL)
Brown (OH)
Cardin
Chapman
Clay
Clayton
Clement
Clyburn
Coleman
Collins (MI)
Conyers
Costello
Coyne
Cramer
Deal
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
Gordon
Gutierrez
Hall (OH)
Hamilton
Harman
Hastings (FL)
Hefner
Hilliard
Hinchey
Holden
Hoyer
Jackson-Lee
Jacobs
Jefferson
Johnson (SD)
Johnson, E.B.
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
Mineta
Minge
Mink
Mollohan
Moran
Morella
Murtha
Nadler
Neal
Oberstar
Obey
Olver
Ortiz
Orton
Owens
Pallone
Pastor
Payne (NJ)
Payne (VA)
Peterson (FL)
Peterson (MN)
Pomeroy
Poshard
Rahall
Reed
Richardson
Rivers
Roemer
Rose
Roybal-Allard
Rush
Sabo
Sanders
Sawyer
Schroeder
Schumer
Scott
Serrano
Skaggs
Skelton
Slaughter
Spratt
Stark
Stenholm
Stokes
Studds
Stupak
Tanner
Tejeda
Thompson
Thornton
Thurman
Torres
Torricelli
Towns
Traficant
Tucker
Velazquez
Vento
Visclosky
Volkmer
Ward
Waters
Watt (NC)
Waxman
Williams
Wise
Woolsey
Wyden
Wynn
Yates

NOES—239

Allard
Archer
Armey
Bachus
Baesler
Baker (CA)
Baker (LA)
Ballenger
Barcia
Barr
Barrett (NE)
Bartlett
Barton
Bass
Bateman
Bereuter
Bilbray
Bilirakis
Bliley
Blute
Boehner
Bonilla
Bono
Brewster
Brownback
Bryant (TN)
Bunn
Bunning
Burton
Buyer
Callahan
Calvert
Camp
Canady
Castle
Chabot
Chambliss
Chenoweth
Christensen
Chrysler
Clinger
Coble
Coburn
Collins (GA)
Combest
Condit
Cooley
Cox
Crane
Crapo
Cremeans
Cubin
Cunningham
Danner
Davis
de la Garza
DeLay
Diaz-Balart
Dickey
Doolittle
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
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
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
Myers
Myrick
Nethercutt
Neumann
Ney
Norwood
Nussle
Oxley
Packard
Parker
Paxon
Petri
Pickett
Pombo
Porter
Portman
Pryce
Quillen
Quinn
Radanovich
Ramstad
Regula
Reynolds
Riggs
Roberts
Rogers
Rohrabacher
Ros-Lehtinen
Roth
Roukema
Royce
Salmon
Sanford
Saxton
Scarborough
Schaefer
Schiff
Seastrand
Sensenbrenner
Shadegg
Shaw
Shays
Shuster
Sisisky
Skeen
Smith (MI)
Smith (NJ)
Smith (TX)
Smith (WA)
Solomon
Souder
Spence
Stearns
Stockman
Stump
Talent
Tate
Tauzin
Taylor (MS)
Taylor (NC)
Thomas
Thornberry
Tiahrt
Torkildsen
Upton
Vucanovich
Waldholtz
Walker
Walsh
Wamp
Watts (OK)
Weldon (FL)
Weldon (PA)
Weller
White
Whitfield
Wicker
Wilson
Wolf
Young (AK)
Young (FL)
Zeliff
Zimmer

NOT VOTING—15

Brown (CA)
Bryant (TX)
Burr
Collins (IL)
Dornan
Gonzalez
Green
Hayes
Johnston
Laughlin
Miller (CA)
Moakley
Montgomery
Pelosi
Rangel

□ 1401

The Clerk announced the following pairs:

On this vote:

Mr. Rangel for, with Mr. Dornan against.

Mrs. Collins of Illinois for, with Mr. Burr against.

Mr. SKELTON changed his vote from "no" to "aye."

So the motion to recommit was rejected.

The result of the vote was announced as above recorded.

The SPEAKER pro tempore. The question is on the passage of the bill.

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

Mr. POMBO. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The vote was taken by electronic device, and there were—yeas 277, nays 141, not voting 17, as follows:

[Roll No. 199]

YEAS—277

Allard
Archer
Armey
Bachus
Baesler
Baker (CA)
Baker (LA)
Ballenger
Barcia
Barr
Barrett (NE)
Bartlett
Barton
Bass
Bateman
Bentsen
Bereuter
Bevill
Bilbray
Bilirakis
Bishop
Bliley
Blute
Boehner
Bonilla
Bono
Brewster
Browder
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
Condit
Cooley
Cox
Cramer
Crane
Crapo
Cremeans
Cubin
Cunningham
Danner
Davis
de la Garza
Deal
DeLay
Diaz-Balart
Dickey
Dooley
Doolittle
Doyle
Dreier
Duncan
Dunn
Edwards
Ehlers
Ehrlich
Emerson
English
Ensign
Everett
Ewing
Fawell
Fazio
Fields (TX)
Flanagan
Foley
Forbes
Fowler
Fox
Franks (CT)
Franks (NJ)
Frelinghuysen
Frisa
Frost
Funderburk
Gallegly
Ganske
Gekas
Geren
Gillmor
Gilman
Gingrich
Goodlatte
Goodling
Gordon
Goss
Graham
Gunderson
Gutknecht
Hall (TX)
Hamilton
Hancock
Hansen
Harman
Hastert
Hastings (WA)
Hayworth
Hefley
Hefner
Heineman
Herger
Hilleary
Hilliard
Hobson
Hoekstra
Hoke
Holden
Horn
Hostettler
Houghton
Hunter
Hutchinson
Hyde
Inglis
Istook
Jacobs
Johnson (SD)
Johnson, Sam
Jones
Kasich
Kelly
Kim
King
Kingston
Klug
Knollenberg
Kolbe
LaHood
Largent
Latham
LaTourette
Lazio
Leach
Lewis (CA)
Lewis (KY)
Lightfoot
Lincoln
Linder
Livingston
LoBiondo
Longley
Lucas
Manzullo
Martini
McCollum
McCrery
McDade
McHugh
McInnis
McIntosh
McKeon
McNulty
Metcalf
Meyers
Mica
Miller (FL)
Minge
Molinari
Mollohan
Moorhead
Moran
Myrick
Nethercutt
Neumann
Ney
Norwood
Nussle
Ortiz
Orton
Oxley
Packard
Parker
Paxon
Payne (VA)
Peterson (FL)
Peterson (MN)
Petri
Pickett
Pombo
Pomeroy
Portman
Poshard
Pryce
Quillen
Quinn
Radanovich
Ramstad
Regula
Riggs
Roberts
Roemer
Rogers
Rohrabacher
Ros-Lehtinen
Rose
Roth
Royce
Salmon
Sanford
Saxton
Scarborough
Schaefer
Schiff
Seastrand
Sensenbrenner
Shadegg
Shaw
Shuster
Sisisky
Skeen
Skelton
Smith (MI)
Smith (NJ)
Smith (TX)
Smith (WA)
Solomon
Souder
Spence
Spratt
Stearns
Stenholm
Stockman
Stump
Stupak
Talent
Tanner
Tate
Tauzin
Taylor (MS)
Taylor (NC)
Tejeda
Thomas
Thornberry
Thornton
Thurman
Tiahrt
Torkildsen
Traficant
Upton
Volkmer
Vucanovich
Waldholtz
Walker
Walsh
Wamp
Watts (OK)
Weldon (FL)
Weldon (PA)
Weller
White
Whitfield
Wicker
Wilson
Wolf
Young (AK)
Young (FL)
Zeliff

NAYS—141

Abercrombie
Ackerman
Andrews
Baldacci
Barrett (WI)
Becerra
Beilenson
Berman
Boehlert

Bonior	Hoyer	Pallone
Borski	Jackson-Lee	Pastor
Boucher	Jefferson	Payne (NJ)
Brown (FL)	Johnson, E.B.	Porter
Brown (OH)	Kanjorski	Rahall
Cardin	Kaptur	Reed
Clay	Kennedy (MA)	Reynolds
Clayton	Kennedy (RI)	Richardson
Clement	Kennelly	Rivers
Clyburn	Kildee	Roukema
Coleman	Kleczka	Roybal-Allard
Conyers	Klink	Rush
Costello	LaFalce	Sabo
Coyne	Lantos	Sanders
DeFazio	Levin	Sawyer
DeLauro	Lewis (GA)	Schroeder
Dellums	Lipinski	Schumer
Deutsch	Lofgren	Scott
Dicks	Lowey	Serrano
Dingell	Luther	Shays
Dixon	Maloney	Skaggs
Doggett	Manton	Slaughter
Durbin	Markey	Stark
Engel	Martinez	Stokes
Eshoo	Mascara	Studds
Evans	Matsui	Thompson
Farr	McCarthy	Torres
Fattah	McDermott	Torricelli
Fields (LA)	McHale	Towns
Filner	McKinney	Tucker
Flake	Meehan	Velazquez
Foglietta	Meek	Vento
Ford	Menendez	Visclosky
Frank (MA)	Mfume	Ward
Furse	Mineta	Waters
Gejdenson	Mink	Watt (NC)
Gephardt	Morella	Waxman
Gibbons	Murtha	Williams
Gilchrest	Nadler	Wise
Greenwood	Neal	Woolsey
Gutierrez	Oberstar	Wyden
Hall (OH)	Obey	Wynn
Hastings (FL)	Olver	Yates
Hinchey	Owens	Zimmer

NOT VOTING—17

Brown (CA)	Green	Moakley
Bryant (TX)	Hayes	Montgomery
Collins (IL)	Johnson (CT)	Myers
Collins (MI)	Johnston	Pelosi
Dornan	Laughlin	Rangel
Gonzalez	Miller (CA)	

□ 1421

The Clerk announced the following pair:

On this vote:

Mr. Dornan for, with Mr. Moakley against.

Mr. VOLKMER changed his vote from "nay" to "yea."

So the bill was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

LEGISLATIVE PROGRAM

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

Mr. GEPHARDT. Mr. Speaker, I ask for 1 minute in order to inquire of the distinguished majority leader about the schedule.

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

Mr. GEPHARDT. I yield to the gentleman from Texas.

Mr. ARMEY. I thank the gentleman for yielding.

Mr. Speaker, on Monday, March 6, the House will meet at 12:30 p.m. for morning hour and 2 p.m. for legislative business. We will take up the rule and the debate of H.R. 988, the Attorney Accountability Act. We do not expect a vote to be called on the rule for H.R. 988, and we expect no votes before 5 p.m. on Monday. We hope to complete legislative business on Monday night as close to 9 p.m. as possible.

On Tuesday, the House will meet at 9:30 a.m. for morning hour and 11 a.m. for legislative business. We expect to complete H.R. 988 and being consideration of H.R. 1058, the Securities Litigation Reform Act, which is subject to a rule. It is our understanding that there are several events scheduled on Tuesday night that Members on both sides of the aisle will wish to attend. For that reason, we plan to finish legislative business on Tuesday between 6:30 and 7 p.m.

On Wednesday, as we announced last week, it is our desire to begin legislative business at 10 a.m. At that time, we expect to finish H.R. 1058, and move to consideration of H.R. 1075, the Common Sense Product Liability and Legal Reform Act, which is subject to a rule.

On Thursday and Friday, the House will meet at 10 a.m. for legislative business to complete consideration of H.R. 1075. It is our hope to have Members on their way home to their families and their districts by 3 p.m. on Friday.

Mr. GEPHARDT. Would the gentleman be able to tell us what he expects the rule to be providing for consideration of the product liability caps bill?

Mr. ARMEY. If the gentleman will yield, the Committee on Rules has not met on that. I cannot advise you at this time on what that rule will be. We will be consulting with the minority in that process.

Mr. GEPHARDT. Amendments are due to the Committee on Rules this afternoon by 3 p.m. I was just wondering if it was expected that all amendments submitted will be made in order. But it is my understanding they have to be presented by 3.

Mr. ARMEY. If the gentleman will yield, the gentleman is absolutely correct. Again, I cannot tell the gentleman anything further than that about the rule at this time.

Mr. GEPHARDT. Further inquiring, could the gentleman confirm on the longer term schedule, does the gentleman expect the term limits and rescissions bill to come to the floor the following week, March 13?

Mr. ARMEY. If the gentleman will yield, we anticipate the term limits will be brought to the floor on the 13th and 14th of March, and we expect rescissions to be on the floor the 15th or the 16th of March.

Mr. GEPHARDT. I take it, then, that welfare reform and spending cuts and the tax bill would come in the weeks after that?

Mr. ARMEY. If the gentleman would yield, the gentleman is absolutely correct.

Mr. GEPHARDT. I yield to the gentleman from Indiana [Mr. ROEMER].

Mr. ROEMER. I thank the distinguished minority leader for yielding.

I would appreciate engaging the distinguished majority leader in a couple of questions if I could.

First of all, I would like to thank him, he was not on the floor when I rose 2 weeks ago to thank him for his cooperation on getting not just Members with their families, but staffs with their families, on Valentine's Day. Certainly the majority leader does not want to hear more of my terrible, horrible poetry to try to get us back on the family-friendly schedule. I don't want to have to resort to torture to do that. But certainly a lot of Members and their families want to see increased efficiency in terms of the congressional schedule. They want to see if we work 70-hour, 80-hour weeks, that maybe there are procedures that we can use at the end of the day so that we do not see repeats of Monday and Thursday night of this past week, of staying in an hour over when we could have informed Members that we had the last vote.

I would just ask the majority leader a couple of questions. First of all, can you give us any more ideas, with predictability in mind, on the schedule for Wednesday and Thursday of next week, specific times?

Mr. ARMEY. If the gentleman would yield, let me just say, I cannot give you a more definitive answer at this time. It is always a matter of how well the day goes. We try to watch it, we try to schedule and stay in long enough to be sure that on the ensuing day we are able to complete that work which we hope to complete.

If the gentleman would continue to yield, Mr. Speaker, I understand the concern of the gentleman from Indiana [Mr. ROEMER]. His expression of concern the other day about wanting to be home and tuck in his children touched me, and if I could just make a recommendation, please do not read them your poems when you do that. We want them to have a good night's sleep. But we will try to do the best we can.

I too have had the pleasure at another time of tucking in my little ones and I know how special that can be and I do want to be attentive to it.

Mr. ROEMER. If the gentleman would answer a few more questions, do we intend to be in on Saturdays in March or April at this point?

Mr. ARMEY. If the gentleman would yield, it is possible, though I dare speak with some, what should I say, qualified confidence that I think I can dare say it seems fairly, perhaps even very unlikely. I have no expectation that I can see that that would happen. But I do have to make a reservation of a possibility that that could happen.

□ 1430

It is my sincere hope and expectation that that will not be the case.

Mr. ROEMER. Finally, a question to the majority leader.

Many of us know that there are very, very difficult sessions ahead. We know that the Republicans are on a 100-day schedule for the contract. But after the first 100 days very difficult decisions are going to face this body on appropriations matters, on budget matters, and on rescission matters and on a farm bill that is critical to many of our States.

Can the gentleman give us some sense of the predictability and how efficacious we are going to be in terms of the schedule between April and August, and are we going to see a repeat of this first 100 days?

Mr. ARMEY. If the gentleman will yield, we are working on a schedule that we expect will be, in fact, much more family friendly that we hope to be able to give to the gentleman to take with him before his April recess so he and his family could have a better planning of the remainder of the year.

If the gentleman will just bear with us, we would try to complete that and make it available as soon as possible.

Mr. ROEMER. I thank the majority leader.

Mr. GEPHARDT. If the gentleman would just answer one more question of mine, the distinguished majority leader and I have had a conversation before about Members being able to depend upon getting out of here for the Easter recess on or about April 7 or no later than April 8, which is the Saturday before Palm Sunday. I take it we are still on a schedule that would give Members some certainty that they could make plans for after that date?

Mr. ARMEY. If the gentleman will yield, the distinguished minority leader knows I am by nature a rather cautious person in my optimism regarding these things, but what I have been telling my colleagues is I would feel very confident that I can guarantee you that you will wake up in your bed in your home district on Palm Sunday. I am not confident that you will not also retire to your bed in your home district on Palm Sunday. But I think it is a realistic optimism and I believe in fact that definitely by the Saturday prior to Palm Sunday the gentleman should have been on his way home and have his 3 weeks' time.

Mr. GEPHARDT. I thank the gentleman.

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

Mr. GEPHARDT. I yield to the gentleman from West Virginia.

Mr. WISE. If I could address the majority leader for just a second, would he be able to inform us that he has a nonrefundable ticket that gets him home on that day, and then we would all take great security in that.

If I could just ask in a serious moment, Mr. Majority Leader, you do not see me rise on this subject too often, but I would just like to follow on a second on the gentleman from Indiana's theme. And I think I speak for both parties and I speak for members of the staff as well, that this schedule is working a great toll. And we understand, while perhaps not agree that there is the commitment to 100 days, if I could just share a couple of examples with the gentleman, I have not seen my two children awake, my young children, 7 and 5, in a waking state after 8 a.m. in the last 2 work weeks. My son drew a picture, my 7-year-old on Dads' Day and on Valentines Day, and on Dads' Day at school he drew a picture, they all drew pictures of their fathers, and the picture he drew of his father was a pretty good cartoon, actually, with a moustache, with a suitcase in one hand and a hand on the door and a balloon coming out of the mouth that said, "Goodbye." Those things get to you after a while.

Now, in fairness, our constituents do the same thing. The gentleman and I have constituents who are truck drivers, coal miners, sales people working two or three jobs trying to make it. They agonize that they do not see their children in every bit the same way. But there might be sometimes a little bit of a difference though. Sometimes they see a point at the end where they are going to get to. If nothing else, they understand that they are working for hours and they are paid on that basis.

I walked out of here last night knowing I was not going to see my children for dinner again, walked out of here and walked down the hall. I wanted to see what the other body was doing. It had been a historic day. The Chamber was shut, and so as I drifted around the Senate it suddenly occurred to me that we are missing a lot of meals over here to push the contract out. I do not know that they have missed one in anticipation of it.

So I guess I would just close, Mr. Leader, with more of a statement than a question. It is not meant to be acrimonious, but just a statement that both parties, everyone in here I believe professes to be for family values. We argue about that goal. We argue about how to get there. But we both believe we are standing up strongly for American families. I guess I do not think we really represent America's families if we are not with them, and I guess I believe that we do not move America's families very far ahead if we are leaving our own behind.

So, on the theme of the gentleman from Indiana, I would just ask that as the majority leader plans a schedule for the 100 days and what comes after, I would greatly appreciate the considerations raised here. As I say, I know the other side is feeling the same and wants to accommodate, but we have to remember our families as we seek to represent all of America's families.

Mr. ARMEY. If the gentleman will yield, I cannot help but observe to the gentleman from West Virginia that I have found in my own life that the time that I have seen him spend with his family has been much more enjoyable than the time I have spent with him, and we would like to keep the gentleman with his family as much as possible, and we will be working toward that objective.

Mr. WISE. We can reach a consensus on that.

ADJOURNMENT TO MONDAY, MARCH 6, 1995

Mr. ARMEY. Mr. Speaker, I ask unanimous consent that when the House adjourns today it adjourn to meet at 12:30 p.m. on Monday next for morning hour debate.

The SPEAKER pro tempore (Mr. OXLEY). Is there objection to the request of the gentleman from Texas?

There was no objection.

DISPENSING WITH CALENDAR WEDNESDAY BUSINESS ON WEDNESDAY NEXT

Mr. ARMEY. Mr. Speaker, I ask unanimous consent that the business in order under the Calendar Wednesday rule be dispensed with on Wednesday next.

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

There was no objection.

REMOVAL OF NAME OF MEMBER AS COSPONSOR OF HOUSE JOINT RESOLUTION 2

Mrs. SEASTRAND. Mr. Speaker, I ask unanimous consent to remove my name as a cosponsor of House Joint Resolution 2.

The SPEAKER pro tempore. Is there objection to the request of the gentlewoman from California?

There was no objection.

REFORM THE SYSTEM

(Mrs. SEASTRAND asked and was given permission to address the House for one minute.)

Mrs. SEASTRAND. Mr. Speaker, we are entering one of the most difficult debates about fundamental reform in our Nation's history. Through perverse incentives, our Government has created a morally corrupt welfare state that discourages work and subsidizes illegitimacy. The welfare system is a tragic failure.

This debate is not about saving money, it is about saving family and the next generation. It is not about more spending, it is about more sincerity. It is not about stopping payments, it is about stopping poverty. It is not

about an election cycle, it is about the dependency cycle. This is the greatest country the world has ever known. After 30 years and $5 trillion of failure, we can—we must—do better.

We have a plan we will be debating soon on the floor of the House that sets out to end incentives that promote self-destructive behavior. This plan has a vision for ending the welfare state, the Clinton plan offer only a mirage. We must work with compassion and common sense to end a system that has hurt the very people the very families we have set out to help.

REPORT ON RESOLUTION PROVIDING FOR CONSIDERATION OF H.R. 1058, SECURITIES LITIGATION REFORM ACT

Mr. DREIER, from the Committee on Rules, submitted a privileged report (Rept. No. 104-65) on the resolution (H. Res. 103) providing for consideration of the bill (H.R. 1058) to reform Federal securities litigation, and for other purposes, which was referred to the House Calendar and ordered to be printed.

REPORT ON RESOLUTION PROVIDING FOR CONSIDERATION OF H.R. 988, ATTORNEY ACCOUNTABILITY ACT OF 1995

Mr. GOSS, from the Committee on Rules, submitted a privileged report (Rept. 104-66) on the resolution (H. Res. 104) providing for consideration of the bill (H.R. 988) to reform the Federal civil justice system, which was referred to the House Calendar and ordered to be printed.

ANNOUNCEMENT BY CHAIRMAN OF COMMITTEE ON RULES REGARDING CONSIDERATION OF AMENDMENTS TO HOUSE JOINT RESOLUTION 2, THE TERM LIMITS CONSTITUTIONAL AMENDMENT

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

Mr. SOLOMON. Mr. Speaker, the Rules Committee anticipates meeting on Thursday, March 9, to report a rule for the consideration of House Joint Resolution 2, the term limits constitutional amendment.

The rule may include a provision permitting only the offering of amendments in the nature of a substitute, by Members who have caused their amendments to be printed in the amendment section of the CONGRESSIONAL RECORD not later than Wednesday, March 8.

If Members are interested in having their amendment considered as a substitute for House Joint Resolution 2, they are encouraged to submit a summary and copy of the amendment to the Rules Committee before 5 p.m. on Wednesday, March 8 and testify before the Rules Committee, in addition to preprinting the amendment in the CONGRESSIONAL RECORD.

Members should use the Office of Legislative Counsel to ensure that their amendments are properly drafted and should be titled, "Submitted for printing under clause 6 of rule XXIII," and submitted at the Speaker's table.

GENERAL LEAVE

Mr. SCARBOROUGH. 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. 9.

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

There was no objection.

SPECIAL ORDERS

The SPEAKER pro tempore. Under the Speaker's announced policy of January 4, 1995, and under a previous order of the House, the following Members are recognized for 5 minutes each.

THE TAX TECHNICAL CORRECTIONS ACT OF 1995

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Texas [Mr. ARCHER] is recognized for 5 minutes.

Mr. ARCHER. Mr. Speaker, today I am introducing the Tax Technical Corrections Act of 1995. I am joined on this legislation by SAM GIBBONS, the distinguished ranking minority member of the Ways and Means Committee.

This legislation makes necessary technical corrections to implement the intent of prior tax legislation. Virtually all of the items in this bill were included in H.R. 3419, which passed in the House during the 103d Congress. However, the bill does include some new technical corrections.

I am introducing this legislation in order to give the public an opportunity to comment on it. Because I intend to mark up the technical corrections legislation during the Ways and Means Committee's consideration of the Contract With America tax provisions within the next 2 weeks, I would ask that any comments be submitted to the Ways and Means Committee as soon as possible.

The following are the new technical corrections which were not included in the prior legislation:

First, the bill clarifies that a U.S. shareholder's inclusion of a controlled foreign corporation's earnings invested in excess passive assets is treated like a dividend for purposes of the foreign tax credit limitation. Thus, like other amounts included in income with respect to a controlled foreign corporation, the inclusion would be characterized by reference to the underlying nature of the earnings and profits of the foreign corporation.

Second, the bill provides an inflation adjustment of the dollar amounts where a parent elects to include child's unearned income on the parent's return.

Third, the bill provides that the exclusion from income for a taxpayer's investment in an annuity contract applies to his entire investment in the contract, in the case of an annuity contract with a refund feature.

The bill also includes a number of new clerical changes, deletions of obsolete provisions, and date changes necessitated by the passage of time.

BALANCED BUDGET AMENDMENT

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Florida [Mr. WELDON] is recognized for 5 minutes.

Mr. WELDON of Florida. Mr. Speaker, I rise to speak regarding the issue of our balanced budget amendment. The balanced budget amendment yesterday in the other body failed to receive the necessary votes required to pass this amendment on to the State legislatures. I believe that if it had it would have been one of the most rapidly approved constitutional amendments in U.S. history, that it would have very quickly been approved by the required three-fourths of the State legislatures necessary according to our Constitution. I feel that this would have occurred because the people really do want this, and it really, truly is a bipartisan effort.

I was very, very disappointed to see our President using the issue of the scare tactic of Social Security cuts as a way of fighting this bill or fighting this amendment. Indeed, former Senator and Democratic Presidential candidate Paul Tsongas recently said it is embarrassing to be a Democrat and watch a Democrat President raise the scare tactic of Social Security to defeat the balanced budget amendment.

The greatest threat to Social Security is not the balanced budget amendment, but our continued deficit spending. We have a national debt of $4.8 trillion and growing. Last year we spent $296 billion just to pay the interest on the public debt. This year we will spend $333 billion; next year it is anticipated that it will be $364 billion.

The interest on the debt is one of the fastest growing accounts in the Federal budget. This is the greatest threat to Social Security and the greatest threat to every other element of the Federal budget.

□ 1445

Passage of the balanced budget amendment would have been the best guarantee of the integrity and protection of the Social Security trust fund. Let us remember that in 1993, when faced with a $300 billion deficit and a desire to find funding for his new programs, President Clinton's tax-and-spend plan cut seniors' Social Security benefits by $25 billion.

Also let us not forget, last October Alice Rivlin's memo where President Clinton's economic top advisors proposed tens of billions of dollars in additional cuts in Social Security benefits.

Mr. Speaker, the American people are not fooled by the rhetoric out of the White House about Social Security. The American people know that the White House is not concerned about the effects the balanced budget amendment would have on Social Security. The American people know that the real fear by the White House is that the balanced budget amendment would curb the growth of new liberal spending programs.

Mr. Speaker, a recent survey by CBS News/New York Times found that 79 percent, 79 percent of Americans favor the balanced budget amendment. Last week's poll by the Seniors Coalition found that 80 percent of those 55 to 65 favor the balanced budget amendment. Of those over 65, 71 percent favor the balanced budget amendment.

Mr. Speaker, seniors know the truth. The balanced budget amendment will stop the wasteful spending and reduce the threat that the deficit and growing interest payments cause to the Social Security trust fund.

Several weeks ago one of the President's chief economic advisors was asked if she had a family budget that her family lived by, and she responded "no." I think that this is part of the problem.

My family lives by a budget, and we plan for our future. Indeed when I was elected to this office, we had to budget for the cost of maintaining two households and we had to reduce our spending accordingly to compensate for those increased expenses that we were going to encounter.

We need to instill some of those basic fundamental rules that families govern their finances by. We need to instill into this body, the Government of the United States.

I believe this balanced budget amendment will become an issue in the next election of 1996, and I believe that we will see more Members elected both to this body and the one on the other side, more Members elected who will support the balanced budget amendment, and the will of the people of the United States will not be thwarted and that we will have a balanced budget amendment to the Constitution.

RECOMMENDATIONS OF THE BASE REALIGNMENT CLOSURE COMMISSION

The SPEAKER pro tempore (Mr. OXLEY). Under a previous order of the House, the gentleman from Alabama [Mr. BROWDER] is recognized for 5 minutes.

Mr. BROWDER. Mr. Speaker, I am convinced that Secretary of Defense William Perry's recommendation to the Base Realignment and Closure [BRAC] Commission to close Fort McClellan, AL, is a mistake with significant and dangerous ramifications.

With this recommendation, the Pentagon Jeopardizes the American soldier's ability to survive chemical warfare, breaks faith with hundreds of thousands of Alabamians at risk from their neighboring stockpile of aging chemical weapons, and seriously undermines the Chemical Weapons Convention and Bilateral Destruction Agreement.

Let me be specific about what's wrong with the proposed closure of Fort McClellan:

First, it contradicts two earlier directives of the Base Realignment and Closure Commission refusing closure efforts of 1991 and 1993. The BRAC Commission has ruled twice—and the President and Congress concurred—that the chemical defense mission performed at Fort McClellan is vital to our national defense and that the Army's recommendation violates the criteria of military value established by law. The 1993 Commission reprimanded the Pentagon for attempting a second closure—following the unsuccessful initiative of 1991—and warned:

> . . . if the Secretary of Defense wants to move the Chemical Defense School and Chemical Decontamination Training Facility in the future, the Army should pursue all of the required permits and certification for the new site prior to the 1995 Base Closure process.

The Pentagon has not acquired any of the required permits and certification; its only justification for the proposal is its assumption that the requisite permits can be granted to allow operation of the Chemical Defense Training Facility elsewhere.

Second, it would shut down the only facility in the free world where live agent chemical weapons defense training can be conducted for America and its allies. All United States services, 27 allied foreign nations, and the international CWC Preparatory Commission train at this facility. National and international experts have testified that relocation of the Chemical School and live agent facility would seriously disrupt our chemical defense program for a decade; even more importantly, they maintain, it is highly unlikely that such a move can be accomplished under today's environmental restrictions.

Third, it would destroy a chemical defense capability which is considered vital to the success of the Chemical Weapons Convention, whose article 10 guarantees chemical defense assistance to threatened signatory countries.

Fourth, it would dismantle a working chemical weapons program considered critical to the training of international inspectors for carrying out the requirements of the Chemical Weapons Convention.

Fifth, it would abrogate a written commitment of extensive Fort McClellan resources—medical, technical, and security personnel and facilities—to help protect the hundred thousand at-risk civilians in case of a chemical accident/incident during the storage and planned demilitarization of the across-town Anniston Army Depot chemical weapons stockpile—as required by the Bilateral Destruction Agreement and Chemical Weapons Convention. This commitment was made in the 1990 demilitarization permit request filed by the U.S. Army with the Alabama Department of Environmental Management [ADEM], which has authority over the demilitarization process. This commitment has been incorporated into numerous emergency response plans and agreements among Fort McClellan, Anniston Army Depot, and the surrounding community. It has been operationalized in chemical stockpile emergency preparedness drills throughout the local area under the direction of the Army and Federal Emergency Management Agency. Finally, it was reconfirmed to me in a meeting with and letter from Deputy Secretary of Defense John Deutch 6 months ago. ADEM has assured me that the loss of these resources—through closure of Fort McClellan—will virtually prohibit issuance of the permit.

I am shocked and disappointed that the Secretary of Defense who has broad responsibilities for the national and international security of our country, has yielded to the bean-counters and numbers-crunchers in the bowels of the Pentagon.

ADMIT TURKEY TO THE EUROPEAN UNION

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Kentucky [Mr. WHITFIELD] is recognized for 5 minutes.

Mr. WHITFIELD. Mr. Speaker, 2 years ago, prior to being elected to the U.S. Congress, my wife and I visited in the home of Tansu Ciller, now the prime minister of Turkey. Turkey has been a strategic ally of the United States for many years, particularly in our efforts to contain Soviet communism, and of course Turkey was an indispensable ally to the United States during the Persian Gulf war.

Today the country of Turkey is at a crossroads. A Kurdish insurrection is raging in the southeast. An Islamic fundamentalist movement is spreading throughout Istanbul and Ankara.

In the Islamic world there are two models of government; one is the Khomeni model in Iran, and the other is Turkey, the only country among 52 Moslem countries that is secular and democratic.

Turkey's most immediate problem is economic. In 1993, the Turkish lira began to engage in a sharp fall. Since then, investment has slowed down and inflation has reached an annual rate of 150 percent.

To help solve these economic problems, it is essential for Turkey's long-

term stability that it be admitted to the European Union. The Clinton administration has acknowledged that they have not paid enough attention to this issue, and they are stepping up their activities.

Today, southern Europe is one of the most volatile areas in the world, and it is time for the U.S. Government to step up diplomatic activities to assure admittance of our longtime ally, Turkey, into the European Union.

If Turkey is not admitted, it will add fuel to the popular conviction that the West is rejecting Turkey out of religious bias.

Turkey and its people should be granted membership in the European Union. I think it is important for that area of the world that they be admitted. It will help them economically, and they have been a longtime valuable ally of America. I hope that the President will follow through on his efforts to step up his diplomatic activities in that regard.

BALANCED BUDGET AMENDMENT

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, yesterday the Senate failed to do what American middle-class citizens and State legislators have had to do for some time, and that is, step up to the plate and finally have to balance their checkbooks, to take in only as much, and spend only as much, as they take in.

Unfortunately, they failed to grasp this very simple concept. It has been a quarter of a century since we balanced our Federal budgets, and yet the liberal Democrats again were afraid to restrict themselves, to live by this very simple, very American concept.

Now, earlier today we heard Democrats talking about wanting a family-friendly Congress and worrying about their children, and that is great. I have got children. I worry about my children, too.

But where were they when we were voting on the most important amendment that would have as big an impact on our children's future as anything? Well, I will tell you where some of them were a year ago. They were supporting this amendment when they knew that it did not have a chance of passing.

We had Senator TOM DASCHLE, who is now beating his chest in self-righteous indignation that anyone would dare pass a balanced budget amendment because locusts would descend from the heavens and senior citizens would die in their homes. This was the worst thing TOM DASCHLE said, and he was proud to stand up for it.

The SPEAKER pro tempore (Mr. OXLEY). The gentleman is admonished to not mention specific Members of the other body.

Mr. SCARBOROUGH. And this Representative was quoted a year ago saying this about this balanced budget amendment, there was going to be such a scourge on humanity. February 28, 1994: "In this debate for a balanced budget amendment, we are being forced to face the consequences of our inaction. Quite simply, we are building a legacy of debt for our children and grandchildren and hamstringing their ability to address pressing national priorities."

And what happened? Does he not care about children a year later? It does not make a lot of sense to me.

Another Senator stated a year ago, this constitutional amendment, no matter what one thinks of it, will add to the pressure that we reconcile that we spend what we raise and that we begin to assure a better economic future with economic growth and hope and opportunity for our children once again.

□ 1500

It seems he changed his mind, too. Now he is saying the same thing, bringing up this Social Security card. Frankly, I am getting a little tired of hearing Democrats come out and say how they are the protectors of Social Security, while Republicans want to steal money from our senior citizens.

Why do we not try to think back a few years ago in 1993, when their President sent a budget to the floor that increased taxes on Social Security recipients? How many Republicans voted to take more money out of senior citizens' checkbooks? Zero. Zilch. Zip. Nada. None. How do they sleep at night? I mean, how hypocritical can you be to say, "I want to protect Social Security, so I am going to make sure that we don't balance our checkbooks. I am going to save senior citizens. These bad Republicans are against senior citizens.

But he does not tell the rest of the story. He does not tell the story that it was the Republicans that stood up for senior citizens. Every single Republican in both houses stood up for senior citizens when the Democratic President, the Democratic House, and the Democratic Senate was ready to sell them down the river.

It is a disgrace. It is hypocritical. I do not know how they sleep at night. I do not know how the Senator from California, who stole her election from the California people by promising to support the balanced budget amendment and then voted against it and killed it a few months later, I do not know how she sleeps at night. And she will not allow the California people to have a chance to vote on the balanced budget amendment, only to make Congress abide by the same laws that middle-class citizens have had to abide by for too long.

I am going to be able to sleep at night. I do not know how they will.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (Mr. OXLEY). The gallery is admonished there will be no demonstration.

PARTIES SHOULD AGREE ON COURSE OF ACTION TO AVOID ECONOMIC DOWNTURN

The SPEAKER pro tempore. Under the previous order of the House, the gentleman from New Jersey [Mr. SAXTON] is recognized for 5 minutes.

Mr. SAXTON. Mr. Speaker, some months ago, after having been through the election and after having campaigned to support the provisions of the Contract With America, I came to the realization that subsequent to the policies that have been prevalent during this administration that had to do with tax policy, and then with the Fed increasing interest rates along with that tax policy at the same time we had high taxes, that history would ultimately repeat itself, and that our economy could not sustain itself with relatively high taxes and with increasing interest rates. There would come a time when our economy would turn down and that things would not be as this administration and all of us would like them to be. Perhaps that is not far away.

I take this special order this afternoon to just bring light to the fact that there are clouds on the horizon, and that we as Republicans and Democrats need to agree on a course of action to avoid what could be an economic downturn, serious economic downturn.

I picked up the Wall Street Journal this morning, and as I turned through the pages and got to page 2, I found three articles that disturbed me. The headline on one was "Consumers Held Down Spending During January." In reading that article, it simply said that consumers were hesitant to spend, as perhaps they had been at some previous times recently.

I looked at another article that disturbed me along the same vein that said "Retailers See Mildly Disappointing Sales for February Amid Slowing Economy." Of course, that headline speaks for itself. Everyone can understand why we would be disappointed to see that the economy, as this headline says, is slowing.

But then I saw a headline that really disturbed me, because a very important part of the Contract With America, things that Republicans and some Democrats agree on that are part of the contract, is that we can do some things here in the House of Representatives that will help to avoid a slowdown in the economy. And this third article, which really disturbed me, has

a headline which says, "Rubin Questions the Economic Impact of Capital Gains Tax Cuts, Tax Reform."

This is Secretary Rubin, President Clinton's Secretary of the Treasury, and, of course, he is a very important person when it comes to directing economic policy. And that part of this that disturbed me the most said that he is being reported to have said "No significant tax reform is likely to emerge from Congress without substantial leadership from the Treasury, and Mr. Rubin said he is not inclined to deploy the Treasury's limited resources to design a tax reform scheme of its own."

Now, we have laid out before the America people as Republicans in the Contract With America our ideas of how to do this, and I would just say to Secretary Rubin, please, if you do not agree with us, at least recognize that the economy is showing signs of slowing, and please recognize that we have had seven interest rate increases in the last year, and please recognize that we had the largest tax increase to date in 1990, surpassed only by another more immense tax increase in 1993, and that taxes are at relative high rates and interest rates are relatively high, and yet Secretary Rubin does not worry about out Tax Code inhibiting savings investment and economic growth. He apparently does not want us to make changes to put in place tax policy proven to promote economic growth and savings.

Today our Tax Code and other Government policies promote dependence in my view on government and retard economic growth. Let me just point to a couple of examples.

Last week the Joint Economic Committee held a hearing here on the minimum wage and whether or not it should be increased as President Clinton has suggested. One of the things that we pointed out in that, and I will conclude with this, as to how government policy can promote dependence, is that $1 out of every $4.25, which is the minimum wage, comes to the Federal Government in terms of taxes. If that is in fact the case, it simply makes more sense for people of remain unemployed or go on welfare. These are the kinds of policies that we need to address as Republicans and Democrats with Secretary Rubin's help.

BALANCED BUDGET AMENDMENT SHOULD LIMIT SPENDING

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Michigan [Mr. SMITH] is recognized for 5 minutes.

Mr. SMITH of Michigan. Mr. Speaker, yesterday, the Senate failed to muster the courage to join us in passing the balanced budget amendment. Thomas Jefferson once called public debt "the greatest of dangers to be feared." Borrowing and spending is addictive for politicians, Thomas Jefferson, in a letter to Elbridge Gerry in 1799, wrote:

> I am for a government rigorously frugal and simple, applying all the possible savings of the public revenue to the discharge of the national debt; and not for a multiplication of officers and salaries merely to make partisans, and not for increasing by every device, the public debt, on the principle of it's being a public blessing.

I agree with Mr. Jefferson wholeheartedly, and I suspect that most other Americans do as well.

Today, I am introducing a constitutional amendment that would attack the root cause of our budget deficit, that is Government spending. My amendment would limit the growth of Federal spending to the rate of economic growth as measured by gross domestic product. This would freeze the growth of Government as a percentage of the U.S. economy. The language of the amendment is an adaptation of a spending control proposal in Milton Friedman's book, "Free to Choose." Professor Walter Williams, Chairman of the Economics Department at George Mason University, and the National Taxpayers' Union have endorsed this concept. The CATO Institute has given their enthusiastic support and suggested that this might be an acceptable compromise position to the balanced budget amendment.

Today, the Federal debt is in excess of $4.7 trillion and growing at a rate of $200 to $300 billion per year. This is both an economic and a moral problem. The economic problem is that deficit financing is the ultimate form of hidden taxation. Federal borrowing injects a huge pro-spending bias into the budget process by allowing politicians to hand out a dollar of Government spending to voters, while only imposing 80 cents of taxes.

Unbridled Federal spending will eventually lead to what economists call monetizing of the debt, which in plain English means that the government pays for its debt by increasing the money supply, thereby causing inflation. This hidden tax, which Adam Smith called the worst form of taxation, strikes most heavily on those who save. As every senior citizen knows, their security can be wiped out in short order by even moderate inflation. At 8 percent inflation, the Government can effectively take away half of the money one has saved over a lifetime of work in about 9 years.

The moral argument for a balanced budget is that Federal borrowing is taxation without representation. Recall the words of the Declaration of Independence which refers to the repeated injuries and usurpations of King George because he imposed taxes on us without our consent. Can't our children make this same claim against a Congress that saddles them with debt interest payments that are already at $339 billion annually? None of our children and grandchildren currently have a say in the political process. Federal deficits may almost be thought of as a form of fiscal child abuse.

I call on my colleagues to stop deficit spending, and I call on all citizens to commit themselves to do their part, to sacrifice some of the many things they get from Government, so we can cut spending, look our kids in the eye, and tell them that we will no longer force them to pay future taxes to enhance our current standard of living.

As a nation of people who look to the future, and care about our children as much as we care about ourselves, we can make the commitment to limit spending, and keep that commitment.

BALANCED BUDGET AMENDMENT

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Ohio [Mr. HOKE] is recognized for 5 minutes.

Mr. HOKE. Mr. Speaker, the events yesterday and in the past several days in the other body have compelled me to come to the well to, if nothing else, at least vent a little bit to you and to the American people regarding the disgrace and hypocrisy that we have seen come out of the other side of this building unfortunately.

It is just stunning that we stood on the brink, right on the brink of actually enacting at least from our Congress a balanced budget amendment that would then go to the States and the State legislatures could make their own decisions on these things, that we stood on the very brink of that, and now we have been completely—we are not able to find out even what the States want to do in this area. The truth is that there was hypocrisy, there was deceit, there was deception, and there was lying on the other side of this building, in the other body, with respect to promises that were made and promises that certainly were not kept.

Let's go back to what this amendment is all about. Really to find out what it is all about you have to go back to the year 1789, when Thomas Jefferson wrote:

> I fear there is only one thing that we have kept out of the Constitution of the United States. It has one flaw, and that is that we have not restricted the Federal Government's ability to borrow money. We have not restricted the Federal Government's ability to borrow money.

What extraordinary clairvoyance Thomas Jefferson could have, that he would see in 1789 what has truly come home to roost in 1995.

□ 1515

And with a $5 trillion or nearly $5 trillion debt, the ability of this Federal Government to borrow, borrow, borrow and mortgage the future of our country, of our children, of our grandchildren, and that he was able to see in

1789 that there ought to be some restriction on borrowing money by the Federal Government, because if we do not restrict it, as we did not, then the Government finally figures it out. It figures out that you can buy constituencies. You can purchase influence. You can buy votes. And that is exactly—I mean the votes of people that elect Members of Congress, elect people to the Senate—and that is exactly what has happened. That is how it is possible that this Government could be so far in the red that it could exist so far beyond its means.

In 1789 he recognized that. And what is it exactly that this balanced budget amendment would do? It is pretty straightforward what it would do. It restricts the ability of the Government to borrow money. It requires in its one single absolutely dispositive section, it says, you must have a three-fifths majority in order to raise the amount of money, the debt ceiling on what, in order to raise the amount of money that the United States can borrow. The limit on that amount of money, in order to raise the limit on the amount of money we can borrow, you have to have a three-fifths majority. That is precisely the kind of restriction that Thomas Jefferson was talking about in 1789.

And what did the Senate do? Well, one Senator from the State of Florida who had personally campaigned on a promise to vote in favor of a balanced budget amendment voted against it, campaigned not more than 5 months ago on that promise, not more than 4 months ago on that promise, said in a solemn promise to the people that she was wanting to represent, I am going to vote for a balanced budget amendment. And then come yesterday, she voted against it. And what was the excuse given by her and by other Members of the other body? The excuse given was that somehow this would possibly, this could somehow have an impact on Social Security.

Well, A, that is not true. And B, where were those people in August of 1993, when they voted to cut Social Security by $25 billion and every single Republican in the Senate and every single Republican in the House of Representatives voted against that? But they voted to increase or to tax Social Security and cut Social Security payments to senior citizens $25 billion. Where were they then?

And then to say, well, this is just, this is just a hidden ploy to make it possible to cut Social Security. It is a lie. They know it is a lie. It is a smoke screen.

What is the smoke screen for? I will tell you what the smoke screen is for. It is for those people who truly believe that the Federal Government can solve all our problems. If you believe that the Federal Government can solve all of our problems through more spending, through bigger spending programs, through throwing more money at these problems, through hiring more Federal bureaucrats to do it, then you ought to be opposed to a balanced budget amendment. And if you are going to be truthful about it and if you are going to be honest about it, then that is what you will tell people, that is the way that you will explain it.

The smoke screen is Social Security recipients, when every single one of them voted to cut Social Security.

THE FEDERAL DEFICIT

The SPEAKER pro tempore (Mr. OXLEY). Under a previous order of the House, the gentleman from New York [Mr. SOLOMON] is recognized for 5 minutes.

Mr. SOLOMON. Mr. Speaker, I was going to stand up here today and talk about the fact that over the last 16 years I have been trying to enact legislation dealing with regulatory reform that would give back property rights to the people of this country, but I was so angered this morning when I woke up about 6 a.m. in the morning and I was watching CNN. I saw the President and his press secretary talking about how they had killed the balanced budget amendment. And how they now could get down to the serious business of balancing the budget over the next 7 years.

I have never been so mad in my life. I have a chart here, which says, "deficit projections and debt accumulation." This was President Clinton's budget as he offered it last year. And as you can see, he projected a deficit in 1995 of $165 billion, and it grew all the way over so that at the end of 5 years, there is an accumulation of $894 billion in new accumulated debt to go to the $4.5 trillion we already have.

This year, in January, he just gave us his new 5-year projection. This is just a year later. And what does this show? It shows in 1995, $193 billion in accumulated debt in just this first year. That is 30 billion higher than last year. And if you look at 1996, it goes from $170 billion deficit to $197 billion and so on over to the end of the 5-year period.

So what has he done? He has increased the national debt by almost a trillion dollars over the next 5 years. And they talk about wanting to balance the budget.

The one thing that is said is true, and that is that Congress just does not have the guts to balance the budget themselves. That is too bad. And, therefore, they do need that prodding. That is what those five Senators that promised to vote for a balanced budget amendment last year during their election said that needed to happen. Yet today they turned around and voted "no."

You know, Mr. Speaker, I introduced a budget last year. It was an alternative to both the Democrat and Republican budgets. And if you look at this bottom figure, we accumulated, instead of a trillion dollars over 5 years, we accumulated only $252 billion. But the interesting thing is that every single year the deficit dramatically dropped from $132 billion the first year down to $69 billion the second year, $47 billion the third year, $12 billion the fourth year, and a surplus of $8 billion in the fifth year.

You say, how did you do that? Because all of the pundits say, you cannot do that without raising taxes. You cannot do that without cutting Social Security. You cannot do that without cutting into contractual obligations to veterans.

Well, my colleagues, we did that. How did we do it. We did it by eliminating 150 programs like the Interstate Commerce Commission, that is totally wasteful. We privatized 125 government agencies, like the Federal Aviation Administration. We consolidated 35 government functions like the Bureau of Indian Affairs that has been there for 70 years and does nothing today. And downsized the Department of Education from 5,000 employees down to an office of only 500. We abolished the Department of Energy, which has not produced a gallon of gasoline or a quart of oil, we cut out 16,000 employees there and let the free market system work.

We converted the Department of Commerce from an overblown department of 36,000 employees down to only 3,000 and made them a consultative body to business and industry instead of this huge bureaucratic department. And then we means tested every single Federal program, including school lunch programs.

People say, Republicans want to do away with school lunch programs. We do not want to do away with school lunch programs. What we want to do is make Members of Congress ineligible because of their total wages. We make $129,000 or $130,000 a year. Why should the Government be subsidizing my children's school lunches? They should not, because we cannot afford it. And we means test that with people with incomes over $50,000.

Medicare, people with incomes of over $100,000 or $200,000 are being subsidized by the Federal Government for their health care. That is all well and good, I suppose, if you can afford it. But we do not have the money. And we means test everything else across the board.

Do you know what that did? That gave us an $800 billion savings over 5 years, and we balanced the budget without hurting people, by truly taking care of the needy.

It can be done, but we cannot do it the way this president is trying to do it.

HARVEST OF TREES ON FEDERAL LANDS

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Washington [Mr. DICKS] is recognized for 5 minutes.

Mr. DICKS. Mr. Speaker, yesterday the House Committee on Appropriations took very dramatic action to deal with a very serious environmental problem in our country. Yesterday the House Committee on Appropriations directed the Forest Service to double their salvage program from approximately 1.5 billion board feet up to 3 billion board feet over the next 2 years. What that will do in essence will be to expand this program that is used to go out and take down dead, dying, diseased, bug-infested, and burnt trees that are going to rot and will be of no use to us over the next 2½ years.

What we said is, this is an emergency. We need to go out and do a good job for the American people, allow our foresters to go out and gather in those burnt, bug-infested trees. And that we could, if we did this, probably bring in about a billion dollars over the next 2 years in additional revenues to the treasury.

Also we would be protecting the forest health. It is clear in my mind and all the experts say this, if we do not get rid of these dead and dying trees, then we are going to be faced with the problem of increased forest fires.

Last year we spent in fighting forest fires in the west $1 billion. So we passed this emergency program yesterday and in it we created expedited procedures. We said that for the next 2 years, every sale will have to have an environmental assessment. There will have to be a biological opinion done, in which you look at the effect on endangered species, and if an agency, the Forest Service or the BLM are arbitrary and capricious, you can go into Federal court and stop that sale, that there will also be a period of time for administrative review. So we have created expedited judicial procedures and expedited environmental review, because if we do not act, if we do not get those trees while we can, we are going to lose this potential revenue to the Federal taxpayers.

Now, how much salvage is out there in the entire country? The Forest Service estimates that there is somewhere between 18- and 21-billion-board feet of this salvage that is out there. And today our lumber mills need saw logs. Our pulp and paper mills need chips. We have seen a dramatic reduction in harvesting of our Federal forest lands. And because of that, our mills are going out of business, particularly in the Pacific Northwest.

So I hope that the American taxpayers and the American people will support the Committee on Appropriations, will support the Taylor-Dicks amendment, which will allow this to happen.

I am glad that we had a bipartisan approach to this. The gentleman from North Carolina, Congressman TAYLOR, is a forester. He knows a lot about these matters. I have been working on these issues and trying to urge additional salvage for many, many years.

I think this is a win-win. We can protect the forest health by getting rid of these dead and dying trees, because if we do not do it, if we leave it out there, then we will have increased forest fires next year and we will have to spend billions more fighting the fires out in the west.

We also, by the way, the home builders of our country support this, because the cost of lumber in an ordinary $135,000 has gone up by $5,000 a house, because of the shortage of lumber.

This will give additional lumber supply and hopefully will reduce those prices. So it has a positive effect on housing as well.

I regret that we have to take this emergency step. I regret that we had to do this in the Committee on Appropriations. But I want you to know that the chairman of the Committee on Resources and the chairman of the Committee on Agriculture, the two committees with authorizing jurisdiction, approved this measure, because they recognize the emergency.

In my own State of Washington, we have seen a dramatic reduction in timber harvesting of our Federal lands over the last several years. Many of the people who I grew up with, went to school with, have lost their jobs, have gone into bankruptcy because they used to depend on logs off our Federal lands and they cannot get them any longer.

And they come to me and say, "Norm, can't we please have those dead and dying trees, the ones that are burnt, that are going to rot and we can't use them after two or three years? Can't we go out there and get them?"

So this amendment will allow that to happen, and I hope when it comes to the floor that we will have unanimous support, as we did in the Committee on Appropriations of the House of Representatives.

□ 1530

AFFIRMATIVE ACTION

The SPEAKER pro tempore (Mr. OXLEY). Under the Speaker's announced policy of January 4, 1995, the gentleman from California [Mr. TUCKER] is recognized for 60 minutes as the designee of the minority leader.

Mr. TUCKER. Mr. Speaker, I would like to take this time today in this special order to talk about an issue that is admittedly controversial but an issue that is going to be important to the well-being and the future of this country. That is, the issue of affirmation action.

This issue is about the fundamental right of minorities and women to participate in this society on every level without arbitrary and capricious barriers.

Mr. Speaker, affirmative action is a sledge hammer, created by this society, to smash the concrete barriers to opportunity. It was designed and implemented to erode the dual barriers of racism and sexism in this country, be it individual or institutional—intended or unintended. Mr. Speaker, throughout the history of this country, African-Americans have experienced the most humiliating and dehumanizing treatment every perpetrated on any group of people save the Native American.

The freedom of women and minorities to participate has been both a recent phenomenon and more importantly, a direct result of the Suffrage Movement, the Civil Rights Movement, the Voting Rights Act and just as importantly—affirmative action. While I know support for affirmative action has dwindled, its necessity is as apparent as ever before.

I am here today to tell those Americans who would dismantle affirmative action and undermine the gains of minorities and women that their efforts will not succeed.

Before the discussion can begin on the dismantlement of a policy, before attempts can be made to reverse the gains made by people in the areas of diversity, access and inclusion, before America can even think about having race and gender neutral laws, America must answer the question—have we really removed race and gender bias? Every statistic seems to suggest that we have not.

Let me begin by defining what affirmative action is and how it came to be.

Affirmative action is a term that first appeared in the text of the 1935 Wagner Act.

Under the Wagner Act, employers who were found to have intentionally engaged in unfair labor practices against union organizers and members had to take "affirmative action, including reinstatement of employees."

In 1941, prior to U.S. entry into World War II, President Franklin D. Roosevelt issued Executive Order 8802 affirming that it was U.S. policy "To encourage full participation in the national defense program by all citizens of the United States, regardless of race, creed, color or national origin."

Further, the order required that all future Defense contracts negotiated by the U.S. Government contain a nondiscrimination clause.

Executive orders for the next 20 years built upon the nondiscrimination mandate of Executive Order 8802. These orders reaffirmed the Federal Government's commitment to equal opportunity and reorganized the administrative structures to implement nondiscrimination policies in Federal employment under Government contract.

In 1961 President Kennedy issued Executive Order 10925 which endorsed a more proactive approach to equal opportunity and created the President's Committee on Equal Employment Opportunity.

The committee was directed "to consider and recommend additional affirmative steps which should be taken by executive departments and agencies to realize more fully the national policy of nondiscrimination within the executive branch of the Federal Government. The order required that Government contractors agree not to engage in employment discrimination based on race, creed, color, or national origin, and agree to "Take affirmative action to ensure that applicants are employed, and that employers are treated during employment" without regard to these characteristics.

Not until the Civil Rights Act of 1964 did the U.S. House of Representatives see fit to apply affirmative action to private employers.

The Civil Rights Act of 1964 made it unlawful for employers to fail or refuse to hire or to discharge any individual, or otherwise to discriminate against any individual with respect to his compensation, terms, conditions, or privileges of employment, because of such individual's race, color, religion, sex, or national origin; or to limit, segregate, or classify his employees or applicants for employment in any way which would deprive or tend to deprive any individual of employment opportunities or otherwise adversely affect his status as an employee, because of such individual's race, color, religion, sex, or national origin.

The act went on to provide a remedy in the event a court found that an employer had "intentionally engaged in * * * an unlawful employment practice."

For the first time in American history, women and people of color had a guarantee of an opportunity to do what white males had always been able to do; the right to dream of a future and a real opportunity to realize that dream.

Since the 1960's both the executive and legislative branch have crafted a wide range of Federal laws and regulations authorizing, either directly or by judicial or administrative interpretation, affirmative race and gender conscious strategies to promote minority and women opportunities in jobs, housing, education, voting rights, and Government contracting.

Every President since President Kennedy has supported affirmative action as a tool to overcome past as well as present discrimination. Current standards for affirmative action were recommended in the late 1960's to the Nixon administration by a group of several hundred large corporations. These recommendations, accepted by President Nixon and implemented by Secretary of Labor George Schultz, included the management by objectives concepts of employment goals and time tables.

During the Reagan administration, the majority of the Cabinet, led by Secretary Bill Brock, successfully fought efforts by Ed Meese and Clarence Thomas to undermine the executive order on affirmative action. They were joined by bipartisan majorities in both the House and Senate. By 2-to-2 votes, bipartisan majorities in the Senate have defeated Senator HELMS' last two attempts to ban affirmative action. The language in Senator HELMS' legislation was much like that of the referendum now being presented to voters in the State of California.

Polls consistently show that Americans, by a 3-to-2 margin, support Federal affirmative action programs as long as they do not involve quotas. In addition, a January 1995 Los Angeles Times poll showed that when people were asked whether "affirmative action programs designed to help minorities get better jobs and education go to far these days, or don't go far enough, or are just about adequate," fifty-five percent said the programs are adequate or do not go far enough, while only 39 percent said the programs go too far.

I would submit that all Americans want a color or gender blind society, and that should be the goal of every American citizen. But serious discrimination still persists throughout this country. Study after study concludes that in employment, education, housing, and voting, minorities and women do not have equal opportunity. All too often, individual or institutional discrimination, whether it is intended or unintended, precludes minorities and women from participating in many levels of our society. As long as there is discrimination based on race and gender we must fashion remedies that take race and gender into account. Race and gender conscious remedies have proven to be essential and remain essential.

For nearly 20 years there have been those who have attempted to reverse the gains made in affirmative action. Each and every time they have been defeated. Moreover, the U.S. Supreme Court has repeatedly upheld the constitutionality of race and gender-based remedies. The Court has held that if discrimination is based upon the hue of a persons skin or the anatomy to which that person is born—then the same shall be taken into account when fashioning a remedy.

For years, many opponents of affirmative action have been misrepresenting the law and the facts regarding affirmative action.

Too many politicians have attempted to divide this Nation by playing racial politics with the quota issue. Those tactics have led many to believe that affirmative action and quotas are one in the same.

In tough economic times, when people fear losing—and are in fact losing—their jobs, their promotions, and their quality of life, they feel the need to blame and to scapegoat others. In such an environment, divisive quota politics will always find a receptive audience. For years the courts have struggled contentiously to balance competing interests in order to meet the test of practical fainess to all parties. Our Nation's Highest Court has ruled that minority workers may be denied positions. If awarding the position would require the displacement of a white worker already holding the position. The test as articulated in United Steel Workers versus Weber is whether race-conscious remedies unnecessarily impede the progress or interests of the white employees. In employing Weber, courts have drawn lines between actions that "disappoint the expectations of whites and those that take away from them" a status that they have already attained. Various means have been utilized to provide redress to workers, black or white, whose legitimate expectations have been defeated through no fault of their own. Political bodies have a wider array of options than the courts to assure that no one bears disproportionate burden in adjusting civil rights and seniority claims during tough economic times. If predictions of future labor shortages are accurate, the dilemma should arise less frequently.

With respect to claims of the disintegration of merit standards by affirmative actions policies, it has been clear from the outset that Federal affirmative action policy recognizes and incorporates the principle of merit. The courts have repeatedly stated that the purpose of affirmative action is to create an environment where merit can prevail and that if a party is not qualified for a position in the first place, then affirmative action considerations do not come into play.

Though critics argue that the merit requirement is widely flouted, they have yet to produce any evidence of its widespread abuse. Most often, those critics argue not for the correction of the abuse, but the total dismantlement of affirmative action.

Mr. Speaker, after 250 years of slavery, 100 years of apartheid, and 40 years of intentional discrimination made legal by the States, minorities and women find themselves under attack.

The vitriolic attacks on affirmative action being spewed from the youths of persons across this Nation, in States and localities throughout this country,

is alarming. To those who would suggest that America has reached a point where a nation blind to pigment and gender is now at hand and affirmative action is no longer needed, just take a look around.

White males are 33 percent of the U.S. population, yet 80 percent of tenured professors are white male, 80 percent of this body is white male, 90 percent of the other body is white male, 92 percent of the Forbes 400 is white male, 97 percent of all school superintendents and 99.9 percent of all professional sports owners are white males.

Since the beginning of this country, white males have been and continue to receive preferential treatment in hiring, in services, in contracting, in educational opportunities, and in housing.

Since Members of this body like to use anecdotes, let me relate a story of what happened to the speaker of the California State Assembly, one of the most—if not the most powerful man in the State, Willie Brown, Jr. Some years ago the honorable assembly speaker attempted to lease an apartment in the city of San Francisco. Upon inquiring about the availability of an apartment, the speaker was told that no apartments were available. Mr. Speaker, Speaker Brown asked a white friend to make the same inquiry at the same location—upon requesting to see that apartment that friend was promptly shown an available unit. Now some would argue that the incident has nothing to do with race, but for some of us we can find no other explanation.

The signals are clear that there are those in this country and in this body who intend to roll back efforts on affirmative action and to call America's war on discrimination over.

I stand firm in my belief "that all men are created equal" and that given the recent history of this country, measures like the 1964 Civil Rights Act and subsequent court rulings were and continue to be necessary. If this were a homogeneous society without its history of hatred of oppression by the majority on the minority and women, there would be no need for affirmative action. This is not a homogeneous society. This is America, black, white, red, yellow, and brown: A nation of great diversity, representing every part of the world. Those who profess to support equality of opportunity while denigrating the remedies available to overcome this sad history, while offering no solutions, do nothing more than pay lip service to what women and minorities see as the most fundamental of human rights: The right to participate fairly and freely without arbitrary and capricious barriers.

I would submit to you, Mr. Speaker, and to this great Nation, that we cannot accept as truth, the notion that remedies designed to redress past, present, and future discrimination, are now somehow special rights conferred upon women and minorities. No matter how loud and how often these words are spoken, the truth is that these remedies are designed to lead to a more inclusive society. And on this issue there will be no retreat and there will be no surrender. All Americans should be guaranteed equality of opportunity. This proposed movement away from the inclusive policies of the past, presumes that we are now an inclusive society. The facts however reveal that we as a nation are not yet there.

If America wants to eliminate affirmative action while never frankly discussing her invidious racial past, and never accepting as a principle the equality of all persons; America will see the return of an era gone by. An era of mass demonstrations, boycotts, sit-ins, and whatever else is necessary, by any means necessary, to show this Nation and the world that American women and people of all colors; red, yellow, black, white, and brown, will not go back—and again I state on this issue there shall be no retreat and there shall be no surrender.

□ 1545

ACCOMPLISHMENT OF REPUBLICAN CONGRESS

The SPEAKER pro tempore (Mr. OXLEY). Under the Speaker's announced policy of January 4, 1995, the gentleman from Georgia [Mr. NORWOOD] is recognized for 60 minutes as the designee of the majority leader.

Mr. NORWOOD. Mr. Speaker, we have now completed 59 days of very hard work in this House, and as I sit back and ponder what we have accomplished in these 59 days I am really struck by the differences in what we on this side of the aisle are doing and what the Democrats are saying in opposition.

We want to take this country forward. We want to protect our Nation's future by reducing our national debt. But from the other side we hear very meek defenses and sometimes very loud defenses of the status quo.

We hear their cries to save the failed policies of the welfare state that they created over the last 40 years. And we hear their pleas to save the precious bureaucracy, for only the Federal bureaucrats know how to govern this Nation, they say.

Mr. Speaker, we owe very near $5 trillion. We are adding another trillion every 4 years. We are paying almost $300 billion annually in interest on our debt. There is no greater thing we must fear than our debt.

A trillion is a large number. I never can keep the zeros correct behind a trillion. But we owe almost $5 trillion, and maybe to put that in perspective just a little bit, I would say that if we tried to pay off $1 trillion of our debt and we chose to do that by paying $1 every second, we would pay off that trillion dollars in 144,000 years. And I remind my colleagues perhaps that organized agriculture only started on this planet 10,000 years ago.

I hope that says to Members as it does to me that though 5 is small, trillion is a lot, and the young people in this room today surely must realize that if we continue on the path that we have been going we are spending their inheritance, and we are spending their future, and those of us who sit over here every day and listen to the mistruths on this side every day are simply trying to bring that in balance.

The Federal bureaucrats who seem to run this Nation are people that are hired by us with our tax dollars. These people are nonelected officials, and it is not my opinion that they know what is best. In this great country, it is true that we are responsible for ourselves, we have individual responsibilities, and the great thing about this Nation is that we are free, and we should all be able to reach for the heavens and be all we can be according to our abilities and our willingness to work without interference from a Federal bureaucracy, and that is what we have been saying for 59 days.

These people must get off our backs and quit taking our freedoms away.

Mr. Speaker, I would like for you to consider all of the things that we have accomplished. On the first day of this Congress we passed reforms to make this body more responsible, to limit the power of the committee chairmen who for years, along with the Speaker have run this government, who had dictatorial control during their Democratic regime.

We have cut the number of staffers, just like we said we would, and we have eliminated funding for the caucuses, just like we said we would. We have made this body more open and more responsible, all the while every day the Democrats gripe and complain.

Mr. Speaker on January 26 we took a step in this body that the vast majority of Americans asked us to do. We passed the BBA, the balanced budget amendment, after trying for years, and I cannot tell you how excited I was that night when over 300 Members of this body cast their veto giving us finally a balanced budget amendment.

It was exciting because the number was 300, in fact because it was a bipartisan effort, Members from both sides of the aisle finally realized that in order to get this Congress to have the guts to do what they are supposed to do there was no option left but to change the Constitution. Three hundred Members of this body voted for it. And this will basically restore fiscal sanity and bring us back from the brink of disaster that we peer over, and we do.

It was a vote to save the children of this great Nation from a daunting future ahead of them, it was a vote to

save my granddaughter from a very uncomfortable future. We did the right thing. I know we did. And even though the amendment did not pass the Senate yesterday, I know we in this body did what we said we would do. We did what 80 percent of the Americans in this country asked us to do: We passed a balanced budget amendment.

And I know that you are watching, I know that the American people are watching, they are watching C–SPAN in greater numbers than any time in the history of C–SPAN. They will remember who stopped this amendment.

They will recognize that those in the Senate who voted against this amendment, though, said just a year ago they would gladly vote for a balanced budget amendment were some of the very same people that cut Social Security benefits to our senior citizens just last year by a tax increase; yet this year they say, no, we cannot have a balanced budget amendment because it might affect Social Security.

The American people will remember the names of those who voted for the amendment last year and against it this year. The American people will remember. And there will be, ladies and gentlemen, there will be accountability for defeating the will of the majority.

All the while a small group of Democrats in this body cried about the precious programs that they would lose because of a balanced budget amendment. It is almost as if these programs are more important to them than the fiscal security of this Nation.

We heard much the same arguments when we passed the line-item veto and the Unfunded Mandates Reform Act. With the line-item veto we gave the President the same power possessed by most of the Nation's Governors. We gave the President an important tool in our fight against the deficit. We released the States from a choking grasp of unfunded Federal mandates and all the while the Democrats fretted that we would take the power away from the Federal Government.

Ladies and gentlemen, the power in this country is the power within the people's lands, not a Federal Government. In these 59 days we have made great strides in improving the quality of life in this Nation. Our crime bill, for example, will give local law enforcement the power to attack crime only as they know how. The National Security Restoration Act will ensure that no American soldier in the service of this Nation will die at the whim of an Egyptian bureaucrat.

We have passed legislation to bring the massive regulatory bureaucracy under control, and thank God. We have released the American people from the mindless bureaucrats that inflict billions and billions of dollars of unnecessary burden on the American economy, large business, small business and all.

In passing these acts we have kept our promise to the American people. We have put in more hours, held more hearings, cast more votes than any previous Congress had to this point in recent history. We have shown this Nation, with the work that we have done, that the U.S. House of Representatives can be an effective legislature.

We have shown the American people that Government can get the important business of this Nation accomplished. And we are going to accomplish still more in the next 41 days.

In the next 41 days we will reform the legal system to make our system more responsible and reduce the dragging effect that frivolous lawsuits have on this Nation. We are going to pass term limits to make legislators value public service over professional politics. We will take steps to treat seniors equitably with the Senior Citizens Equity Act, and yes, we will make reforms of our morally bankrupt welfare system.

And we will continue to hear the guardians of the old order whine and cry as we dismantle the system that they created over 40 years. We will continue to hear Democrats tell the American people how the Federal Government always knows best, as they did in the unfunded mandates debate.

We will continue to hear the Democrats say that local officials cannot be trusted to do the right thing, as they did in the crime bill debate. We will continue to hear the Democrats fight to save the power of the Federal bureaucrats, as they did in the regulatory reform debate.

It is offensive to me to sit here and listen day in and day out as they trumpet the capabilities of the bureaucracy to make our life better, as they clamor for the necessity of a bureaucracy that lives in our daily lives from the minute we get up to the minute we go to bed.

□ 1600

The hardworking folks back at home know better. The Federal Government has never been the cure-all the Democrats would like for you to think. The Federal Government is more often than not a nightmare waiting to happen to the hardworking people of this Nation.

The American people know better, and that is why the Democrats are in the minority today.

Ah, but now, Mr. Speaker, they have finally found a way to disguise this bankrupt argument that the Federal Government knows best. They have found a way to disguise their love of the Federal bureaucracy. We are now beginning to hear arguments that Republicans are out to starve the American children. Mr. Speaker, this is utter and complete nonsense.

I was on this floor last night for 1 hour listening to one lie right after the other about our nutrition programs, lies told by people who know better. If the American people knew how much the Democrats are willing to distort the truth to save the bureaucracy, they would be absolutely outraged. Yes, we are combining many nutritional programs into block grants; yes, we are sending the moneys back to the States where the teachers and the dietitians and the superintendents know best.

But, no, we are not sending less, we are sending more. We are increasing the funding because it involves children. But if you listen to the other side, you do not get the truth. Mr. Speaker, it is exasperating to have to put up with the rhetoric the other side hurls at us. I voted in committee to increase the funding for child nutrition programs, to increase the funding child nutrition programs are getting. Yet people are calling my office worried that we are gutting these programs. Why? We are not. Where do they read such things? Where do they hear such things? It is not happening.

We are increasing funding and eliminating the wasteful Federal bureaucracy to help get more money to the States, more money for food, not for bureaucrats. The charge that we are cutting funding is patently false. Perhaps, Mr. Speaker, Americans should consider why Democrats have sought to distort reality to protect Federal bureaucrats. Could it be, Mr. Speaker, for financial reasons? Could it be because Democrats receive millions and millions of dollars in campaign funding from bureaucrats? Could it be because these contributions to Democrats outnumber contributions to Republicans by a margin of 9 to 1?

Could it be that Democrats have a vested interest in protecting Federal bureaucrats?

Mr. Speaker, I would simply ask that the American people look at the facts. It is a fact that we are putting more money into child nutrition, it is a fact that our bill dismantles part of the Federal bureaucracy and it is a fact that Democrats receive significant campaign contributions from Federal bureaucrats.

All I ask is that the American people consider the facts.

Mr. Speaker, this Congress will continue to do what is best for America, this 104th Congress will. We will continue to keep the promises we made to make this Nation a better place, even in the face of distorted arguments made by the other side.

Mr. Speaker, if the Democrats really cared about children, they would stop fighting to save the bureaucracy and engage in an honest discussion about how to improve our welfare system.

For the good of this Nation, I surely hope they will join us in doing what is right for America.

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. BROWDER) to revise and extend their remarks and include extraneous material:)

Mr. HOYER, for 5 minutes, today.

Mr. BROWDER, for 5 minutes, today.

Mrs. CLAYTON, for 5 minutes, today.

Mr. OWENS, for 5 minutes, today.

Ms. KAPTUR, for 5 minutes, today.

(The following Members (at the request of Mr. SCARBOROUGH) to revise and extend their remarks and include extraneous material:)

Mr. SCARBOROUGH, for 5 minutes, today.

Mr. SAXTON, for 5 minutes, today.

Mr. ARCHER, for 5 minutes, today.

Mrs. MORELLA, for 5 minutes on March 8.

Mr. SMITH of Michigan, for 5 minutes, today and on March 7.

Mr. SOLOMON, for 5 minutes, today.

(The following Member (at his own request) to revise and extend his remarks and include extraneous material:)

Mr. DICKS, for 5 minutes, today.

EXTENSION OF REMARKS

By unanimous consent, permission to revise and extend remarks was granted to:

(The following Members (at the request of Mr. BROWDER) and to include extraneous matter:)

Ms. MCKINNEY.

Mr. FARR.

Mr. FOGLIETTA.

Mr. VENTO.

Mr. WARD.

Mr. TRAFICANT.

Ms. ESHOO in 11 instances.

Mr. COLEMAN.

Mr. UNDERWOOD.

Mr. MCDERMOTT.

Mr. OBERSTAR.

Mr. JOHNSON of South Dakota.

Mr. ACKERMAN.

Ms. MCCARTHY.

Mr. RAHALL.

(The following Members (at the request of Mr. SCARBOROUGH) and to include extraneous matter:)

Mr. COLLINS of Georgia.

Mr. SMITH of New Jersey.

Mr. PORTMAN.

(The following Members (at the request of Mr. NORWOOD) and to include extraneous matter:)

Mr. HALL of Texas in two instances.

Mr. MENENDEZ in six instances.

Mr. KIM.

Mr. FILNER.

Mr. LARGENT.

Mr. DAVIS.

Mr. YOUNG of Florida.

ADJOURNMENT

Mr. NORWOOD. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 4 o'clock and 5 minutes p.m.), under its previous order, the House adjourned until Monday, March 6, 1995, at 12:30 p.m.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

458. A letter from the Deputy Secretary of Defense, transmitting a report pursuant to section 1075 of the National Defense Authorization Act for fiscal year 1995; to the Committee on National Security.

459. A letter from the Department of Defense, Director of Defense Research and Engineering, transmitting a report on creation and operation of new federally funded research center, pursuant to 10 U.S.C. 2367(d)(1); to the Committee on National Security.

460. A letter from the Director, Defense Security Assistance Agency, transmitting the quarterly reports in accordance with sections 36(a) and 26(b) of the Arms Export Control Act, the March 24, 1979 report by the Committee on Foreign Affairs, and the seventh report by the Committee on Government Operations for the first quarter of fiscal year 1995, October 1, 1994 through December 31, 1994, pursuant to 22 U.S.C. 2776(a); to the Committee on International Relations.

461. A letter from the Chairman, Board for International Broadcasting, transmitting the Board's annual report on its activities, as well as its review and evaluation of the operation of Radio Free Europe/Radio Liberty for the period October 1, 1993, through September 30, 1994, pursuant to 22 U.S.C. 2873(a)(9); to the Committee on International Relations.

462. A letter from the Assistant Secretary for Legislative Affairs, Department of State, transmitting the nonproliferation and disarmament fund report, fiscal year 1994, pursuant to section 504 of the Freedom Support Act of 1992; to the Committee on International Relations.

463. A letter from the Chairman, Council of the District of Columbia, transmitting a copy of D.C. Act 11-16, "Salvation Army Equitable Real Property Tax Relief Act of 1995," pursuant to D.C. Code, section 1-233(c)(1); to the Committee on Government Reform and Oversight.

464. A letter from the Chairman, Council of the District of Columbia, transmitting a copy of D.C. Act 11-17, "Methodist Cemetery Association Equitable Real Property Tax Relief Act of 1995," pursuant to D.C. Code, section 1-233(c)(1); to the Committee on Government Reform and Oversight.

465. A letter from the Chairman, Council of the District of Columbia, transmitting a copy of D.C. Act 11-18, "Christ United Methodist Church Equitable Real Property Tax Relief Act of 1995," pursuant to D.C. Code, section 1-233(c)(1); to the Committee on Government Reform and Oversight.

466. A letter from the Chairman, Council of the District of Columbia, transmitting a copy of D.C. Act 11-19, "Real Property Deed Recordation Amendment Act of 1995," pursuant to D.C. Code, section 1-233(c)(1); to the Committee on Government Reform and Oversight.

467. A letter from the Chairman, Council of the District of Columbia, transmitting a copy of D.C. Act 11-21, "Metropolitan Baptist Church Equitable Real Property Tax Relief Act of 1995," pursuant to D.C. Code, section 1-233(c)(1); to the Committee on Government Reform and Oversight.

468. A letter from the Chairman, Council of the District of Columbia, transmitting a copy of D.C. Act 11-22, "Riverside Baptist Church Equitable Real Property Tax Relief Act of 1995," pursuant to D.C. Code, section 1-233(c)(1); to the Committee on Government Reform and Oversight.

469. A letter from the Assistant Secretary (Management), Department of Treasury, transmitting a report of activities under the Freedom of Information Act for calendar year 1994, pursuant to 5 U.S.C. 552(e); to the Committee on Government Reform and Oversight.

470. A letter from the General Counsel, Federal Emergency Management Agency, transmitting a report of activities under the Freedom of Information Act for calendar year 1994, pursuant to 5 U.S.C. 552(d); to the Committee on Government Reform and Oversight.

471. A letter from the Chairman, Federal Maritime Commission, transmitting a report of activities under the Freedom of Information Act for calendar year 1994, pursuant to 5 U.S.C. 552(d); to the Committee on Government Reform and Oversight.

472. A letter from the Secretary of Health and Human Services, transmitting the annual report with respect to actions taken to recruit and train Indians to qualify them for positions subject to Indian preference; the annual report on actions taken to place non-Indians employed by the Indian Health Service in other Federal agencies, pursuant to 25 U.S.C. 472a(d); to the Committee on Resources.

473. A letter from the Chairman, Administrative Conference of the United States, the Conference's report entitled, "Toward Improved Agency Dispute Resolution: Implementing the ADR Act"; to the Committee on the Judiciary.

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. DREIER: Committee on Rules. House Resolution 103. Resolution providing for consideration of the bill (H.R. 1058) to reform Federal securities litigation, and for other purposes (Rept. 104-65). Referred to the House Calendar.

Mr. GOSS: Committee on Rules. House Resolution 104. Resolution providing for consideration of the bill (H.R. 988) to reform the Federal civil justice system (Rept. 104-66). Referred to the House Calendar.

PUBLIC BILLS AND RESOLUTIONS

Under clause 5 of rule X and clause 4 of rule XXII, public bills and resolutions were introduced and severally referred as follows:

By Mr. ARCHER (for himself and Mr. GIBBONS):

H.R. 1121. A bill to make technical corrections relating to the Revenue Reconciliation Act of 1990 and the Revenue Reconciliation Act of 1993, and for other purposes; to the Committee on Ways and Means.

By Mr. YOUNG of Alaska:

H.R. 1122. A bill to authorize and direct the Secretary of Energy to sell the Alaska Power Administration, and for other purposes; to the Committee on Resources, and in addition to the Committee on Commerce, for a period

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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. BROWDER;

H.R. 1123. A bill to repeal statutory limitations on the transportation of chemical munitions; to the Committee on National Security.

By Mr. COLEMAN:

H.R. 1124. A bill to amend chapters 83 and 84 of title 5, United States Code, to provide that, for civil service retirement purposes, inspectors of the Immigration and Naturalization Service, inspectors and canine enforcement officers of the U.S. Customs Service, and revenue officers of the Internal Revenue Service shall be treated in the same way as law enforcement officers; to the Committee on Government Reform and Oversight.

By Mr. TRAFICANT:

H.R. 1125. A bill to prohibit economic assistance and military assistance or arms transfer to the Government of Trinidad and Tobago until appropriate action is taken to eliminate illicit drug trafficking in Trinidad and Tobago; to the Committee on International Relations.

By Mr. FRANKS of New Jersey (for himself, Mr. PALLONE, Mr. LIPINSKI, Mr. SAXTON, Mr. FLAKE, Mr. ZIMMER, Mr. PAYNE of New Jersey, Mr. LOBIONDO, Mr. TORRICELLI, Mrs. ROUKEMA, and Mr. MARTINI):

H.R. 1126. A bill to strengthen and improve the pipeline safety provisions of chapter 601 of title 49, United States Code, and for other purposes; to the Committee on transportation and Infrastructure, and in addition to the Committee on Commerce, 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. GANSKE (for himself and Mr. WYDEN):

H.R. 1127. A bill to limit the issuance of patents on medical procedures; to the Committee on the Judiciary.

By Mr. GILMAN:

H.R. 1128. A bill to amend title 28, United States Code, to provide an additional place for holding court in the southern district of New York; to the Committee on the Judiciary.

By Mr. LEWIS of Georgia (for himself, Mr. HILLIARD, Mr. ACKERMAN, Mr. BALDACCI, Mr. BARRETT of Wisconsin, Mr. BISHOP, Ms. BROWN of Florida, Mr. BRYANT of Texas, Mr. CLAY, Mrs. CLAYTON, Mr. CLYBURN, Mrs. COLLINS of Illinois, Mr. CONYERS, Mr. CRAMER, Mr. DELLUMS, Mr. DEFAZIO, Ms. DELAURO, Mr. ENGEL, Mr. FARR, Mr. FATTAH, Mr. FILNER, Mr. FLAKE, Mr. FRANK of Massachusetts, Mr. FRAZER, Mr. FROST, Mr. GENE GREEN of Texas, Mr. HINCHEY, Mr. JACOBS, Ms. JACKSON-LEE, Mr. JEFFERSON, Ms. EDDIE BERNICE JOHNSON of Texas, Mr. KILDEE, Ms. LOFGREN, Mrs. LOWEY, Mrs. MALONEY, Mr. MCDERMOTT, Mrs. MEEK of Florida, Mr. MILLER of California, Mr. OWENS, Mr. PAYNE of New Jersey, Ms. PELOSI, Mr. RANGEL, Mr. RICHARDSON, Mr. RUSH, Mr. SANDERS, Mrs. SCHROEDER, Mr. SCOTT, Mr. STUPAK, Mr. THOMPSON, Mr. TOWNS, Mr. TUCKER, Mr. UNDERWOOD, Ms. VELÁZQUEZ, Mr. WILLIAMS, Mr. WARD, Mr. WATT of North Carolina, Mr. WYNN, Mr. REYNOLDS, Miss COLLINS of Michigan, Ms. MCKINNEY, Mr. MFUME, Mr. WATERS, Mr. HASTINGS of Florida, Mr. STOKES, and Mr. DIXON):

H.R. 1129. A bill to amend the National Trails Systems Act to designate the route from Selma to Montgomery as a National Historic Trail; to the Committee on Resources.

By Mr. DORNAN:

H.R. 1130. A bill to prohibit award, grant, and contract recipients from lobbying for the continuation of their awards, grants, and contracts and to repeal authority for the payment of expenses of intervening and the payment of attorney's fees, and for other purposes; to the Committee on the Judiciary, and in addition to the Committee on Government Reform and Oversight, 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. MCCRERY (for himself, Mr. HANCOCK, Mr. SHADEGG, and Mr. SMITH of Michigan):

H.R. 1131. A bill to balance the Federal budget by fiscal year 2002 through the establishment of Federal spending limits; to the Committee on the Budget, and in addition to the Committee on Rules, and Government Reform and Oversight, 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. OBERSTAR:

H.R. 1132. A bill to amend the Federal Water Pollution Control Act to establish requirements and provide assistance to prevent nonpoint sources of water pollution, and for other purposes; to the Committee on Transportation and Infrastructure.

By Mr. STEARNS:

H.R. 1133. A bill to provide that pay for Members of Congress may not be increased by any adjustment scheduled to take effect in a year immediately following a fiscal year in which a deficit in the budget of the U.S. Government exists; to the Committee on Government Reform and Oversight, and in addition to the Committee on House Oversight, 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. SMITH of Michigan (for himself, Mr. SHADEGG, Mr. HANCOCK, Mr. BARTON of Texas, Mr. HERGER, Mr. TAYLOR of Mississippi, Mr. LARGENT, Mr. BURR, Mr. SCARBOROUGH, and Mr. ZIMMER):

H.J. Res. 74. Joint resolution proposing a balanced budget amendment to the Constitution of the United States; to the Committee on the Judiciary.

ADDITIONAL SPONSORS

Under clause 4 of rule XXII, sponsors were added to public bills and resolutions as follows:

H.R. 6: Mr. LEACH, Mr. NETHERCUTT, Mr. SKEEN, and Mr. SOUDER.

H.R. 26: Mr. HANCOCK and Mr. MEEHAN.

H.R. 28: Mr. SHAYS.

H.R. 52: Mr. HERGER and Mr. PARKER.

H.R. 104: Mr. PARKER and Mr. FOLEY.

H.R. 209: Mr. HERGER, Mr. DUNCAN, and Mr. CALVERT.

H.R. 312: Mr. SHAYS.

H.R. 441: Mr. COOLEY, Mr. LEACH, Mr. ENGLISH of Pennsylvania, Mrs. CLAYTON, Mr. WELLER, Mr. EHLERS, Mr. EVANS, and Mr. WICKER.

H.R. 462: Mr. BEILENSON and Mr. UNDERWOOD.

H.R. 483: Mr. MEEHAN, Mr. BORSKI, Ms. ROYBAL-ALLARD, Mr. KIM, and Mr. BILBRAY.

H.R. 488: Mr. DELLUMS.

H.R. 548: Mr. LIPINSKI and Mr. PARKER.

H.R. 549: Mr. WICKER, Mr. CANADY, Mr. RIGGS, Mr. DIAZ-BALART, and Mr. MCCOLLUM.

H.R. 559: Mr. MEEHAN and Mr. BORSKI.

H.R. 575: Mr. DAVIS, Mr. CANADY, Mr. ENGLISH of Pennsylvania, Mr. FRANKS of New Jersey, Mr. BARTLETT of Maryland, Mr. TORKILDSEN, Mr. SOUDER, Mr. MCKEON, Mr. LARGENT, Mr. GRAHAM, Mr. LATOURETTE, Mr. SHAYS, Mr. NEY, and Mr. GUTKNECHT.

H.R. 592: Mr. SKEEN, Mr. PARKER, and Mr. FOLEY.

H.R. 645: Mr. PAYNE of New Jersey and Mr. SERRANO.

H.R. 658: Mr. OLVER and Mr. WATT of North Carolina.

H.R. 708: Mr. SMITH of Texas and Mr. FORBES.

H.R. 777: Mr. ANDREWS, Mr. BENTSEN, Mr. BILBRAY, Mr. BORSKI, Mr. BUNNING of Kentucky, Mr. FOX, Mr. KING, Mr. LIPINSKI, Ms. MOLINARI, Mrs. MORELLA, Mr. OLVER, Ms. PRYCE, Mr. RANGEL, Mr. ROMERO-BARCELÓ, Mrs. SEASTRAND, and Mr. PARKER.

H.R. 778: Mr. ANDREWS, Mr. BENTSEN, Mr. BILBRAY, Mr. BORSKI, Mr. BUNNING of Kentucky, Mr. FOX, Mr. KING, Mr. LIPINSKI, Ms. MOLINARI, Mrs. MORELLA, Mr. OLVER, Ms. PRYCE, Mr. RANGEL, Mr. ROMERO-BARCELÓ, Mrs. SEASTRAND, and Mr. PARKER.

H.R. 779: Mr. FALEOMAVAEGA, Mr. FOX, Mr. MARTINEZ, Mrs. MORELLA, Mr. OLVER, Mr. RANGEL, Mr. ROMERO-BARCELÓ, Mr. SCOTT, Mr. VENTO, Mr. WYNN, and Mr. PARKER.

H.R. 780: Mr. FALEOMAVAEGA, Mr. FOX, Mr. MARTINEZ, Mrs. MORELLA, Mr. OLVER, Mr. RANGEL, Mr. SCOTT, Mr. VENTO, Mr. WYNN, and Mr. PARKER.

H.R. 789: Mr. ROTH, Mr. FOX, Mr. BARR, and Mr. BOEHNER.

H.R. 800: Mr. ENGLISH of Pennsylvania and Mr. LATHAM.

H.R. 803: Mr. LEWIS of California and Mr. BILBRAY.

H.R. 820: Mr. TOWNS, Mr. CRAMER, and Mr. WAMP.

H.R. 860: Mr. KINGSTON.

H.R. 899: Mrs. SMITH of Washington, Mrs. CHENOWETH, Mr. NETHERCUTT, Mr. GORDON, Mr. HOSTETTLER, Mr. QUILLEN, Mr. TATE, Mr. LATHAM, Mr. BRYANT of Tennessee, Mr. COBURN, Mr. WHITE, Mr. HEFLEY, and Mr. HINCHEY.

H.R. 922: Mr. MARTINEZ and Mr. LIPINSKI.

H.R. 942: Ms. ROYBAL-ALLARD, Ms. MCKINNEY, Mr. SCHIFF, Mr. BLUTE, Mrs. ROUKEMA, Mr. ENGLISH of Pennsylvania, Mr. ZIMMER, Mr. MEEHAN, Mr. EVANS, Mr. LIPINSKI, Mr. YATES, and Mr. LOBIONDO.

H.R. 945: Mr. FROST, Mr. STUPAK, Mrs. ROUKEMA, Mr. WILSON, Mr. BOEHLERT, Mr. TORRICELLI, Mr. RAMSTAD, Mr. VENTO, Mr. BARCIA, Mr. RAHALL, Mr. FRANKS of Connecticut, Mr. SOLOMON, Mr. DIAZ-BALART, Mr. GEJDENSON, and Mr. FOGLIETTA.

H.R. 957: Mr. ABERCROMBIE, Mr. BURTON of Indiana, Mr. SHAYS, Mr. TRAFICANT, Mr. TALENT, Mr. CANADY, and Mr. TORRICELLI.

H.R. 971: Mr. HINCHEY.

H.R. 1003: Mr. HAYES, Mr. LIGHTFOOT, Mr. CARDIN, and Ms. LOFGREN.

H.R. 1020: Mr. WELLER, Mrs. COLLINS of Illinois, Mr. EWING, Mr. PETERSON of Minnesota, Mr. BARCIA, and Mr. CONYERS.

H.R. 1039: Mr. FORBES and Mr. SAXTON.

H.R. 1041: Mr. FORBES and Mr. SAXTON.

H.R. 1042: Mr. FORBES and Mr. SAXTON.

H.R. 1052: Mr. ROTH.

H.R. 1058: Mr. MOORHEAD, Mr. OXLEY, Mr. BILIRAKIS, Mr. SCHAEFER, Mr. BARTON of

Texas, Mr. HASTERT, Mr. STEARNS, Mr. PAXON, Mr. GILLMOR, Mr. CRAPO, Mr. BILBRAY, Mr. GANSKE, Mr. NORWOOD, Mr. WHITE, Mr. EDWARDS, Mr. BARCIA of Michigan, and Mr. COBURN.

H.R. 1061: Mr. CHRISTENSEN.

H.R. 1118: Mr. FORBES and Mr. SOLOMON.

H.J. Res. 61: Mr. FOX, Mr. BURR, and Mr. SALMON.

H. Con. Res. 5: Mr. LAHOOD, Mr. YOUNG of Alaska, Mr. DOOLITTLE, Mr. NETHERCUTT, Mr. SPENCE, Mr. HOSTETTLER, Mr. SCHAEFER, and Mr. BARCIA of Michigan.

H. Con. Res. 12: Mr. WISE.

H. Con. Res. 19: Mrs. WALDHOLTZ.

H. Con. Res. 23: Mr. EMERSON, Ms. LOFGREN, Mr. TOWNS, Ms. ESHOO, Mr. FOX, Mr. SENSENBRENNER, Ms. MOLINARI, Mr. GILCHREST, Ms. PRYCE, Mr. MARTINEZ, Mrs. SMITH of Washington, Mr. PACKARD, Mr. EHRLICH, Mr. COYNE, Mr. PAYNE of New Jersey, Mr. BORSKI, Mr. LANTOS, Mr. WALSH, Ms. ROYBAL-ALLARD, Mr. MENENDEZ, Mr. WISE, Mr. HASTINGS of Florida, Mr. HANSEN, Mr. SKEEN, Mr. BARRETT of Wisconsin, Mrs. CHENOWETH, Mr. STEARNS, and Mr. HINCHEY.

H. Con. Res. 25: Mr. WOLF, Mr. GILMAN, and Mr. SOLOMON.

DELETIONS OF SPONSORS FROM PUBLIC BILLS AND RESOLUTIONS

Under clause 4 of rule XXII, sponsors were deleted from public bills and resolutions as follows:

H.J. Res. 2: Mrs. SEASTRAND.

AMENDMENTS

Under clause 6 of rule XXIII, proposed amendments were submitted as follows:

H.R. 988

OFFERED BY: MR. BRYANT OF TEXAS

AMENDMENT NO. 1: Page 4, insert the following after line 21 and redesignate the succeeding paragraph accordingly:

"(8) This subsection applies only to a claim brought against a small business concern as defined under section 3 of the Small Business Act.".

H.R. 988

OFFERED BY: MR. CARDIN

AMENDMENT NO. 2: At the end of section 4, insert the following:

(c) subsection (a) and (b) shall apply to the United States or any agency or any official of the United States acting in his or her official capacity.

H.R. 988

OFFERED BY: MS. HARMAN

AMENDMENT NO. 3: Page 2, line 9, strike "offer" and insert "reasonable offer made in good faith".

H.R. 988

OFFERED BY: MR. HOKE

AMENDMENT NO. 4: Page 6, after line 24 (after section 4) insert the following:

SEC. 5. CONTINGENT FEES OF ATTORNEYS.

(a) IN GENERAL.—Part III of title 28, United States Code, is amended by adding at the end the following new chapter:

"CHAPTER 80—CONTINGENT FEES OF ATTORNEYS

"1051. Limitations on contingent fees.
"1052. Definition of qualifying settlement offer.

"§ 1051. Limitations on contingent fees

"(a) EFFECT OF QUALIFYING SETTLEMENT OFFER.—In any Federal civil action (except an action for the protection of civil rights, including the right to vote) in which a monetary recovery is sought, the compensation to the attorney representing a plaintiff—

"(1) shall, if a qualifying settlement offer is made to and accepted by that plaintiff not exceed the lesser of—

"(A) the sum of—

"(i) a reasonable hourly rate, previously agreed upon by the attorney and the plaintiff, for legal work actually performed; and

"(ii) actual expenses of the attorney in the action; or

"(B) 10 percent of the amount of the accepted qualifying settlement offer; and

"(2) shall, if no qualifying settlement offer is accepted by that plaintiff, not exceed the sum of—

"(A) that portion not greater than 33 percent, agreed upon by the attorney and the plaintiff before trial, of the amount by which the final recovery in the action exceeds the amount of the final qualifying settlement offer;

"(B) a reasonable hourly rate, previously agreed upon by the attorney and the plaintiff, for legal work actually performed before the final qualifying settlement offer is made; and

"(C) actual expenses of the attorney in the action.

"§ 1052. Definition of qualifying settlement offer

"For the purposes of this chapter a qualifying settlement offer is an offer by all defendants—

"(1) to settle all claims against the defendants in the pending action; and

"(2) made not later than 60 days after the date of initial contact in writing between the attorneys for the parties notifying the defendant of the claim against the defendant.".

(b) CLERICAL AMENDMENT.—The table of chapters for part III of title 28, United States Code, is amended by adding at the end the following new item:

"80. Contingent Fees of Attorneys.....1051".

Redesignate succeeding sections accordingly.

H.R. 988

OFFERED BY: MR. LATOURETTE

AMENDMENT NO. 5: Page 6, line 24 (after section 4) insert the following:

SEC. 5. PROHIBITION OF CONTINGENCY FEES IN CASES OF UNDISPUTED LIABILITY.

(a) IN GENERAL.—If, not later than 180 days after the date of initial contact, the defendant informs the plaintiff in writing that the defendant no longer contest liability, the compensation to the plaintiff's attorney shall not exceed a reasonable hourly rate, previously agreed upon by the attorney and the plaintiff, for legal work actually performed in the action, and actual expenses of the attorney in the action.

(b) ENFORCEMENT.—Whoever is aggrieved by any violation of this section may in a civil action recover appropriate relief.

(c) DEFINITIONS.—For the purposes of this section the term "initial contact" means the receipt by the defendant of notice of the claim sent by the plaintiff through registered mail, return receipt requested, or commencement of the civil action, whichever occurs first.

Redesignate succeeding sections accordingly.

H.R. 988

OFFERED BY: MR. PARKER

AMENDMENT NO. 6: Beginning on page — redesignate Sections as Sections —, respectively, and insert at line — on page — the following:

SEC. . TRUTH IN ATTORNEYS' FEES.

It is the sense of the Congress that each State should require, under penalty of law, each attorney admitted to practice law in such State to disclose in writing, to any client with whom such attorney has entered into a contingency fee agreement—

(1) the actual services performed for such client in connection with such agreement, and

(2) the precise number of hours actually expended by such attorney in the performance of such services.

H.R. 988

OFFERED BY: MR. SMITH OF MICHIGAN

AMENDMENT NO. 7: Page 4, at the end of line 5, add the following:

To the extent that the offeree does not pay the offeror's costs and expenses, including attorneys' fees, as ordered by the court, the attorney of the offeree shall be liable for such costs, such expenses, and such fees.

H.R. 1058

OFFERED BY: MR. KENNEDY OF MASSACHUSETTS

AMENDMENT NO. 1: Page 28, after line 2, insert the following new section (and redesignate the succeeding sections and conform the table of contents accordingly):

SEC. 6. LIMITATIONS PERIOD FOR IMPLIED PRIVATE RIGHTS OF ACTION.

The Securities Exchange Act of 1934 (15 U.S.C. 78a et seq.) is amended by adding at the end the following new section:

"SEC. 37. LIMITATIONS PERIOD FOR IMPLIED PRIVATE RIGHTS OF ACTION.

"(a) IN GENERAL.—Except as otherwise provided in this title, an implied private right of action arising under this title shall be brought not later than the earlier of—

"(1) 5 years after the date on which the alleged violation occurred; or

"(2) 3 years after the date on which the alleged violation was discovered.

"(b) EFFECTIVE DATE.—The limitations period provided by this section shall apply to all proceedings pending on or commenced after the date of enactment of this section.".

H.R. 1075

OFFERED BY: MR. FRANK OF MASSACHUSETTS

AMENDMENT NO. 1: Page 11, strike lines 17 through 24 and insert the following:

SEC. 107. SEVERAL LIABILITY FOR ECONOMIC AND NON-ECONOMIC LOSS.

In any product liability action, the liability of each defendant found to be less than 20 percent responsible for the claimant's economic and noneconomic loss shall be several only and shall not be joint. Each defendant found to be less than 20 percent responsible shall be liable only for the amount of economic and noneconomic loss attributable to such defendant in direct proportion to such defendant's proportional share of fault or responsibility for the claimant's harm, as determined by the trier of fact.

H.R. 1075

OFFERED BY: MR. ROTH

AMENDMENT NO. 2: Page 13, redesignate section 110 as section 111 and insert after line 2 on that page the following (and conform the table of contents accordingly):

SEC. 110. EXPEDITED PRODUCT LIABILITY SETTLEMENTS.

(a) IN GENERAL.—Any claimant may bring a civil action for damages against a person for harm caused by a product pursuant to applicable State law, except to the extent such law is superseded by this title.

(b) SETTLEMENT.—

(1) CLAIMANT.—Any claimant may, in addition to any claim for relief made in accordance with State law, include in such claimant's complaint an offer of settlement for a specific dollar amount.

(2) DEFENDANT.—The defendant may make an offer of settlement for a specific dollar amount within 60 days after service of the claimant's complaint or within the time permitted pursuant to State law for a responsive pleading, whichever is longer, except that if such pleading includes a motion to dismiss in accordance with applicable law, the defendant may tender such relief to the claimant within 10 days after the court's determination regarding such motion.

(3) COURT ACTION.—

(A) EXTENSION ORDER.—In any case in which an offer of settlement is made pursuant to paragraph (1) or (2), the court may, upon motion made prior to the expiration of the applicable period for response, enter an order extending such period. Any such order shall contain a schedule for discovery of evidence material to the issue of the appropriate amount of relief, and shall not extend such period for more than 60 days. Any such motion shall be accomplished by a supporting affidavit of the moving party setting forth the reasons why such extension is necessary to promote the interests of justice and stating that the information likely to be discovered is material, and is not, after reasonable inquiry, otherwise available to the moving party.

(B) DEFENDANT NOT ACCEPTING.—If the defendant, as offeree, does not accept the offer of settlement made by a claimant within the time permitted pursuant to State law for a responsive pleading or, if such pleading includes a motion to dismiss in accordance with applicable law, within 30 days after the court's determination regarding such motion, and a verdict is entered in such action equal to or greater than the specific dollar amount of such offer of settlement, the court shall enter judgment against the defendant and shall include in such judgment an amount for the claimant's reasonable attorney's fees and costs. Such fees shall be offset against any fees owned by the claimant to the claimant's attorney by reason of the verdict.

(C) CLAIMANT NOT ACCEPTING.—If the claimant, as offeree, does not accept the offer of settlement made by a defendant within 30 days after the date on which such offer is made and a verdict is entered in such action equal to or less than the specific dollar amount of such offer of settlement, the court shall reduce the amount of the verdict in such action by an amount equal to the reasonable attorney's fees and costs owed by the defendant to the defendant's attorney by reason of the verdict, except that the amount of such reductions shall not exceed that portion of the verdict which is allocable to noneconomic loss and economic loss for which the claimant has received or will receive collateral benefits.

(D) ATTORNEY'S FEES.—For purposes of this subparagraph, attorney's fees shall be calculated on the basis of an hourly rate which should not exceed that which is considered acceptable in the community in which the attorney practices, considering the attorney's qualifications and experience and the complexity of the case.

(c) ALTERNATIVE DISPUTE RESOLUTION PROCEDURES.—In lieu of or in addition to making an offer of settlement under subsection (b), a claimant or defendant may, within the time permitted for the making of such an offer under such section, offer to proceed pursuant to any voluntary alternative dispute resolution procedure established or recognized under the law of the State in which the civil action for damages for harm caused by a product is brought or under the rules of the court in which such action is maintained.

(d) OFFEREE REFUSAL.—If the offeree refuses to proceed pursuant to such alternative dispute resolution procedure and the court determines that such refusal was unreasonable or not in good faith, the court shall assess reasonable attorney's fees and costs against the offeree.

(e) REBUTTABLE PRESUMPTION.—For the purposes of this section, there shall be created a rebuttable presumption that a refusal by an offeree to proceed pursuant to such alternative dispute resolution procedure was unreasonable or not in good faith, if a verdict is rendered in favor of the offeror.

SENATE—*Friday, March 3, 1995*

(Legislative day of Wednesday, February 22, 1995)

The Senate met at 10 a.m., on the expiration of the recess, and was called to order by the President pro tempore [Mr. THURMOND].

The PRESIDENT pro tempore. Today we have a guest Chaplain, Father Paul Lavin, pastor of St. Joseph's Catholic Church, Capitol Hill, Washington, DC.

PRAYER

The guest Chaplain, the Reverend Paul Lavin, pastor of St. Joseph's Catholic Church, Capitol Hill, Washington, DC, offered the following prayer:

Let us pray:

Almighty Father, we acknowledge Your goodness and the great gifts You have given to our Nation. Give the Members of the U.S. Senate the grace of Your wisdom and understanding to call our Nation to respond wisely to Your gifts.

With Your help may our Nation be an image of justice, a mirror of sanctity, a protector of the truth, a refuge for the oppressed, a treasure to the poor, a hope to the wretched.

Direct all our actions by Your holy inspiration and carry them on by Your gracious assistance that every work of this Senate may begin from You and with Your grace, be part of Your work to make our world a more just and decent place.

RECOGNITION OF THE ACTING MAJORITY LEADER

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

RESERVATION OF LEADER TIME

Mr. LOTT. Mr. President, this morning the time for the two leaders has been reserved.

SCHEDULE

Mr. LOTT. Mr. President, there will now be a period for the transaction of routine morning business not to extend beyond the hour of 1 p.m., with Senators permitted to speak for up to 5 minutes each with the following exceptions: Senator CRAIG, 1 hour; Senator DASCHLE, 30 minutes; Senator LIEBERMAN, 20 minutes; Senator GRAHAM of Florida, 15 minutes; and Senator GRAMS of Minnesota, 5 minutes.

For the information of my colleagues, the majority leader has announced there will be no rollcall votes during today's session. Also, I urge all my Republican colleagues to attend an important press conference this morning at 10:30 in room S–207 of the Capitol for the announcement of our newest Republican Member, Senator BEN NIGHTHORSE CAMPBELL of Colorado.

Mr. President, if I may proceed for 2 minutes at this time?

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

NEW REPUBLICAN SENATOR BEN NIGHTHORSE CAMPBELL

Mr. LOTT. Mr. President, I am sure our distinguished majority leader will be here later this morning to officially welcome our newest Member on the Republican side of the aisle. But I want to express my appreciation for the courage of this fine Senator, my friend from Colorado, Senator BEN NIGHTHORSE CAMPBELL. This is a Senator with a long history of courage, of humble beginnings, and of having fought for the things he believed in and has risen to election by the people of the State of Colorado to serve as one of their two U.S. Senators.

Again today he shows the principle and the courage that he has exhibited throughout his life. Because of his philosophy, because of his concern for his country, and because of his inability to continue to live under the umbrella of a party that is dominated by a small sliver of liberals in their party, taxers and spenders who won the day against the American people just yesterday, this morning he announced that he will join the Republican Party, the party that welcomes him, the party that reflects the views that he believes in of a reduced size of the Federal Government, responsibility for people at the local level, strong national defense, independence and freedom for people, and private property rights.

He will speak for himself but this announcement this morning is the loudest speech he has ever given in his life. I commend him and welcome him to our party.

I yield the floor.

MORNING BUSINESS

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

Under the previous order, the Senator from Idaho [Mr. CRAIG] is recognized to speak for up to 1 hour.

NEW REPUBLICAN SENATOR BEN NIGHTHORSE CAMPBELL

Mr. CRAIG. Mr. President, the whip of our party has just made an exciting announcement, that my friend and a friend of most of ours, Senator BEN NIGHTHORSE CAMPBELL of Colorado, is today announcing that he will become a Republican.

For a good number of years I have had the privilege to work with this Senator, both in the U.S. House of Representatives and now here in the Senate, and I must tell you that he is a man of great integrity. We have worked on a variety of western issues that are common to both our States and a broad base of our constituency, and it is exciting for me to know that BEN is going to become one of us. I feel very privileged that he has made that choice.

I have asked for a special order this morning to do an analysis following the vote yesterday of the balanced budget amendment and where we stand as a Senate now on the threshold of making a decision as it relates to how we will deal with this issue.

At this time I will yield to the Senator from Oklahoma—whom I know needs to preside in the chair and will in just a few moments—for his comments on this issue. Clearly, while in the House and now here in the Senate, he has been a leader on the issue of the balanced budget amendment, and I yield to the Senator for what time he may use.

Mr. INHOFE. I thank the Senator for yielding. This will be very brief, Mr. President.

The PRESIDENT pro tempore. The distinguished Senator from Oklahoma is recognized.

A PROFILE OF BALANCED BUDGET AMENDMENT SUPPORTERS

Mr. INHOFE. Mr. President, before we hear the analysis from the distinguished Senator from Idaho, I want to give you my own analysis. Yesterday on the floor, yesterday afternoon, I reminded the President, I reminded our fellow Members, and hopefully many in America who might be watching that those individuals who were fighting the balanced budget amendment have a very interesting profile, some things in common. I pointed out and documented that all of those 41 individuals who were the cosponsors of the right-to-know amendment to the budget balancing amendment had a very liberal

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

background. Each one of the 41 had either a D or an F rating by the National Taxpayers Union. Each one of the individuals had voted for the very large spending program called President Clinton's tax stimulus program. And each one had voted for the 1993 tax increase which has been characterized as the largest single tax increase in the history of public finance in America or anywhere in the world.

I announced that I suspected that the 33 Democrats who managed to keep from allowing us to have that one more vote to pass a balanced budget amendment yesterday would fit this same profile. I have analyzed this. I did this personally last night and I will give you the results of that.

Of the 33 Democrats—and it only took one to come over to our side and to free the future generations from the shackles they are going to be bound with—all 33 voted on the cloture vote in favor of the tax stimulus program, which was the big spending program. All 33 have a D or an F rating by the National Taxpayers Union. And 31 of the 33—all but 2 of them—voted for the largest single tax increase in the history of public finance in America or any place in the world.

The bottom line is this. All this talk about Social Security, all this talk about the right to know is bogus. The fact is those individuals did not want to balance the budget. They are big spenders.

Thank you, Mr. President. I yield to the distinguished Senator from Idaho.

The PRESIDENT pro tempore. The distinguished Senator from Idaho is recognized.

BALANCED BUDGET AMENDMENT TO THE CONSTITUTION

Mr. CRAIG. Mr. President, I thank my colleague from Oklahoma for that analysis. Of course, that was the issue yesterday as we debated and finally voted on House Joint Resolution 1. For over 5 weeks we had debated the issue of a balanced budget and why this Government and why the Congress of the United States ought to be held to the constraints of a constitutional amendment requiring us to balance the Federal budget. While there were many arguments from a variety of perspectives, there was one overriding influence that could not be ignored nor could it be denied, and that was, had this issue passed the Senate yesterday, it would have been sent to our 50 States to begin a ratification process that I believe would have moved very rapidly to gain the necessary 38 States to bring about ratification.

In doing that, of course, the Congress knew that would begin a long and very difficult process to move us to a balanced budget by the year 2002, but one the American people now demand and expect from us, and one we know we can accomplish, if we can bring about the discipline but, more importantly, the pressure and the kind of control that a balanced budget amendment to our Constitution would result in.

There are so many who wrung their hands in the argument that this could never be done. But I argue that those who argue that are the many of the past. They are the ones who still are stuck in the idea or the concept that the Federal Government and its programs must manage and control people and direct an economy of a country outside the marketplace. That, of course, is exactly what the Congress of the United States has done for over 30 years, and we have seen results. We have seen the results of a $34.8 trillion debt that remains totally out of control. We have seen the results of how interest on that debt eroded any ability to spend both in discretionary and entitlement programs and locks us into a straitjacket of program and time and spending.

But something else that is also, I think, reflective of that debate is that those who argue it argue the status quo. They argue government as if it were something static, that it will never change, or that the Senators and the Members of the House who are involved in governing this country will always vote to have exactly the same programs, that we will not eliminate an agency, that we will not reduce or change a priority, and that we will not shift the intent of the governing of this country from one area to another.

That is a very false and phony argument. Certainly it is to the American people because, if there is anything sure about our country, it is change, and it occurs on a constant and daily basis. It is the Government that finds itself incapable of changing. So simply to say we cannot balance the budget because we cannot get there is to clearly argue that it is going to be the same Government and the same kind of budget, and we are going to ramp it up to 3, 4, 5, to 6 percent a year on the average and heading as far as the eye can see in that direction.

Why do I say that? Because that is exactly what President Clinton's budget demonstrated when he presented it here but a few weeks ago. Here is a President who came to town arguing that he must have the largest tax increase in history, and, if we gave it to him, that he would then begin a very progressive approach toward a budget that would bring us to a balanced budget that would bring down the deficit and continue to bring it down. That is what he campaigned on. That is what he promised the American people. That is what he, the President of the United States, promised this Senate and this Congress less than 2 years ago as he argued for and his party gave him the largest tax increase in history. Then in a most cavalier way, as he presented the budget just this year, he not only showed that he would not control the deficit, he said let the Republicans make the cuts. Let us see what they want to do. Let them make the cuts.

Mr. President, that is why we need a balanced budget amendment so that the Executive of this country can be as responsible as the legislative branch of this country, that budgeting becomes a partnership of cooperation where the President, the executive branch, brings about a balanced budget just as much and just as responsibly as the legislative branch of Government must do.

That is, of course, exactly what the constitutional amendment required as we looked at it the other day. That is why five of our colleagues from the other side who had once voted with us turned tail and ran away from their commitment and their pledge to their constituents. I am frustrated by that because they are honorable people. All of us in our pledge to our constituency attempt to honor it, and yet that did not happen yesterday on five very distinct votes. That is too bad.

We hope as we work this issue and continue to work this issue that we can regain the support of those Senators who left us yesterday and left their constituency.

We have several others who want to speak this morning. Before I yield, let me make one other point that I think is so fundamentally important as we debate a balanced budget amendment and as we continue to work on this issue and as we continue to assure the American people that we will do all within our power to bring down the deficits and to control our debt structure for now and for future generations.

Article V of our Constitution—that is the article that speaks to how we amend the organic document—speaks very clearly about how it gets done. It says that the Congress shall propose an amendment. That is in the first part of article V.

The second part of article V allows the States to petition for the formation of a constitutional convention. Many of us are concerned that a convention is not the right way to go and that the most responsible way is for the Congress of the United States to craft and propose an amendment.

Yesterday, the vote that we cast here was not to pass a balanced budget amendment; it was to propose a balanced budget amendment to our Constitution. And in so doing that, it then would allow the citizens of our country, the State legislatures, or, if they chose, the forming of a convention to debate and ratify the amendment. That action to propose was denied yesterday—not to pass but to propose—to send out to the States, to conform with article V of the Constitution.

In essence, what Senators who opposed that process yesterday did was to

say to their citizens, "We will not give you the right to choose, we will not give you the right to look at this issue, to debate it, to understand the process, and to decide whether you want your Government to live under a constitutional requirement for a federally balanced budget." I find that an amazing testimony.

I really would like those Senators to go home and hold a press conference and tell their electorate, "We did not think you were responsible, we did not think you ought to have the right under the Constitution to decide," because that is exactly what they did. That in itself is a tragedy. But more importantly, what this is is a reaffirmation of something with which the American people have known for a long while, and they spoke so clearly about it last November. That was the arrogance of power that resides here on Capitol Hill, this all-knowing knowledge that somehow, if the wisdom does not emanate from Capitol Hill, it is unwise; that somehow the States and those who reside in the States cannot think for themselves, cannot make those judgments. That is absolutely the reverse philosophy from those who founded our country and who wrote the Constitution and who got it ratified. In fact, House Joint Resolution 1 that we voted on yesterday was very much a part of the style and the type of constitutional amendment that a Tom Jefferson would have put in the Constitution because it reflected that attitude of the power and the right of the individual citizen and the power to the States and the ability of the States to control their central government.

Yesterday, the Senators who opposed this said very clearly under all of the smokescreen and all of the excuses that they gave for not voting for it—there were two fundamental things. They did not believe in the rights of the States to control their central government, and they would not give the citizens of those States the right to choose that option. I think that is profound, and it is sad. But that is the reality of what happened yesterday.

It is very important that the American people understand that message in the coming days and weeks as we work to revisit this issue to gain the necessary 67 votes or the two-thirds votes of this body to propose it and to send it to the States for ratification.

At this time, let me yield to my colleague from Georgia, Senator COVERDELL, who has worked so closely with us on this issue, has worked on a team of Senators who met daily over the course of the last 5 weeks to develop the issue and work with Senator ORRIN HATCH here on the floor, to build the debate. I think it was a remarkable task. I say that because for well over 100 hours and for 5 long weeks we debated this issue, and there was very little dead time, as we call it, or quorum calls because there truly was a message that came through loud and clear from this side of the aisle as to the purpose of a balanced budget amendment, and part of that message was crafted by the Senator from Georgia. I am pleased to yield to him at this time for such time as he might consume.

The PRESIDING OFFICER (Mr. INHOFE). The Senator from Georgia is recognized.

THE PRESIDENT IS NOT LISTENING TO THE PEOPLE

Mr. COVERDELL. Thank you, Mr. President. I commend my colleague from Idaho and the Senator from Utah, Senator HATCH, and also Senator SIMON, who is not present this morning, for the effort over the past 5 weeks they have lent to the effort to create a historical change in the governance and the financial discipline of our country. I was talking with my wife last evening, and I wish Senator SIMON from Illinois was here because she had a chance to watch his address to the Nation immediately following the vote. She said it was most eloquent and even recommended that I get a video of it so that I might see it. I missed it as I was in a press conference.

I was so saddened yesterday about the outcome, the narrow defeat of the opportunity to move forward with the debate in the Nation about constructing an amendment to the Constitution requiring a balanced budget. It reminded me a little of when I was a youngster and the battle in Korea had just begun. Each day I would pick up the paper and the perimeter would shrink for U.S. forces trying to hold on against the surge of the enemy. Every day was a little more sad, because that perimeter shrunk and shrunk and shrunk until finally it was a very small piece of that Korean Peninsula surrounding the city of Pusan. Lo and behold, the will of the country, the will of the alliance to put back an evil force that would do great damage to the future of the free world ultimately prevailed. I think the analogy will be so here.

I think over these past 30 to 40 years, the Nation has awakened each morning a little more worried about the state of the Union, a union that has pushed away every evil aggressor across and away from our shores but is perilously close to losing the standing of this great democracy because of a lack of domestic will, a lack of a will to take care of our own affairs and pay attention to our own financial health.

Maybe the beginning is in the press conference that will occur in about 8 minutes. Senator BEN NIGHTHORSE CAMPBELL came to this Senate on the same day I did but 2 years ago. Both of us saw the revolution coming. The Presiding Officer is a product of that revolution. I think his decision—I have not spoken to him, but it has to be some way affected by the realization of what the American people are asking of policymakers in their Capital City and the entrenched view to stand in the way of the change that America is asking for.

I go back to the President's State of the Union Address. In the President's State of the Union, after the election—and no one has received a greater thrashing than the President in that election—it caused great reflection, supposedly, in the White House, an analysis of what happened here. The President went back and read his speeches from 1992, the new Democrat theory. He wanted to revisit. What went wrong? In that speech, he said, "The American people are not just singing to us, they are shouting at us." How right he was. But he has not heard the shouts. Senator CAMPBELL has heard the shouting, and he is doing something about it. The President has not heard the shouting, and he is standing in the way of what America is seeking.

Yesterday was one of the most important votes ever to be cast in the history of the Senate. We were dealing with the core governance of America, the core document by which we live. We were saying that to secure the future of the Nation, we must have sound financial policy. We must live within our means. We must stop spending money we do not have because we impose a debt on future generations. Every child born today will get either a pink or blue wristband and attached to it will be a $22,000 mortgage. Unbelievable. Unbelievable that we would consume everything we have—$5 trillion we do not have, 30 percent of the tax base of the property taxes of the United States through unfunded mandates, and now we have even taken the practice of spending the livelihood of our children and grandchildren.

The Nation knows this must stop, which is why 80 percent of them said pass a balanced budget amendment, which is why they overturned the Congress last November and sent new majorities here. What did they send them here to do? They sent them here to change the way we do business in Washington. They did their level best to achieve it. Who was in their way? President William Clinton.

The defeat yesterday comes from the White House. There can be no doubt that the amendment would have passed, and it would have passed with 70-plus votes if it had not been for the President's decision to stand in its way. So what we have here is a classic division of the people that sent messengers to Washington to ratify, to honor, to carry out the will of a nation and a President who, in the final analysis, chose to nullify.

Mr. President, as you know, in about 3 minutes a very historic event will occur when Senator BEN NIGHTHORSE

CAMPBELL—I will put it in this light—affirms and acknowledges and does honor to what he is hearing the American people say. He will have chosen to leave the ranks of those who would nullify, reject, and subject the view of the American people.

It is hard for me to understand how anybody—particularly if you are in the White House as President of this great democracy—could miss what those people are saying out there. Every piece of data you pick up, it is either 7 out of 10 or 8 out of 10, it is overwhelming. This is almost like the last 2 years replayed. Last year, we were in a historic debate again and we were talking about health care. The President puts on the table a program that you could not even read and you could not even put it on a chart, a Government takeover of medicine.

The American people were telling him, in the loudest voice, they did not want him to do that. They were worried about health care reform, but they did not want the Government to take it over. They did not want to be taxed even more. Heavens, they were already working from January to July for the Government before they kept their first dime for their family's dream, so they could not understand what he was doing. By the end of this debate, 85 percent of the American people were saying, "Stop this nonsense. Don't do that." But the President pressed on as if he knew better, he knew more than this Nation of ours.

I am convinced that it was that battle over that great issue that made it so clear to America what they wanted to do in the midterm elections. And that is why there is a new majority in the Senate and that is why there is a new majority in the House, because the President kept trying to press on the country something that they were telling him in every way they knew how they did not want.

So they picked the elections to tell him. They said, "All right, if you won't listen to us, we're going to change who the players are in that city," and they sent a whole new class of Senators and a whole new class of House Members.

And at the center, at the very epicenter of the message was: Manage the financial affairs of the country. Make our country financially healthy. Pass a balanced budget amendment. The same numbers, another 80 percent of the American public saying, "Do this. Do this."

This makes me step back for a minute and talk about a word that was used frequently over the last 2 years by the President called "gridlock." He kept saying, "Gridlock. We can't get anything done."

Well, I would say to the President that it is one thing to stand here and try to stop something that the people do not want—which is what the Republican conference was doing on health care—it is another thing to stand in front of something that the whole Nation wants to do. That is the dilemma the President finds himself in on this balanced budget amendment.

America lost yesterday. It was not a win-lose situation here in the Senate. We talked about the 33 that voted against it and all those 66 who voted for it. This is not where the winning and losing took place. The losing took place in Keokuk, IA; in Norman, OK; Atlanta, GA; Miami; and Anchorage. The Nation knows, without any equivocation, that we must change the way we manage our financial affairs.

Mr. President, throughout the whole debate, the other side has brought up one red herring after another, one amendment after the other. It was advertised that the effect of these amendments would be to protect somebody—a veteran, a Social Security recipient, a child. It was almost shameful in the manipulation of the language, because, in effect, any set-aside would have made the whole effort moot.

In other words, if you had a balanced budget amendment, except for—it does not matter what name you put on it—then what would have happened from that date forward is every spending proposal that is more than we have would amend the exception. It would have made a nightmare out of whatever area of the law they tried to protect. They were not protecting it. They were putting it in harm's way. Whether it was veterans' or children's programs or Social Security, to set anything aside would have put it right in front of the pressure to spend and spend and spend with abandon. Every spending bill would have amended the exception. And so the whole exercise would have been absolutely moot. There would have been no reason to even go through the debate in the Nation if it was nothing more than a charade.

To those innocent bystanders who looked at that, it may have appeared as if they were trying to be protected. But I am here to say—and there are many with me—that they were actually being put in harm's way, because it would have been the route by which all spending occurred. It would have made a nightmare of any area of the law that was the set-aside.

Furthermore, I would say this, Mr. President. This Nation—well, let me put it another way, Mr. President, in the form of a rhetorical question. Have any of us ever known an individual or a family or a local community, probably more specifically a business, that was ever able to take care of its employees, its needs, its health, if it was financially crippled? Is Orange County better off today? No. Is a company that is pushed into bankruptcy able to take care of its employees, or are its employees facing a pink slip? Is a family that has spent too much on the credit card, bought a house that was too big, are they going to be able to send their children to college?

Well, obviously the answer is no—no for the individual, no for the family, no for a local community, and no for a business.

It is also true for a nation. No nation—no nation—that is financially destabilized can care for its security, either internationally or domestically. And every citizen of our country who is concerned because they are involved with a Government program, they, more than any other, should ask for and demand a financially healthy country because, without that, we will never be able to take care of the veterans or the children's programs, or an individual on Social Security. First, and foremost, we must be a healthy nation at home.

Mr. President, I yield the floor to the distinguished Senator from Idaho.

Mr. CRAIG addressed the Chair.

The PRESIDING OFFICER. The Senator from Idaho.

Mr. CRAIG. Mr. President, let me thank my colleague from Georgia for those extremely valuable words and astute observations to the problems we face as a country today as it relates to the issue of our Federal budget, our debt, and how that gets handled and what we intend to do here as a new Congress, as a new Senate, to try to resolve that issue for the American people.

One of the sets of figures that I think comes to mind to me most often as we try to deal with a balanced budget and a resolution of this phenomenal debt structure that we have created over the last 30 years are figures that go like this: $829,444,000 a day additional debt—additional debt. That is almost the size of my State's entire operating budget for 1 year. We are now just a little over $1 billion in the State of Idaho. And this is one day's debt for the Federal Government.

That is $34,560,000 an hour.

I mean, you and I, Mr. President, cannot envision that.

We really cannot comprehend it. In fact, that is part of the problem we suffer from, that we cannot understand the magnitude of the problem that we are creating here on an hourly, daily, monthly basis.

Now I have asked for this special order for 1 hour, so I know that costs $34 million. But 1 minute is $576,000, and 1 second is $9,600. It truly is beyond the ability of this country and our people to understand.

Mr. President, oftentimes we reduce things that we understand to what we can see or envision. We know that a car costs somewhere in the $20,000 to $30,000 range today for a certain type, and that houses cost so much. You can drive down the street and say, "Look at that house. That house is about a $200,000 home, or a $300,000 home." The average human can comprehend that.

They can say, "Boy, I cannot afford that," or "I can," or "That is within our budget."

But can the average human comprehend $4.8 trillion, and what it takes to generate that or to pay for it? Or to begin to deal with it in a rational way? We cannot, as a country. Yet, every year here, first showing up on the budget sheets that we call the Federal Government, of $3.2. That is not $3.20, but that is $3.2 billion—but it is just $3.2, just a list of figures. It does not make a lot of sense.

And yesterday, and for the last 5 weeks, we have tried to begin to turn that corner, to bring it under control, to begin to define it, to work with the American people to understand it, and to say to them that this debt structure of over $18,000 per American citizen is going to get under control because it does mean something and it does have impact.

There has been a variety of approaches to control it. But my colleague, who has just joined me on the floor from Arizona, while he has been an outspoken supporter of the balanced budget amendment and has brought about a lot of the energy behind that in the House and now, of course, here in the Senate as one of our leaders with the team that worked to deal with this issue over the last several weeks, has also focused on spending reductions and spending controls, because that is really what it is all about.

If we balance the Federal budget in 7 years, we have to set a course of spending controls. Stay within our limit, stay within the ability to control, and to meet the target 7 years out in 2002.

At this moment, let me turn to the junior Senator from Colorado, or excuse me, from Arizona, for his comments on this issue and others that he might wish to address.

Mr. KYL. I thank you. Mr. President, I thank the Senator from Idaho.

He and I served in the House of Representatives together when he was a leader in the fight for the balanced budget amendment there. He carried that fight right over here to the Senate, and was one of our leaders in attempting to obtain passage of the balanced budget amendment this year. I predict that he will be one of the key figures in securing its passage sooner or later.

It has been a pleasure for me to be of assistance to him and to bring with me from the House of Representatives an idea actually which I brought from my own home State of Arizona to achieve a balanced budget by spending limits rather than by raising taxes. That is what I wish to talk about today.

Mr. President, if I could call time out for a second, the Senator from Idaho mistakenly referred to me as the junior Senator from Colorado for a moment, and I know exactly why. In the background, there was a deafening noise just a moment ago of loud applause for the junior Senator from Colorado, BEN NIGHTHORSE CAMPBELL, for his declaration that as of today, he is a proud member of the Republican Party, and will be a Member of the Republican Senate cadre. We are looking for a place to put his new desk on this side of this Chamber.

Mr. CRAIG. Will the Senator yield with that? We will find a place to put that desk.

Mr. KYL. And I suspect any others who may wish to join RICHARD SHELBY and BEN NIGHTHORSE CAMPBELL in joining us on the Republican side.

Mr. President, we welcome these friends—former Democrats who are now Republicans—not only because they are friends and we need their help, but because their decision to join the Republican Party in both cases, as they said, was, as in Ronald Reagan's old phrase, a decision not to leave the Democratic Party, but because the Democratic Party had really left them.

We have many friends here who proudly serve in the Democratic Party and uphold its traditions. From our point of view, one of those traditions is being willing to spend too much of the taxpayers' money. People like BEN NIGHTHORSE CAMPBELL and RICHARD SHELBY and PAUL SIMON from Illinois and others who remain in the Democratic Party have finally said, "We do not want to do that anymore. We have to balance the Federal budget."

It has not been comfortable for a Democrat to support us in that effort. The President of the United States was very much in opposition to the balanced budget amendment, and as the Senator from Georgia said a short while ago, we can probably attribute the defeat of the balanced budget amendment yesterday to the lobbying of the President of the United States. Five or six Democrats who had previously cosponsored and voted for the balanced budget amendment—Democrats—decided this time not to support it.

I think that handful of Democrats in support of the President, obviously, are the ones who will have to answer to the American people when the questions are asked, who defeated the balanced budget amendment.

But today is another day. We have to move on. We are going to move forward as if the balanced budget amendment had passed and as if we are going to balance the budget by the year 2002. We will do it with or without the balanced budget amendment. It will be harder without that constitutional limitation.

Yesterday's defeat of the balanced budget amendment, I suggest, is a call to arms. The ballot was lost, but the war rages on. The balanced budget amendment will ultimately pass—maybe later this year, maybe next year, or perhaps the year after. But it will pass because the American people demand that it pass.

Last fall, a political revolution swept Capitol Hill, a revolution fueled by the American people's anger with the Federal Government out of control, a Federal Government overregulating, overtaxing, and overspending. Although the American people swept new leadership into the Senate and the House of Representatives, yesterday's vote demonstrated that the vestiges of business as usual remain and that another round of housecleaning is yet to come.

I will predict that those who stood in the way of a balanced budget amendment yesterday will not be around when it is brought to a vote in future Congresses. The American people will, as I said, hold them accountable.

Our mission today, with or without the balanced budget amendment, is to immediately begin making the tough choices about what spending to cut and what programs to terminate in order to get the budget to balance by the year 2002. Our responsibility is to put an effective enforcement mechanism into place to force the Congress to begin to prioritize, to separate wants from needs, just like families all across America must do every day.

Mr. President, I thank the Chair.

(The remarks of Mr. KYL pertaining to the introduction of S. 494 are located in today's RECORD under "Statements on Introduced Bills and Joint Resolutions.")

Mr. KYL. Mr. President, I thank the Senator from Idaho for yielding this time and, again, for taking a strong leadership role in the effort to get the balanced budget amendment passed and predict that through his leadership eventually we will pass it.

(Mr. GORTON assumed the chair.)

Mr. CRAIG. Mr. President, I will not make that mistake again of referring to my colleague as the junior Senator from Colorado. I have had the privilege of serving with the Senator from Arizona for a good number of years, both in the House and now in the Senate, and I have always appreciated his leadership and his energy that he puts to the issues that he is dedicated to and certainly the spending limitation program that he has just proposed, of which I am proud to be a cosponsor.

We will work to prove to our colleagues on the other side that there is a way to balance the Federal budget and do so in a reasonable fashion without the draconian style arguments or comments that oftentimes come from the other side of the aisle when they find that they are threatened with the concept of a balanced budget. We know that can be done, and we know that there will be tough choices to be made, but it must be done.

I would like, Mr. President, to mention another issue that I guess the word disappointment comes to mind when I think of how it was used over the course of the last several weeks by several of my colleagues. And that was the issue of Social Security.

I am disappointed that every time Social Security is brought up on the floor of the U.S. Senate, it is used as a scare tactic, it is used to frighten dedicated American citizens who believe that their Federal Government has an obligation to them to assist them after they have paid into a system of income assistance known as Social Security, and that somehow there is a devious scheme on the part of some politicians in Washington to otherwise change that commitment that is clearly written into the Social Security law.

Mr. President, you and I and the American people know there is no devious scheme, not at all; that you and I and others who serve in the U.S. Senate really serve as the board of directors of Social Security, Inc., if you will. We are the ones charged under the law with the responsibility of managing the Social Security system.

Whether you can argue that it has been managed well or not, the bottom line is it has never failed to meet the obligation that it has to the citizens of this country who have paid into it and find themselves then eligible under the law to receive the benefits of it. Yet, somehow over the last several weeks, those who needed to create a smokescreen or a shield to back away from their previous support of a balanced budget amendment because of their President's pressure, or for whatever reason, begin to raise the ugly head and the old argument that somehow the other side was manipulating a way to change or destroy the Social Security system.

For the last 3 years, as we have debated the issue of the balanced budget amendment, Senator PAUL SIMON, of Illinois, who has been one of the leaders and certainly the prime sponsor and then the prime cosponsor this year of the balanced budget amendment, we have worked with a fellow by the name of Robert Myers. Robert Myers for years was the chief actuary of the Social Security system of the Social Security Administration from 1947 to 1970 and then a deputy commissioner from 1981 to 1982 and 1982 to 1983. He served as executive director of the National Commission on Social Security Reform—I mean, this man is Mr. Social Security.

I am quoting from a letter of February of this year that he sent to PAUL SIMON, when in essence he says the Federal debt is the threat to the Social Security system, not the balanced budget amendment. If you do not control the debt, you ruin the Social Security system and what is he saying in essence? He is recognizing the fact that if we bankrupt this country, Social Security checks are not going to go out. There will not be any money, whether it is in a trust fund or whether it is inside the general budget of our country.

The bottom line is if you have a busted government and a busted country, nothing goes out; everybody is equally bankrupt or poor at that moment. The responsibility then of this Congress is to keep a budget under control to move it toward balance, to bring the debt down so we can always honor the commitment of the Social Security system.

Well, it became the trust fund argument: Is it on, is it off? Is it in, is it out? We know from past experience that you manage the system. In 1983, Social Security needed reform and the Congress came together, Democrat and Republican alike, not in the kind of demagoguery that I felt I heard on this floor in the last several weeks, but we came together united as a government to manage and stabilize the system, and we did. Yet day after day, hour after hour, amendment after amendment, it was the ghost of the Social Security system or the mismanagement of it or some devious scheme under a balanced budget amendment to do so, and, Mr. President, that is just false. It is not true and, most importantly, the American people know it is not true.

The Senior Coalition, one of the largest organizations of senior citizens in this country, in a recent national survey—and I ask unanimous consent that this be printed in the RECORD.

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

THE SENIORS COALITION,
Fairfax, VA, March 2, 1995.

Re The American Association of Retired Persons and the Balanced Budget Amendment.

To: All Interested Parties.

From: Kimberly Schuld, Legislative Analyst.

The AARP Commissioned The Wirthlin Group to conduct a survey for them January 25–28, 1995 on a variety of questions pertaining to the BBA. Since then, the AARP and the National Council of Senior Citizens have been twisting the poll's results and methodology to claim that public support for a BBA is low—once Americans are told what the BBA will mean to them.

The key word here is TOLD. The poll utilizes a series of questions designed to lead people to a mis-informed and generally incorrect impression of what the BBA will do. Namely, the line of questioning implies that Social Security and Medicare will face drastic cuts, and state and local taxes will skyrocket as the federal faucet is turned off.

An AARP Press Release announcing the poll results states, "* * * most Americans do not understand the potential impact of the Balanced Budget Amendment and are adamantly opposed to using Social Security and Medicare to reduce the federal deficit."

Quite bluntly, the AARP has effectively provided a political scare campaign for those members of Congress wishing to avoid facing their constituents with the news that they want to vote against the BBA. We all know the arguments against excluding Social Security from the constitutional amendment, but the AARP has electrified the "third rail" to the political benefit (is it really?) of the White House.

ANALYSIS OF THE AARP/WIRTHLIN POLL

The poll consisted of sixteen questions to 1,000 adults, with a 200 oversample to adults 50 and older. The margin of error is ±2.8% at a 95% confidence level. A copy of the questions is attached.

The poll starts off with a question about the direction of the country and then asks:

"Do you favor or oppose a balanced budget amendment to the U.S. Constitution that would require the federal government to balance its budget by the year 2002?"

Favor: 79%

Oppose: 16%

The next question tests how people perceive the budget can be balanced: spending cuts, taxes or both. This is followed by a question on equal percentage across-the-board cuts in every federal program.

The next two questions ask specifically if Social Security and Medicare should be included in across-the-board cuts. As could be expected, the respondents would favor exemptions for both programs. A key element to these two questions (#5 and #6) is the use of the word "exempt". The word "exempt" is not used anywhere in the poll except in relation to Social Security and/or Medicare. This sets up a connection in people's minds that these programs may be in graver danger than other government programs.

Question #7 sets up the respondent for the "truth in budgeting" excuse the Administration has been spinning. When offering people the choice between passing the BBA first, or identifying cuts first, the poll throws in "consequences" associated with cuts. The connotation is that there are going to be dire "consequences" to balancing the budget. This sets up the respondent to answer question #15 (open-ended) with a negative response on how they think the BBA will affect them personally.

Questions #8, #9 and #10 ask about whether respondents think it is necessary to cut Defense, Social Security and Medicare to balance the budget, or whether the budget could be balanced without these programs. As could be expected, the response for cutting Defense is overwhelming compared to SS and Medicare. The group of questions sets up a "good cop/bad cop" scenario in the mind of the respondent whereby they identify Defense as the "bad guy as well as being reminded which parry tends to support Defense. It is also important to remember that at the time this poll was taken, the newspapers and network news broadcasts were full of stories about the Republicans wanting to increase Defense spending in the Contract With America.

Questions #11 and #12 address taxes; their role in the budget balancing process and reform ideas. This also serves to set up negative responses to question #15. In #11, 48% of the people believe there will have to be tax increases to balance the budget. Then in the next question, they are asked to declare a preference for one of a variety of tax cuts. This conflict sets up a negative impression that tax cuts are good and the BBA is bad because there must be tax increases to accomplish its goal.

Question #13 throws together "programs for the poor, foreign aid, and congressional salaries and pensions". Respondents are asked how far these programs COMBINED would go toward balancing the budget if they were cut. By throwing these widely divergent programs together, the pollsters are setting up the respondent to believe that balancing the budget will mean higher taxes and cuts in taxpayer-financed programs.

Question #14 is the keeper. Respondents are asked if they still support a BBA with the following choices:

Social Security should be kept separate from the rest of the budget and exempted

from a BBA because it is self-financed by a payroll tax.

or

Social Security is part of the overall government spending and taxing scenario, thus should be subject to cuts along with the rest of the budget.

The results of this questions dramatically flip the BBA support from question #2:

BBA with SS Exempt: 85%

BBA that cuts SS: 13%

Question #16 now asks:

"Do you favor or oppose the balanced budget amendment, even if it means that your state income taxes and local property taxes would have to be raised to make up for monies the federal government no longer transfers to your state?"

Favor: 38%

Oppose: 60%

This question ends the phone call on a gross mis-interpretation that dire consequences of doom and gloom are on the horizon, all at the voter's expense. This is exactly the type of question that re-reinforces the "angry voter" complex of the middle class family.

These anti-BBA results are achieved by planting the seed of doubt slowly but surely that:

1. It is the intention of BBA supporters to cut Social Security and Medicare.

2. It is the intention of BBA supporters to beef up Defense spending at the expense of everything else.

3. Taxes will inevitably go up with a BBA.

4. A BBA will have a negative direct impact on families "beyond the beltway."

Any time a Senator, Congressman, reporter or lobbyist starts to talk about poll results showing 85% of Americans oppose a BBA unless it exempts Social Security, bear in mind that the spin-meisters achieved this number by forcing the assumption that draconian Social Security cuts are a foregone conclusion.

Leaders from the Republican party, the Democratic party, the Administration and the President himself have all gone to great lengths to state that social security benefits are off the table.

Any member of congress who contends NOW that the new Republican leadership cannot be trusted to keep their hands off Social Security is also implicating their own party leaders and the President of the same un-trustworthiness.

Mr. CRAIG. Mr. President, in a letter to me and others who fought this issue, they polled their constituents and of them a thousand registered voters. That survey showed a confidence level of 95 percent that the Senate was doing the right thing to pass the balanced budget amendment.

When people were asked if they supported the Senate's passage, 79 percent overwhelmingly said yes, but the confidence level—and this was a Wirthlin poll, this was not just a few phone calls, this was a professionally nationally respected polling company—found out that the seniors of America do support a balanced budget amendment. They know of their future and the future of their grandchildren, and they want it to be bright. While they want their Social Security check, they do not want to bust the future of the country and the future of their children.

Mr. KYL. Will the Senator yield on that?

Mr. CRAIG. I will be happy to yield to my colleague from Arizona.

Mr. KYL. Mr. President, just before the Senator mentioned our children and grandchildren, I was going to make that precise point. I just got through with a statewide campaign. We conducted what we call back yard and living room meetings. In every one of these meetings, the question of the balanced budget amendment came up. Many of them were attended by seniors. I would ask these seniors—frankly, it was a way, Mr. President, of bragging about my two grandchildren.

I would say, "How many of you have children or grandchildren," and most of the hands would go up.

"Well, so do I, I have two beautiful grandchildren," and promised not to talk about them.

But the point I am making is that these seniors love their children and grandchildren more than anything else in the world. And when they talked about the balanced budget amendment and they talked about their needs for Medicare and other expenses that they would have to bear in their remaining years, they always came back to the point that they wanted to leave a better future for their children and grandchildren, and the last thing that they wanted to do was to leave a mountain of debt for these young kids to have to pay, because they instinctively knew that the future for these children and grandchildren will be a lower standard of living than we have enjoyed unless we get the Federal fiscal house in order. And so these senior citizens, consistent with the statistics that the Senator from Idaho has just quoted, to a person, were very much in favor of the Federal Government getting its fiscal house in order. They understood it was not only good for them but it was essential for the people they love most, their children and grandchildren.

Mr. CRAIG. I thank the Senator from Arizona for making those observations because those are the facts. That is the truth that is shown in survey after survey. The seniors of this country among any socioeconomic group understand the value of balancing budgets. They came through the Great Depression. They know how tough things can be out there when a country and a government is in trouble and an economy has collapsed, and they know that the future of their children and their grandchildren is at stake here. They do not want to see their offspring go through what many of them had to go through, on literally nothing through the course of a good many years because of a country that was in deep financial trouble as a result of a Great Depression.

Now, I am not suggesting that a Great Depression is at hand, but I am telling you that a $4.8 trillion debt uncontrolled and continuing to mount moves us toward the edge of a day when there will be a phenomenal financial reckoning in our country that could spell difficulties like the kinds that we had in the thirties if we do not resolve the issue now.

Let me yield to my colleague from Georgia.

Mr. COVERDELL. Will the Senator yield for just an observation?

Mr. CRAIG. Yes.

Mr. COVERDELL. I just came from the press conference where Senator BEN CAMPBELL announced officially that he had joined the ranks of the Republican Party. In his address, he spoke of the financial dismay. One of the key centers of it was the peril that he feared unless something is done, and soon. But as he was leaving—and I wanted to leave this with the Senator—one in the mass of reporters leaned over and said, "Was there any particular event that crystallized your decision?" And he turned to the reporter and he said, "Yes, the balanced budget amendment" result. And so, again, I think we see an American responding to the dilemma that the Senator has characterized this morning. I wanted to pass on that observation.

Mr. CRAIG. I thank the Senator from Georgia for those observations. I have had the privilege of knowing Senator CAMPBELL all of his public life here in Washington. He is a man of tremendous principle, and that kind of comment just does not surprise me at all. He is tremendously dedicated to the issue of a balanced budget amendment, and I know he was terribly frustrated when he saw a good many of his former Democrat colleagues back away from their strong support over the past few years for this issue, and we had discussed this over the last good number of days as he continued in his strong support for a balanced budget amendment.

Mr. President, this is an issue that now rests at the desk of the Senate, I am sure to be revisited again over the course of the next several months as we struggle to try to find a way, absent a balanced budget amendment, to resolve our spending difficulties and establish a course for the Congress in working with the executive branch of Government to bring down our deficits and move us toward a balanced budget.

My guess is that if we do not do that and we do not demonstrate to the American people that we are capable of doing that, we are but a year away or months away from revisiting the balanced budget amendment and passing it and causing the States and the citizens of this country the opportunity to force us to do what we should have done yesterday, and that is to have the will and the resolve to allow the American people to choose whether they wanted a balanced budget amendment to become a part of the organic law of the land, to become a part of the Constitution.

Mr. President, I yield back the remainder of my time.

The PRESIDING OFFICER. All time assigned to the Senator from Idaho has expired.

Under the previous order, the Senator from Connecticut [Mr. LIEBERMAN] is recognized for up to 20 minutes.

Mr. LIEBERMAN. I thank the Chair.

PRIVILEGE OF THE FLOOR

Mr. LIEBERMAN. Mr. President, I ask unanimous consent that Dr. Laura Philips, who is an American Institute of Physics Fellow, be allowed floor privileges during morning business on this day.

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

Mr. LIEBERMAN. I thank the Chair.

THE DEFENSE TECHNOLOGY GAP

Mr. LIEBERMAN. Mr. President, I rise today to sound an alarm for my colleagues and my country about a clear and present danger to America's ability to defend itself against foreign enemies in the future.

But first, a look back: throughout history, the time between major changes in the weaponry of war was measured in centuries. Then came the industrial revolution, and ever since the weapons of war have evolved with exponential speed. Now we are in the technology revolution and the pace is so furious that we would fight the gulf war today differently than we did just 4 years ago, simply because weapons—and related tactics—have changed so much.

Nations that first perfect new weapons of war are best-equipped to win wars. Those left behind the curve of change must scramble mightily to catch up—to close the gap—or else their vulnerability will be exploited.

At the beginning of this century there was the dreadnought gap. In 1906, Britain's First Sea Lord, John Fisher, commissioned the H.M.S. *Dreadnought*. It was a technological marvel in its time; bigger, faster, more powerful than any other warship of its kind on the planet.

The Germans, recognizing their vulnerability, built their own dreadnoughts. The English, fearing a dreadnought gap because of Germany's industrial prowess, sped up production and built a total of 15 over the next 6 years. Winston Churchill objected at first, believing there was no dreadnought gap. Indeed, such a gap never materialized. However, Britain's bigger navy provided a key margin for victory in World War I and Churchill, writing in 1928, acknowledged that he "was absolutely wrong in relation to the deep tides of destiny." He learned a lesson that served him and his nation well when the time came to fight the Germans again.

In the middle of this century was the atomic bomb gap. At the end of World War II we were the only nation to have the atomic bomb. Russia scrambled to catch up, and that led to the so-called missile gap of the late 1950's and early 1960's. Just as Germany and England rushed to build dreadnoughts after 1906, the United States and Russia rushed to build intercontinental ballistic missiles after 1957.

As we approach the end of the century, there is a new gap—a defense technology gap—and it is the gap between the technological capabilities of our military forces and those of any other nation on Earth. The clear and present danger I foresee is the narrowing of that gap in the next 10 to 20 years by virtue of decisions being made under the dome of this great Capitol building today.

The technology gap allowed us to defeat Saddam Hussein handily and deters other despots from acting rashly against us today. Given the threats we are likely to face tomorrow, I believe we must maintain and increase that gap, not let it shrink.

But the closing of the gap began last week when the House of Representatives voted to cut the heart out of crucial new programs designed to advance American technology. Five hundred million dollars were taken out of the Defense Department's technology reinvestment project [TRP] and $100 million were removed from the related civilian Advanced Technology Program [ATP]. The money is being shifted to pay for military operations in Somalia, Haiti, Iraq, and Bosnia. Additional cuts in the Advanced Research Projects Agency [ARPA], which runs the TRP and other technology programs, are being considered for the 1996 budget.

And just yesterday, a committee of the U.S. Senate cut more than $300 million from TRP and ATP and millions more from other technology programs in the current 1995 budget.

Some in Congress are cutting military technology to pay for military readiness. What they are really doing is shrinking a real technology margin of victory to close an illusory readiness gap—a gap readiness experts say does not exist.

Closing the defense technology gap is a tragic error we must avert. Disinvestment in military technology is the historical equivalent of Great Britain scuttling its dreadnoughts before World War I or America choosing not to build missiles after Sputnik. Cutting military technology programs is, quite frankly, one of the most thoughtless and harmful courses I have seen Congress contemplate in my 6 years in the Senate.

THE NATURE OF THE FUTURE THREAT

Defense spending must meet not only current needs; it must take into account the national security threats of our future. That future is less predictable than it was during the cold war, when we knew who, where, and how capable our enemy was at all times.

The end of the cold war has given us all hope that democracy and free markets will spread around the globe. And there have been tremendous success stories to celebrate. But the absence of a single superpower rivalry has also unleashed a stream of aggression and hostility and countless thousands have died in this post-cold-war world at the altar of nationalism, ethnicity, race, religion, and plain, old anarchic terrorism.

Over the short term—5 to 10 years—the United States faces potential threats in the Persian Gulf and the Korean Peninsula. Known and unknowable challengers loom more ominously on a 10-, 15-, and 20-year time horizon. The danger of a revived, nationalistic Russia is clearly a possibility.

Russia is still armed to the teeth, and the latest intelligence tells us it is moving ahead with major modernization programs in its most advanced weapons systems—submarines and aircraft. It is resource rich with a highly educated population. In the hands of a dictatorial government, it could resume a threatening world role once again. That is America's worst nightmare and, as unlikely as it seems to us today, consider how many unlikely changes have occurred in world history in just the last 5 years.

China is taking Russia seriously with a major modernization program for its military forces—a program that could make China a superpower in the next century. In response to the buildup in China, India is quickly developing its military. And Japan, in the next century, may well be forced to do the same. Other nations in the Asian rim have growing economies, are technologically advanced, and thus are capable of emerging as a threat to the stability of that region and to our interests there.

Add terrorist groups, the proliferation of ballistic missile technology, radical fundamentalist movements, despotic regimes, and the potential proliferation of nuclear, chemical, and biological weapons to the list, and it is easy to see that the future is fraught with perils for our Nation.

THE TECHNOLOGY DETERRENT

Given those dangers, and given the fact that the United States is the biggest target in sight, how can we best protect ourselves?

Thanks to the lessons of the gulf war, we know a big part of the answer lies in our advanced military technology, which can deter or, if necessary, defeat any challenger, whether it be a superpower, a rogue nation, or a terrorist group.

But we cannot rest on our gulf war laurels, content that today's weapons are enough to protect us for decades to come. Our next adversary, for example, may have access to detailed satellite photographs, making a tactic like General Schwarzkopf's "Hail Mary" movement of troops around Iraqi forces

much more difficult. Or the enemy may possess missiles more capable than the Scud. The next gulf war will be far different than the last.

Those Members of Congress bent on cutting technology programs are repeating the error of so many former great powers: with their emphasis on readiness to the detriment of technological research and development, they are preparing to fight the last war all over again, not preparing for the enemies and wars of the future.

Our best defense is to stay as far ahead of any possible challenger as possible. The vice chairman of the Joint Chiefs of Staff, Adm. William Owens, says we need a high technology umbrella to protect us from the enemies of our future just as the nuclear umbrella protected us in the recent past. The nuclear umbrella deters other nuclear powers, like Russia, from attacking us. But because we are unlikely to use nuclear weapons against a nonnuclear nation, it is the high technology weapons in our arsenal that can keep them at bay, or defeat them if they strike.

THE BATTLEFIELD OF THE FUTURE

And if they strike, we can defeat them with our technologically advanced forces because we are changing the fundamental concept of the battlefield. The struggle for information is supplanting the fight for geographical position as the key goal on the battlefield, and that is where we can enjoy a huge advantage. Army Chief of Staff Sullivan says that the new battlefield will be a digitalized battlefield, one that can lift the fog of war for commanders and infantry alike.

Joint Chiefs of Staff Chairman Shalikashvili and Admiral Owens are contemplating the development of an electronic integrated system-of-systems to give us dominant battlefield awareness where real-time intelligence will lead to virtually instantaneous response. No more lengthy Scud hunts. No more service computers that cannot talk to each other.

The digitalized battlefield will also allow for decentralization of command, giving officers on the scene much greater ability to make the right decisions in response to the rapidly changing events of battle.

And that is just one of a hundred different technology avenues we must pursue. We are on the verge of a revolution in defense technology that will dwarf the impact of the dreadnought, the airplane, the tank, and the missile—a revolution that will not occur to our advantage if we fail to invest in military technology today. For innovation cannot occur on demand. It is a long-term process—yet a rapidly changing process as well. That means even a 1- or 2-year interruption in research and development funding will have terrible consequences down the road. A year is a lifetime in the field of high technology.

ARPA AND DUAL USE

Our current technological superiority has not evolved accidentally or overnight. The Department of Defense's secretive Advanced Research Projects Agency [ARPA], one of the least known, yet most important offices in the Pentagon, has been successfully promoting new technology for the military for the 37 years since President Eisenhower set it up.

In retrospect, it was a truly visionary Presidential accomplishment, and it is probably no accident that Eisenhower, like Churchill, approached this issue of military technology as a man who knew what it was like to order other men into battle. He knew this investment in technology would one day save lives—and it has.

What has ARPA done? Most of its efforts are classified, and it has purposely never recorded its history. But, by carefully investing in the private sector like a high-technology Johnny Appleseed, ARPA has helped bring about supercomputing, desktop computers, the internet—formerly ARPAnet—stealth technology, composites, a global positioning system, laser technology, high resolution imaging, advanced acoustics, smart weapons, and even the ubiquitous computer mouse, which has burrowed its way into millions of American homes and offices.

What is most obvious about this list is the multitude of ways in which military technology has been adapted for civilian use. In fact, technology developed for the military has revolutionized the lives of all Americans—the way we work, the vehicles we drive, the homes we live in. Technology that was designed to protect our way of life has evolved to transform our way of life. That is what the term "dual use" is all about—the use of technology for military and civilian purposes.

But times are changing—tables are about to be turned. President Eisenhower founded ARPA, but also warned that a military industrial base could swallow our economy. The opposite is now occurring. The defense technology base that was spawned by defense investment is now being swallowed by our civilian technology base.

For example, the computer was invented to help the military design a better way to mount an artillery attack, and it was improved when we needed to target our missiles. The military funded the development of computers and became the biggest market for computers. But today the Department of Defense has but a fraction of the computer market.

For the first time in human history advances in technology are occurring far more rapidly in the civilian sector than in the military. In a sense, we have gone from beating swords into plowshares to creating the plowshares first. Part of the reason is the widespread dissemination of technology among the population. The demand for new and better appliances, cars, and entertainment systems is enormous compared to the demand for better jets, tanks, and ships. The existence of that demand opens the door for cooperation between government and industry when a technology is of interest to the military and civilian markets.

Government dollars can be leveraged by private investment to produce more than could otherwise be accomplished under the auspices of the defense spending alone. In other words, potential civilian applications for military technology creates a multiplier effect on every Federal dollar we invest. Economies of scale then drive down the cost of the product and the contributing technology. The bottom line is this: Dual use literally gives us more bang for our buck. It is a genuine win-win situation—a win for our economy and for the defense of our country.

Perhaps most important: if our Government fails to use some of its defense spending to promote private sector technological development, the momentum of change in the design of the tools of war stalls and shifts elsewhere, and we risk losing new advances to the defense establishments of other nations, nations whose interests might be inimical to our own.

For the question is never, "Will we be able to invent new weapons of war?" The question is, "Who will invent the new weapons of war?" If we cut back on technological investment, such as is happening in Congress today, we will not always be able to answer that question with the words, "Made in the U.S.A."

This state of affairs can be summarized in three points:

First, the Defense Department must be involved in the exploding civilian technology world to meet its military technology needs.

Second, the United States, for military and economic reasons, must have the goal of maintaining the American advantage in civilian technology markets.

Third, collaboration between the civilian and military technology sectors can work because the applications for civilian and military use are easily transferable.

THE TECHNOLOGY PROGRAMS AT ISSUE: TRP

The technology reinvestment project [TRP] has been the first victim of the technology disarmament now underway in the House and the Senate. Developed by ARPA during the Bush administration, TRP investments are cost shared at least 50–50 with industry, competitively selected, industry-led and aimed at meeting civilian and military needs.

A brief review of current TRP investments gives us a clear idea of how important they are to our national security:

Head mounted displays: Infantrymen cannot walk around with desktop computers. With lightweight, head-mounted displays they can retain full mobility but have a full computer display of the battlefield and realtime intelligence and targeting data before their eyes. If you saw the movie "Aliens," you know what I am talking about. But this is an alien concept only if we cut off funding and allow another nation to pick up the ball we drop.

Uncooled infrared sensors: Desert Storm was launched as a night attack using infrared sensors as the basis for high-speed-attack operations. Our military needs to own the night and a new generation of cheaper, much more portable uncooled infrared sensors are an enabling technology being developed by a TRP team that will give us even greater control of the nighttime battlefield than ever before.

Item: Advanced information flow: Military command and control must process an exploding amount of intelligence data immediately to the battlefield for response. But limited communications capacity now clogs our ability to transmit, process, and act on that data. A TRP team is developing digital communications command and control equipment to burst massive new amounts of data through the interpretation and response pipeline at 10 gigabits per second, a 400-percent improvement over today's best equipment. That could mean the difference between life and death, victory and defeat on the battlefield.

Item: Single chip motion detectors: By reducing motion detection to a single chip accelerometer which can withstand accelerations up to 30,000 times the force of gravity, weapons guidance and navigation systems can be made significantly lighter and more sensitive. This will lead us, for example, to newer, more advanced versions of the cruise missiles and smart weapons that were so important to us in the gulf war.

Item: Autonomous all-weather aircraft landing: The efficiency of military aircraft is still limited by night and weather conditions. Operations at secondary fields are curtailed in these conditions if a full ground control system is absent, or if these facilities are disrupted or damaged. Basing aircraft at a small number of primary bases is not a good alternative because our command of the air becomes more vulnerable. A TRP team is working on placing all-weather air traffic and landing control systems into every cockpit, making aircraft independent of ground control availability and weather conditions.

Item: Turboalternator: Army gas-guzzling battle vehicles require a vast and vulnerable logistics chain and limit battlefield operations. The next war may not be fought next to Saudi oil refineries. A TRP team is developing a turboalternator so main engines can be switched off but all equipment and sensors can continue to operate during silent watch modes. This multiplies fuel efficiency and also makes detection through infrared emissions and engine noise much more difficult.

Item: Composite bridging: Military operations continue to be controlled by terrain: every stream or ravine that must be crossed creates a potential strong point for enemy defenders and disrupts the mobility that gives U.S. forces much of their edge. Every time our engineer forces have to bring up cumbersome, heavy bridging equipment for a crossing, enemy defenders can rally and our mobility is disrupted. A TRP team is developing superlight, superstrong composites for portable bridges to multiply the mobility of our battlefield forces.

Item: Precision laser manufacturing: Precision laser machining technology, by making aircraft parts microscopically precise, can make aircraft engines much more efficient. A TRP team, working with higher power density, more focused laser beams, and variable pulse formats, aims to double the life of military aircraft engines and sharply improve fuel efficiency and therefore range. Other beneficiaries include shipbuilders, airframe makers, engine makers, and a wide range of manufacturing technologies.

These are some of the new technologies we need for future battlefield dominance. And with a little imagination, we can envision even more revolutionary developments. Imagine a tiny helicopterlike device equipped with video cameras, flown by the dozens behind enemy lines, stealthily hovering throughout enemy territory, identifying the specific location of artillery, sniper nests, tanks, and serve as a guide for smart bombs launched from far away.

Imagine a sublaunched, fast-moving robot that can find and neutralize enemy mines at sea, safeguarding and speeding up the movement of our Navy.

Imagine lightweight, full body armor to make soldiers virtually invulnerable to small arms fire, dramatically improving our ability to control urban environments.

Such is the stuff of science fiction today, but like Leonardo Da Vinci and H.G. Wells, we need to realize that what is today's fiction can be tomorrow's fact. In fact, some Defense Department programs are looking into aspects of the exotic technologies I just described.

We must admit to ourselves we are no longer in the age of the backyard tinkerer when it comes to high technology weapons of war. No more Wright Brothers working out of a garage. The new weapons will come only after substantial investment by the Government and private industry, working together to safeguard the economy and security of our Nation's future.

That is why the drastic cuts in or cancellation of TRP, ATP, and other technology programs is akin to marching onto a field of battle and stripping our soldiers of their weapons. The survival of the soldiers of our future—soldiers to be drawn from the ranks of our children and grandchildren—depends on the development of technologies to help them control the battlefields of our future.

Failure to develop those technologies can only provide comfort to future enemies.

CONCLUSION

The movement to slash defense technology is being led by the "technonothings." When it comes to the complex interaction between Government and the private sector in technological research and development, the technonothings do not understand the lessons of history and they do not see the perils and opportunities in our future.

They cannot see or touch a weapon of the future and so they cannot justify spending money to develop it. They say they do not like Government picking winners and losers, but they do not understand that we need to have Government and business work together, sharing costs and talent, to bring about the defense and civilian technologies our citizens will want and need in the future.

It is a good thing that our predecessors in this Capitol building did not have to see a jet fighter before investing in its development, and did not decide to wait until the private sector invented it on its own.

They did not have to see or even understand the atomic bomb before spending millions on its creation, and did not decide to wait until scientists built one on their own.

They did not have to see and touch cruise missiles, Patriot missiles, stealth fighters, radar, lasers, and the whole panoply of weapons we now possess before allocating resources to their research and development.

We owe our survival to their foresight. Will we lose our liberty to myopia?

There is, I admit, not much of a constituency fighting for these programs, because we are dealing with the future, not the present. That makes investment in military technology a hard sell; not to the private sector, which wants the partnership, but to those political forces that cannot see much beyond the next election.

We need to go about the business of creating technological change the way some of our ancestors created the great pyramids, cathedrals, and other monumental architectural triumphs of the past: They started those works knowing they would not survive to see them finished, but pressed on with the knowledge that generations yet to come would appreciate what they did.

We must press on with such knowledge ourselves, lest we be, as Churchill said, "absolutely wrong in relation to the deep tides of destiny." Those tides are now tides of technological change and it is our destiny—our duty—to recognize there can be no turning back.

I thank the Chair. I yield the floor.

Mr. DASCHLE addressed the Chair.

The PRESIDING OFFICER. The distinguished Democratic leader is recognized under the previous order.

Mr. DASCHLE. I thank the President.

THE BALANCED BUDGET AMENDMENT

Mr. DASCHLE. Mr. President, let me begin this morning by going back to the debate yesterday and making a couple of remarks with regard to those who spent the better part of an entire month on the floor debating this issue.

The manager on the Republican side, the distinguished Senator from Utah, was a gentleman. He did an outstanding job and gave everyone the opportunity to be heard, and to discuss the issue, in a way that I think fits the Senate. It was, as the distinguished Senator from West Virginia said yesterday, a very good debate, a rigorous debate, a bruising debate in many cases but, certainly, one that afforded everyone the opportunity to be heard, to present their case, to make their positions well known. That was due in no small measure to the manner in which the distinguished Senator from Utah managed the legislation the entire time that it was pending on the floor.

Let me also commend the distinguished senior Senator from Illinois for his tenacious approach to the debate, and also for conducting himself in a very admirable way. I know that often, as we take our positions, we sometimes allow our own personal views to mask what in other ways would be a very legitimate discussion of issues. Certainly, the Senator from Illinois, as he conducted himself throughout this debate, did not allow whatever personal views he may hold with regard to the positions taken by other Senators to distract him from conducting himself in a way that I thought was extraordinary.

Certainly, the Senator from Idaho [Mr. CRAIG], and his leadership on this issue was also extraordinarily commendable.

I hope that as we take on these issues, as difficult and as fractious as they become sometimes, we can maintain civility, and that we can find ways with which to disagree without being disagreeable. I know there are a lot of strongly held views and a lot of temptation sometimes to get personal, to be negative. But I think that the course of this debate was one of our better moments. It was an opportunity for us to debate the issues in a meaningful way, without getting personal, being negative, and without distracting from what is our real purpose in being here.

Mr. President, the vote we took yesterday may not be the last on the constitutional amendment. The majority leader has indicated, as is his right, he is going to raise the issue again at some later date. Regardless of when that time may come, I think the real question now is: Can we as Democrats and Republicans work together? Can we find a way with which to put aside our differences on an amendment itself and commit ourselves to doing what we say we must do? We need to recognize that the clock is ticking, and to recognize that without some determination to take responsibility, to set forth a glidepath, we will be right back where we were a month ago, with no real progress, with no real substantive demonstration of our determination to resolve this matter 1 year from now, 2 years from now, or 3 years from now.

So, Mr. President, I think it is very important that we recognize that the clock is ticking. We have 43 days, by law—43 days by law—to produce a budget resolution. We did that last year. We hope very much that we can do it again this year. It is tough. And for those who say we do not need a constitutional amendment to do the job, I think it is all the more important that we demonstrate that we can; that we are up to the task; that we can meet our responsibilities to make it happen correctly, to make it happen in the way that was foreseen when we passed the laws setting up this budget process.

So within the next 43 days, we hope that a majority will come forth, and that we can work together to produce what we have called for on many occasions, a glidepath to a date certain, a time within which we will reduce the deficit to zero, a time within which we can be assured that indeed we are going to take the reins of responsibility and produce a balanced budget.

When that happens, we can look back with some pride at the way in which this whole effort was undertaken. I hope also that we will abide by the law passed some time ago that stipulates that we do so without the Social Security trust funds. That is the law. We are required already to keep Social Security off-budget. So that ought to be our task. That ought to be the responsibility that we all grasp now as Republicans and Democrats. Pro-balanced-budget amendment supporters and those who oppose it must recognize that we have a timeframe within which we must produce, a timeframe that is a little more than a month long, which requires us, by law, to set out a budget resolution that provides the glidepath that we all say we want.

Let us make it a time certain. I am not wedded to a specific date today. But I would agree to a time certain, a time within which we can, with some confidence, look to a decline of the deficit to the point where we can say with authority that we have taken Social Security out of the calculation, as the law requires; we have reduced the deficit annually, building on the 3-year record we have set out now, and we have done it within the timeframe that the law requires.

I think the American people would look at this Congress in a very different way. I think they would look at us with a great deal of admiration if we said we are going to do what we all say we want to do. Certainly, this is the time to prove it. This is an opportunity for us to demonstrate real responsibility. It is an opportunity for us to demonstrate real bipartisanship. It is an opportunity for us to set politics aside and say this is our task, and there can be no more important responsibility. We are going to do it and do it in a way that we all can feel proud.

So I sincerely hope, Mr. President, that everyone will accept that task, and that everyone will take this responsibility seriously. I think the majority is going to live up to their commitment. I am sure they will produce a resolution. I hope they will produce that resolution in the time the law requires.

So our purpose in coming to the floor this morning is to say that the balanced budget amendment debate, for now, is behind us. It is over. Let us get on with the real work of doing the job, doing what we say we are going to do. Let us get on with making sure that we do not miss this opportunity. Let us get on with trying to do what we all have professed is the most important thing we can do, and that is set out the glidepath to a balanced Federal budget at a time certain. That time certain is in the next 43 days.

Mr. President, I know of several of my colleagues that have come to the floor also to express themselves on this issue. I will yield whatever time he may require to the Senator from Nevada.

BALANCED BUDGET AMENDMENT

Mr. REID. Mr. President, last year, I offered a balanced budget amendment which excluded Social Security from the budget. When this body again considered a balanced budget amendment 4 or 5 weeks ago I offered an amendment that excluded Social Security. After it was defeated, I worked with others to ensure the Social Security trust funds would not be looted to reduce the deficit. Of course, we know the result of the vote yesterday. But, Mr. President, I feel no jubilation. I do not feel a sense of victory as a result of having my amendment being one of the principal—if not the principal—reason the balanced budget amendment failed.

But, in fact, the day after the vote, I feel a sense of hope, perhaps even anticipation, that the debate that has taken place in this body over the past

several weeks has established at least two things in my mind. No. 1 is that the accumulating debt this country has is serious. No. 2, the American people recognize the seriousness of that debt, but they do not want to balance the budget using Social Security trust fund moneys.

We have heard several times on this floor that 80 percent of the American people support a balanced budget amendment. That is true. If you ask that same group of people, "Do you support a balanced budget amendment using Social Security to achieve a balanced budget?" only about 32 percent of those people say yes. In fact, most of the polls show a number slightly lower than that.

Mr. President, what was the debate on this floor about as relating to Social Security? Well, we established quite clearly that Social Security has not contributed one penny to the huge deficits that this country is accumulating—not a penny. We further established, without any refutation, that Social Security is not a welfare program. Social Security, quite to the contrary, is a self-financing program where a person's employer pays 6.2 percent of their wages into a fund—we call it a trust fund—and the individual, the employee, pays 6.2 percent of their wages into a fund. That is to be accumulated during their working life, so that when they retire, they will have a retirement income. The average around the country is $640 a month. That is not a lot, but certainly, for an individual, it is a difference between despair and the ability to live a decent life.

Mr. President, the issue now before us is to continue on a path of deficit reduction until we get to balance. I want to show this body the fact that while we have not done a wonderful job, we have done a pretty good job, and we have to do a lot better, recognizing that this will be the third year in a row that we have had a decline in the deficit, the first time in 50 years.

We also recognize, Mr. President, that we have also had the lowest unemployment and the lowest inflation in 50 years, the highest economic growth since LBJ. And we have 120,000 fewer Federal employees than we had 2 years and 2 months ago. We can do a lot better. But what if we had not adopted the Democratic deficit-reduction plan? What would we have had we not done that?

Well, Mr. President, this chart shows clearly what would have happened. As a result of the deficit-reduction plan that worked, we have had a declining deficit. It has not declined nearly enough, but a declining deficit. It levels off and this is, as seen on these lines at the bottom of this chart, what happened as a result of the hard choices we made.

Mr. President, I do not think it is wrong to mention to the American public that we did not receive a single Republican vote to bring this deficit down.

In fact, had we not adopted the tough program that we did, the deficit would have been huge. This is what would have happened had the Republicans prevailed, had the Republicans' deficit-reduction plan been adopted. It would not have been a deficit-reduction plan, it would have been a deficit increase. This red line shows what would have happened. And beginning next year, the budget we are adopting now, you can see where it would have skyrocketed.

So, Mr. President, we have not completely dropped the ball. We have done some good things and the economy now is in good shape. The question is: Can we learn from our experiences? Can we learn from the debate that has taken place on the Senate floor these past few weeks? I hope so.

I know, speaking from my perspective, I think the debate has been constructive. I join in what the minority leader, the Democratic leader, has said. I think the majority has allowed us to have a full debate on this issue. I commend and I applaud the senior Senator from Kansas, the majority leader of the Senate. I think he has really done a good job of moving this legislation through this body. I believe it has been a good debate. It is one that I hope we can learn from as we look to the future.

I look forward to seeing what budget is going to come from the leadership of Senator DOMENICI and Senator EXON. These are two experienced legislators. I have not had the opportunity—I know that the senior Senator from New Mexico has had a death in his family and I know he has a lot on his mind. But I know that his experience, together with Senator EXON, to whom I have spoken, is going to bring out a budget, that will take into consideration what has been debated on this floor; namely, that we need to bring the deficit down and we cannot and we should not use Social Security to bring the deficit down.

Mr. President, I am willing to work with my colleagues on the other side of the aisle. I agree with my colleagues, we should have a balanced budget. But, Mr. President, we can do that. Even though the balanced budget amendment did not pass, we can still do that.

Section 13301 of the Budget Enforcement Act says that you are not supposed to use Social Security. We should follow this law. Our numbers may not look as good as we would like them in the newspapers, but we could and we should have a balanced budget amendment. So, Mr. President, I repeat, our deficit is too big, but we also should not raid Social Security and try to justify using those moneys. I see my friend from North Dakota. My understanding is that the leader wanted to yield time to the Senator from North Dakota under the leader's time.

The PRESIDING OFFICER. Does the Senator yield time to the Senator from North Dakota?

Mr. DASCHLE. Mr. President, I yield such time as he may consume to the distinguished Senator from North Dakota.

The PRESIDING OFFICER. The Senator from North Dakota.

Mr. DORGAN. Mr. President, how much time is available?

The PRESIDING OFFICER. There are 13 minutes 36 seconds.

Mr. DORGAN. Mr. President I thank the minority leader.

CONSTITUTIONAL AMENDMENT TO BALANCE THE BUDGET

Mr. DORGAN. Mr. President, yesterday, of course, we voted on a major proposed constitutional amendment to balance the budget. That was a vote that was difficult for a number of Members of the Senate. Most understood it was a very significant, serious issue, and a great deal of emotion existed on both sides. It was not an easy vote, I expect, for virtually anyone. And I suppose there are some ruptured feelings and relationships, at least momentarily, about some of these issues.

But I was thinking about it last evening. In the middle of the debate that we had for some weeks over the question of whether we should amend the Constitution, a news item appeared one morning about America's trade deficit. That news item disclosed that in the last year, when figures for December were released and we had a full year's picture of America's trade deficit, that we had the largest merchandise trade deficit in the history of the world. The United States was running the largest trade deficit in the history of humankind. We had gone, in a few years—15 years—from being the largest creditor or the biggest banker as a country to now the largest debtor in the world.

I thought about that in the context of the fractious debate on the issue of balancing the budget by a constitutional amendment. Because, with respect to international trade and the question of how we as a country do, we are a team, all of us. The entire country's future is at stake. Our jobs are at stake, opportunities for our children are at stake. And it is an international competition that we must win. There ought not be anyone in the congressional branch of Government that does not understand that we are on this team together and that we need policies that allow this team to win.

Well, then we come to domestic policies, including provisions that would require a change in the Constitution. And what is a team, or what should be a team, because we are all on the same side, in international competition in who will have the jobs, who will have the expansion, where will be the opportunity and that then breaks down into a debate in our Chamber. And, of

course, what happens in the process of trying to make decisions about this, emotions run high and sometimes we have very fractious debates. There are, it seems to me, no winners and no losers in these kinds of debates. Certainly, when you are dealing with a question of whether or how to change the U.S. Constitution one would expect people to feel very strongly about their points of view.

I want to add to the comments by the Senator from South Dakota and Senator REID and others that I have the greatest respect for Senator HATCH and Senator SIMON. I think both of them did an extraordinary job. I have great respect for their point of view.

My own view is that there is a right way and a wrong way to change the Constitution. I feel very strongly that the question of how you count receipts in the Constitution is very important to the future of the Social Security system. Because the future of the Social Security system will not be a future that guarantees benefits to Americans who deserve them and who are entitled to them unless we preserve the funds in the trust funds. And that would not have been the case under this amendment.

If that had been changed, it would have passed yesterday with 75 votes. So there is no joy in that vote. And the message in that vote is not that the U.S. Senate does not want a balanced budget amendment. If that amendment had been changed, the message would have been 75—probably more, maybe 80 votes—in favor of a constitutional amendment to balance the budget provided there was a guarantee that trust funds of Social Security be protected.

I noted that in the Washington Post this morning they editorialized about this Social Security issue and said it is not an issue, because the fact is Social Security is now one-fourth of all spending for other than interest on the debt and that the deficit cannot be reduced without it.

I do not agree with that. If someone believes we should reduce the Federal deficit by cutting Social Security benefits, they would have a responsibility to cut Social Security taxes because the only purpose for which that tax is collected is to put it in a trust fund to be used for only one program, and that is Social Security.

I think the Washington Post is all wet. I am surprised to see the editorial. Everybody has a right to think as they think. I just disagree with them.

Now, the question of Social Security that we have discussed at some length I hope could still be resolved. If we could resolve that, that constitutional amendment can be brought back and will pass by a very significant margin.

I was probably 14 years old when I got a driver's license to drive my father's pickup truck, and my way of making some money during high school was to haul garbage. I would pick up the 50-gallon drums that had been opened at the top, used oil drums that the widows in my hometown of 300 people used to put their trash in and burn their trash.

At the end of a week or two, their 50-gallon drums would be full of burnt trash, and somebody would have to haul it to the dump ground in my small town. I borrowed my dad's pickup truck. When I was 14, I had a garbage route. I picked up the drums and hauled the trash to the dump ground for half a dozen widows in my hometown. That is the way I earned a few dollars and got along in high school.

All of those widows in my hometown whom I was doing a little work for—virtually all of them—lived on Social Security. That is about all they had. The difference between them, then, and those who preceded them 30 or 40 years prior to that, was that they reached that stage in life where they were in their seventies or eighties, some in their early nineties, and they had Social Security checks.

It was the difference between being impoverished at age 80 with nothing to live on, or having a little something to give you a decent life and give you an opportunity. That is what Social Security meant to them.

I saw it when I was a kid. That is why the Social Security system is still important to me. I think it is the crown jewel of achievement in the last 60 or 70 years in this country for us to have constructed something that works the way this works, to give an opportunity during one's retirement years to draw on a stream of income that one contributed to during one's working years.

We face challenges with Social Security, but the wrong way to approach those challenges is to say to somebody, "You can take what is built up in the trust fund or what we intend to build up in the trust fund to save for the future, and use it to balance the Federal deficit." It is the wrong thing to do. I know the amendment might be popular, but there is a difference between right and wrong.

It seems to me here, notwithstanding the strong winds, you need to be prepared to stand and fight for what is right. I respect everyone's views. Those who oppose me on this or dozens of other issues will not hear me denigrating the way they do business or the way they think. There is great room for disagreement. I have enormous respect for those who do disagree, but I also hope they will accord similar respect to the kind of debate that we have had.

I think that we have a country in which people look at the congressional branch of Government these days and they say, "You know, I kind of wish they could just make progress and get things done." And they probably know that there are many Members inside the institution who feel the same way. We understand what the problems are.

Let Members find a way to coalesce to solve the problems. There is no reason that on the issue of a balanced budget, we cannot follow on from what we did in 1993. Yes, I voted for the Deficit Reduction Act of 1993. That was enormously controversial. But I am glad I voted for it. It was the right thing, and it is still the right thing to have done, because It reduced the Federal budget deficit. I am glad I did that. I am prepared to do more.

I hope there are many people on both sides of the aisle during the budget and appropriations process who will join hands together in a bipartisan way. We are prepared to march up the hill. We do not need a constitutional amendment to do that. No one needs a constitutional amendment to build the steps to a balanced budget. Those are decisions of taxing and spending that are made individually, day after day, on appropriations bills and on the budget bill.

I guess my point today is to say there were conditions under which I was fully prepared to vote for this, and I described what those conditions were. They were not able to be met, I guess. I was not able to vote for it. That does not mean that we should not march together toward a balanced budget. Of course, we should. And we ought to start immediately. Some of us started in 1993. And we are pleased we did. Some who decided to vote for that paid a very heavy price for it. But it was a vote well worth taking as far as I was concerned.

Now, the next question for all Members is, what are the subsequent votes by which we can, together, begin to climb those stairs and make progress toward balancing this country's budget, and not just balancing the budget, but starting at some point to pay off the debt.

We need to create investment in this country. We need to create investment and growth opportunity. I started by talking about the trade deficit, because ultimately we are involved in world competition for the future. There will be winners and losers. I do not want this country to be a loser in the international competition. I want this country to win, because winners will be assigned new jobs, expansion opportunities, and hope, and losers will have the British disease of long, slow economic decay because they believe what is important is consumption, not production. That is another discussion for another time.

I fervently hope that all Members can understand we wear the same jersey. We are on the same team. In international competition, we are fighting the same fight for the future of this country. The answer—should we balance this budget and should we start

paying off the debt—is clearly yes, notwithstanding what constitutional amendment might or might not be debated or discussed now or at any time in the future. The answer is yes, that is our job. The sooner that we get that job done, the better it is for the American people and for our children.

The PRESIDING OFFICER. The Senator from Florida is entitled, under the previous order, to 15 minutes.

Mr. DORGAN. Mr. President, how much time is remaining on Senator DASCHLE's time?

The PRESIDING OFFICER. One minute and thirty-two seconds.

A HAPPY DAY FOR FLORIDA

Mr. GRAHAM. Mr. President, this is a happy day for my State of Florida. One hundred and fifty years ago today, March 3, 1845, President John Tyler signed legislation which this Senate had passed 2 days earlier making Florida the 27th State to join the Union.

I am pleased to stand on the Senate floor today and express my appreciation to America for having accepted our State as a member of the United States and for the benefits that Florida has gained by that membership.

Florida has a long history that predates its period of statehood. In fact, Florida was the first point in North America to be discovered by Europeans when Ponce de Leon came upon the coast of Florida near what is now St. Augustine at Easter time in 1513. He spent a brief period of time in the State, enough to declare it the fountain of youth. In Florida, he looked for a place where one could bathe himself and receive eternal youth.

Not much longer, 1565, another Spaniard, Pedro Menendez de Aviles, established the first European city in North America in the location that is currently St. Augustine.

Florida had a tumultuous history during its prestatehood/preterritorial days. In the 18th century, Florida was peripherally involved in what was called the French and Indian War in North America. Florida was also involved in the Seven Years' War in Europe, at the conclusion of which, in 1763, the British Navy occupied Havana Harbor.

At the Treaty of Paris in 1763, the Spanish were given a choice. They could either have the British remove their navy from Havana or they could retain ownership of east Florida and west Florida—west Florida being the extension of the State from the Apalachicola River to the Mississippi River.

The majority whip, who joins me on the floor today, should take pride in this discussion of Florida. For almost 300 years, the southern part of Mississippi was part of the territory of Florida.

The Spanish decided that they would prefer to keep Havana. So the Floridas were transferred to Great Britain.

Florida stayed a British territory throughout the period of the American Revolution. At the end of the American Revolution in 1784, the Spanish had occupied Nassau, and the British received the same type of offer that they had made 21 years earlier: Would they prefer to have Nassau or the Floridas?

The British decided they would prefer to have Nassau, and the Floridas reverted back to Spanish control. Floridians had to have a fairly high threshold to deal with rejection in the 18th century.

But by 1819, the citizens of Florida had decided that their future was not with a European colonial power but was with the United States. That decision was sealed in 1819. In 1821 Florida became a territory of the United States of America and the two parts of Florida were combined into a single territory. Tallahassee was selected by its first territorial Governor, Gen. Andrew Jackson, to be the capital of the territory of Florida.

In 1845, Florida's territory had matured, and the United States was prepared to extend full statehood to Florida. Today, we celebrate the 150th anniversary of that statehood.

Mr. President, I would like to briefly comment on some of the changes that have occurred in the 150 years since Florida joined the Union. It is said that the one constant in Florida is change. If you do not like something about the State today, just wait a while because it will certainly be different tomorrow. That has certainly characterized our State during the last 150 years.

Maybe the most dramatic statement of that change is the sheer demographic size of Florida. When Florida entered the Union 150 years ago today, it was the smallest State in the Union with a population of approximately 55,000. Today, it is the fourth largest State with a population that now exceeds 14 million. Florida is projected to have a population of over 19 million by the year 2020 and by the middle of the next century to have a population approaching 40 million.

Florida in 1845 was a State very much on the periphery of the United States of America. It was a long way from almost anyplace in the country to Florida. And it was a long way from any one point in Florida to another. Legislators who represented the Florida Keys, in order to get to Tallahassee, had to take a boat to Philadelphia and then a train back to Thomasville, GA, from which they would take a carriage drive to get to Tallahassee.

Florida was remote. It was largely cut off from the mainstream of American life in 1845. Today, Florida has become, in many ways, the linchpin of our emerging relationships within the hemisphere. Florida has become a central point for trade and commerce and cultural exchange, not only within the United States but particularly between North America, the Caribbean, and Latin America.

Florida has become a State which is living in the future that will be all America's in the 21st century. The population of our citizens now, particularly the almost 19 percent over the age of 65, reflects what the rest of America's population will be by the end of the first quarter of the 21st century.

Florida is leading in technology and arts and culture. It has become a predictor of national trends. In 1845, Florida was a very homogeneous State. Most of our citizens had very similar backgrounds. Today Florida is one of the most diverse States in the Nation.

The list of countries from which schoolchildren and the largest public systems in Florida is virtually a list of the nations of the world. Florida is a State which has become, as some describe it, the "big paella" of America. It is the place in which people from all around the world now live in large numbers. They are becoming contributing members to our State and our Nation, but also with a fierce pride in their native culture.

Florida is becoming a model of the kind of cultural diversity that benefits America. It was with great pride in December of last year that Florida had the privilege of hosting the Summit of the Americas, the first gathering in a quarter of a century of the heads of government of the Western Hemisphere. The summit was the first time in which all of those present were democratically elected heads of government. The summit is illustrative of the centrality of Florida in the new relationship within our hemisphere.

Mr. President, Florida is helping the United States in establishing this relationship with the other Americas, but maybe Florida's greatest role for the 21st century will be as a model of how persons from different cultural backgrounds, different ethnic, racial, and religious backgrounds can live together in peace.

It has been suggested that the challenge of the 21st century will be the challenge of whether Bosnia is our collective future. Will we live in a world in which people who are different than their neighbors will find it impossible to live a life of dignity, respect, and peace?

While our State has not been immune from some of the abrasions of cultural diversity, we are proud of the degree to which we are building a society from a diverse community.

So, Mr. President, this is a happy and celebratory day for our State of Florida. It comes, I hope, as an event which might serve to assuage some of the contention that was felt here yesterday and maybe reverberates today. One hundred fifty years is a short time in the history of the planet but a long time in the political history of this Nation. It illustrates the good decisions

that were made in this Chamber on March 1, 1845, when the Senate of the 54th Congress had the wisdom to enact the legislation that would create the 27th State of the Nation. Our challenge today is to create a record that Americans will look back on 150 years from now with pride.

So we thank America for allowing us to join the United States of America. We are proud of what we have contributed. We are pleased to be a full member of this greatest Nation in the history of the world. Thank you.

Mr. LOTT addressed the Chair.

The PRESIDING OFFICER (Mr. COVERDELL). The Chair recognizes the Senator from Mississippi.

Mr. LOTT. Mr. President, I ask unanimous consent that in addition to the previously agreed to 5 minutes, that I have an additional 2 minutes without interruption, for a total of 7 minutes.

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

WELCOME, SENATOR BEN NIGHTHORSE CAMPBELL

Mr. LOTT. Mr. President, I had the honor earlier this morning of announcing that Senator BEN NIGHTHORSE CAMPBELL, of Colorado, would be joining the Republican ranks in the Senate. And, again, I want to extend a welcome to him and say how proud I am of him for his conviction and his courage.

I am satisfied that his voting pattern will remain the same. He has things he feels very strongly about. He does worry about where we are headed with deficit spending in this country. He is concerned about the Federal Government's abuse of public lands. He is concerned about private property rights. He has an outstanding record, one that I have observed for, I guess, 10 years now, having served in the House of Representatives with him back in the midsixties and now having watched him in the Senate for the past 2 years. He is going to be an outstanding addition to the party. It is an honor to the Republican Party to have him join us.

I ask unanimous consent that his résumé be printed in the RECORD.

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

Ben Nighthorse Campbell, Democrat, of Ignacio, CO; born in Auburn, CA, on April 13, 1933; attended New England Mills Grammar School, Weimar, CA; attended Placer High School, Auburn, CA, 1951; quit high school to join Air Force (where he got his GED); in 1991 attended Placer High School's graduation exercises and received a diploma; B.A., San Jose State, 1957; attended Meiji University in Toyko, Japan, as special research student, 1960–64; served in U.S. Air Force in Korea, airman second class, 1951–53; jewelry designer who has won more than 200 first-place and best-of-show awards; rancher who raised, trained, and showed horses; All-American in judo, captained the U.S. Olympic Judo Team, 1965; won the gold medal in the Pan-American Games of 1963; elected to Colorado State Legislature in 1982, serving 1983–86 on the agriculture and Natural Affairs and Business and Labor Committees; appointed adviser to the Colorado Commission on International Trade and Colorado Commission on the Arts and Humanities; voted by colleagues one of "Ten Best Legislators" in the Denver Post-News Center 4 survey, 1984; "1984 Outstanding Legislator" award from Colorado Bankers Association; inducted into the Council of 44 Chiefs, Northern Cheyenne Indian Tribe; member of Durango Chamber of Commerce, American Quarter Horse Association, American Paint Horse Association, American Brangus Association, American Indian Education Association, Colorado Pilots Association, Aircraft Owners and Pilot Association, senior technical adviser, U.S. Judo Association; married July 23, 1966, to Linda Price; two children: Colin, and Shanan; elected to the 100th Congress, November 4, 1986; reelected to each succeeding Congress; appointed to Committees on Agriculture, Interior and Insular Affairs, and Small Business; elected to the Senate on November 3, 1992 for the 6-year term beginning January 3, 1993.

Mr. LOTT. Mr. President, just to make a couple observations about BEN NIGHTHORSE CAMPBELL as an individual, he was born in California, but moved to Colorado at an early age. He served in the Air Force during the Korean war. He is a rancher who raises and trains show horses. He was All-American in judo. He captained the U.S. Olympic team in 1964 and won the gold medal in the Pan-American games in 1963. He was elected to the Colorado State Legislature in 1982, where he received numerous awards, including being voted one of the 10 best legislators in the Denver Post-News Center 4 survey. In 1984, he was selected as the Outstanding Legislator by the Colorado Bankers Association. He has been inducted into the Council of 44 Chiefs, of the Northern Cheyenne Indian Tribe. He is a member of the American Indian Education Association and the Colorado Pilots Association. He is married to the former Linda Price, and they have two children.

He is a typical example of the American success story, starting with very humble beginnings, overcoming lots of difficulty and adversity. But by hard work and energy and education and training, he has become an outstanding U.S. Senator, and we are truly pleased to have him in our ranks here today.

BALANCED BUDGET AMENDMENT

Mr. LOTT. Mr. President, if I could move on to another subject, I listened with a great deal of interest this morning to the distinguished minority leader, Senator DASCHLE, of South Dakota, and I think maybe his remarks will help to begin to get things back on the right track. The past few days have been very difficult here in the Senate. Some things, perhaps harsh things, have been said here on the floor of the Senate and in the public arena, and I think we have to stop and take stock of how much damage was done by the debate and all that went on during the discussion on the balanced budget amendment to the Constitution.

I agree that we need a bipartisan effort to achieve a balanced budget, and in fact if we had the will, we could achieve a balanced budget without a constitutional amendment. But I have been in this city for 26 years, as a staff member, as a House Member, and as a Senator, and it has not been happening. I do not believe it will happen without a constitutional amendment requiring a balanced budget. I think we need the additional leverage.

However, we took the vote. We were one vote shy. Any one of 34 Senators could have passed that constitutional amendment to balance the budget and send it to the American people for their legislatures to vote on that amendment. It did not happen. But we should go forward. We should set a process in motion that would lead to deficit reduction this year and next year. We cannot have a situation where for every year as far as the eye can see President Clinton's budget would call for $200 billion deficits.

So we need to make the tough decisions for the process to get there, and then we need to have the budget itself. So we will see what happens when we get to the tough votes on amendments and on the balanced budget resolution later on this year. We will have disagreements on both sides of the aisle. Every one of us will find that there is something we feel very strongly about, and we will fight for it. That is the way it works. But I have also watched over the years Members of Congress in both bodies stand up and say, why, we want a balanced budget but not here, not there, not in my State—in your State, somewhere else, some other day, some other time.

When we had the Gramm-Rudman process, when we got up to the lick log, so to speak, we moved the dates or we exempted this group and that group. When it started off, it was 3 or 4, and it was 21 the next thing you know. So we will see if we can have a bipartisan effort to achieve a balanced budget. And once again, I heard the minority leader say we should exempt Social Security.

Republicans will have a budget resolution, a 5-year plan, that will move us toward a balanced budget by the year 2002 without touching Social Security. The leader said that. I have said it. Republicans have said it. Democrats have said it.

That is where we started getting in trouble this past week. We started showing evidence we did not trust each other. Our word is not good enough anymore. When the leader stands here and says we are not going to touch Social Security benefits or raise taxes, that is not good enough anymore. We had people making speeches about, oh, we have to do this to protect Social Security. Where were they last year when

we voted on the same, identical balanced budget amendment? Why were they not worried then? Why is it now, all of a sudden, after all these years with Social Security being in the unified budget, we had to take it off at that particular moment? Where were they last year when we had relevant votes—actually, it was in 1993—when we had relevant votes on Social Security?

I ask unanimous consent to have printed in the RECORD at this point the votes that I refer to, a vote to table the McCain-Brown amendment. And I think there are six or seven of those.

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

The relevant votes are:

A vote to table the McCain/Brown amendment to the Omnibus Budget and Reconciliation Act of 1993 (OBRA 93), which would have required that revenues from the increased tax on Social Security benefits be credited to the OASDI trust funds (Vote No. 184, June 25, 1993).

Mr. LOTT. I really do believe that was just a cover to use as a reason not to vote for the balanced budget amendment. But again, if we can work together in a bipartisan way to get a glidepath toward a balanced budget, certainly we should try to do that.

PROGRESS IN THE SENATE

Mr. LOTT. Mr. President, I also want to take this occasion to say that I do not think the Senate has looked very good this year. I do not think the length of the debate necessarily improves the quality of the legislation. I think you need to have reasonable debate, adequate debate, understand what is in legislation, but I think debate just for debate's sake is not good legislating.

When I look at what we have done this year, we have been in session now for the most part for 2 months, and what do we have to show for it for the American people? We got off, I thought, to a pretty fast start, although it took longer than it should have. On the congressional coverage, we did say, oh, we are going to make the laws apply to us, and the vote was 98 to 1—98 to 1. We got that one passed, and it went to the President.

That is the only bill—I believe this is correct—the only major bill, and maybe the only bill, that we have sent to the President for his signature this year, in 2 months.

Now, we went then to unfunded mandates, a process to try to stop the cavalcade of unfunded Federal mandates we are putting on States—overwhelming support for it, but here in the Senate we spent 58 hours and 34 minutes discussing this legislation.

The PRESIDING OFFICER. The Chair advises the Senator from Mississippi he has exhausted his 7 minutes.

Mr. LOTT. Mr. President, I ask unanimous consent I may proceed for 2 more minutes.

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

Mr. LOTT. For 58 hours and 34 minutes we talked about unfunded mandates. You would have thought this was really a controversial issue. Now, we needed time to look at the bill and, yes, to look at the report to make sure we fully understood it, but 58 hours and 34 minutes? And then we got to a vote on final passage and it passed 86 to 10—86 to 10. That is good. You would think, great, now we are on the move.

The bill has not gone to the President yet. It is still languishing in conference.

And then, of course, there was the balanced budget amendment —116 hours of debate. We covered a lot of territory in that debate. It ranged far and wide, quite often far from the subject at hand—116 hours. And then we voted, and the vote was, in the final analysis, really 66 to 34, although the majority leader changed his vote in order to offer the motion to reconsider—65 to 35.

I do not think the American people want the Senate to just react or act on what the House has done. But I think they have a right to expect that the Senate would get the message of the election in 1994 as well as the House. I think the American people want us to act in an affirmative way. And sometimes they want us to act to stop and reverse some of the policies of the past 20 to 40 years that have gotten us into the difficulty we are in with our Federal debt. We do not seem to be doing a very good job of moving forward that agenda, or any agenda. And when I say it that way I am assuming some of the blame on this side of the aisle, too.

So I guess my conclusion here today, as we run out of time, is yes, I hope we can run in a bipartisan way. There have been ruptures. I had looked forward to working with the new leadership on the other side of the aisle. I have known Senator DASCHLE, Senator DORGAN, Senator BREAUX and Senator KERREY for years and have a lot of respect for them. I thought we could cut out some of the acrimony and some of the partisanship, that we could talk and communicate and understand each other and have a schedule that the Members could rely on that would make sense. I hope we can still do that. But we lost a little bit of that opportunity in the past few days in my opinion.

I think the Senate needs to take stock of itself. Maybe this is the way it has always been done. I do not believe that. I have gone back and looked at history and I do not think necessarily what we have done in the last 2 months is the way it has always been done. But I have an answer to that. If it has, so what? If it needs to be changed, if we can do a better job, let us do it. Yes, I am a former House Member. No, I do not want to make the Senate a replica of the House. But can we make the Senate a better legislative body, if we make some changes or we work together in a way that provides—yes, more efficiency? I think it is worthy of effort. And I hope we will begin it next week.

I yield the floor.

The PRESIDING OFFICER. The Chair recognizes the Senator from Florida.

Mr. MACK. Mr. President, I ask unanimous consent to address the Senate as in morning business.

The PRESIDING OFFICER. That is the regular order, Senator.

THE DEFEAT OF THE BALANCED BUDGET AMENDMENT, HYPOCRISY ON THE RECORD

Mr. MACK. Mr. President, during the past several weeks there has been significant debate on one of the most fundamental issues facing America today. One which, frankly, divides the two parties in this country. At times the debate was heated. At times the debate appeared to indicate the balanced budget amendment would pass. But, in the last days, it became clear that would not be the case and the balanced budget amendment was defeated.

This morning, while Republicans were trying to recover from that defeat, we were buoyed by the announcement that Senator BEN NIGHTHORSE CAMPBELL was switching parties, changing from Democrat to Republican.

During the press conference this morning making that announcement, a question was raised by one of the reporters regarding a comment attributed to the minority leader of the Senate, suggesting of Senator CAMPBELL, "perhaps he should resign and run for reelection. * * *"

I assume the minority leader made that statement because Senator CAMPBELL had changed parties. I would like to suggest that perhaps the minority leader, Senator DASCHLE, should resign and run for reelection himself, because clearly he changed his position on an incredibly fundamental issue which he not only voted for in the past, but made as a central theme of his campaign in 1986.

Let me quote from one of his commercials:

The national debt. America is awash in red ink. But in 1979, Tom Daschle saw the damage these deficits could do to our country. His first official act was to sponsor a constitutional amendment to balance the budget. For seven years, Tom Daschle battled party leaders and special interests to cut waste and close loopholes.

Mr. President, using the same line of reasoning and logic that was employed this morning by the Senate minority leader, Senator DASCHLE, perhaps he should follow his own advice. Perhaps he should resign and run for reelection.

I thank the Chair and I yield the floor.

The PRESIDING OFFICER. The Chair recognizes the Senator from Minnesota.

THE BALANCED BUDGET AMENDMENT

Mr. GRAMS. Mr. President, I rise today to remind my colleagues of the words of Benjamin Franklin, when he urged, "Never leave that till tomorrow which you can do today."

Good advice. But when is this Congress going to listen?

For too long, Congress has used the word "tomorrow" to repeatedly avoid the responsibilities and obligations of today.

We will stop spending more than we take in—tomorrow.

We will safeguard our children's future by paying our own bills—tomorrow.

We will make the tough choices to get our fiscal house in order—tomorrow.

We will balance the budget—tomorrow.

The problem with tomorrow, of course, is that it never, ever gets here—there is always another one waiting in the wings. Responsibilities are never met. Obligations are never fulfilled.

And yesterday's vote on the balanced budget amendment demonstrates once again that—despite all the talk on Capitol Hill about change—Congress still operates under the notion that you should never do today what you can put off until tomorrow.

Mr. President, I am deeply disappointed that this body put politics ahead of promises in rejecting the balanced budget amendment.

Passage hinged on the votes of six Democrats who, just 1 year ago—March 1, 1994—voted for the balanced budget amendment. Yesterday, those same six Senators voted "no" on a bill that was virtually identical to the one they supported last year.

The balanced budget amendment is a beautifully simple piece of legislation that makes so much sense to the voters that 8 out of 10 of them asked us to make it law. What do we go back home and tell them this weekend—sorry? Try again tomorrow?

No. Beginning today, with or without a balanced budget amendment, we need to start laying out the glidepath that will lead us to a balanced budget by the year 2002.

To my colleagues who said we can straigthen out the fiscal mess in Washington without meddling with the Constitution, it is time to stop making promises and start delivering on them.

The only way we will ever clean up the Federal books is to start today, not tomorrow, not next month, not next year, but today.

We have said again and again that balancing the budget will not be easy. But those who elected us do not care if we have a tough job. They expect us to do that job.

Unlike the ancient plunderers who would pillage a town, then set it afire as they headed off toward their next conquest, we are not going to slash and burn the budget and leave it in shambles behind us.

The needs of this country will continue to be met. But if we are serious about bringing the budget into balance, the wants of this country will have to be closely scrutinized. Some will have to be put on hold.

We need a balanced budget for another reason as well, Mr. President—so that we can begin to pay back our massive national debt.

We didn't accumulate this $4.8 trillion burden overnight, and we will not pay it off overnight, either. But whether it takes 20 years or 40 years, we have to start now.

The debt we are piling up and passing along to the next generation of Americans is not just fiscally wrong—it is morally wrong.

George Washington could not have known the problems we would face in 1995, but he cautioned us—198 years ago—about amassing a national debt.

It was expected, he wrote in his Farewell Address, that in times of crisis, the Federal Government would occasionally be required to spend beyond its means. But in times of peace and prosperity the Government must repay its debt, and not push its burdens onto the next generation.

We have been at peace and enjoying prosperity for 40 years. With the recklessness of the past behind us, the burden that Congress bears today is ensuring the strength of this Nation tomorrow.

In conclusion, a balanced budget can be achieved by the year 2002 if we begin laying out the path today. We will have to do it without a balanced budget amendment, but make no mistake—this Congress must do it.

Mr. LOTT. 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, is leader time reserved?

The PRESIDING OFFICER. It has been reserved.

THE BALANCED BUDGET AMENDMENT

Mr. DOLE. Mr. President, let me indicate that round one of the balanced budget effort has been disposed of. But there will be other rounds. Our new Republican colleague, Senator CAMPBELL, when he was talking to some of the reporters, was saying the thing that really made the decision for him was the balanced budget amendment and the games that are being played with the balanced budget amendment and those who one year vote one way and the next year vote another way on the balanced budget amendment.

As I said in my remarks yesterday, it seems to me that this issue should not and will not go away. We will proceed on the basis that the balanced budget amendment will be passed. We will see how many are willing to make the tough votes—we hope a majority on both sides of the aisle—and we will see about Social Security and some of the other smokescreens that were talked about during the debate.

But I would just assure my colleagues that this issue—and it is an issue and will continue to be an issue because 80 percent of the American people have told us that they want a balanced budget amendment. We have told them we do not care what you want, we know what is best. A minority of 34 knows what is best, even though a majority of 80 percent have a different view.

So I am excited about the prospects of taking this case to the American people for the next 3 months, 4 months, 6 months, 8 months, 10 months, a year, 16 months, whatever it takes because it is that important. Again, it is not a matter of partisanship, because I congratulate the 14 Democrats who withstood the pressure from the White House and the leadership on the other side to vote consistently and to vote their convictions. This was a bipartisan effort, as it should have been. And I read the obituaries in the morning's paper about what it means for A or X or Y or Z. It is what it means to the American people that makes the difference. And what it means to the American people is that the U.S. Senate by one vote, one vote, has said wait. You have to wait. We will make these judgments for you. You do not understand. We understand all these complex issues.

But I must say traveling around the country when you make speeches and you talk about unfunded mandates, people say "Well, I do not think I have had that." They do not really focus on unfunded mandates. You talk about covering Congress like we cover everybody else. Most people say that is a good idea. But I find the thing that the American people understand without any further explanation is when you say "balanced budget." They are doing it in their business. They are doing it in their homes. They are doing it in their offices, and they understand the balanced budget. They also understand regulatory reform, which is another

issue that will be on this floor very soon.

So I do not know when this reconsideration will take place, but hopefully very soon. But if not, there is time to take the case to the American people. I do not suggest that many of my colleagues were not properly motivated. But I think in some cases it was a lot of politics, and that is not without precedent on either side of the aisle either, I would say, because this is a political institution in a sense. But this issue is larger than any one Senator or larger than this institution. As I have said, we do not amend the Constitution lightly around here. We certainly had adequate debate.

I conclude by saying to all of my colleagues that we are going to have to change our operating rules in the Senate because we are now starting to report out some of the legislation.

So I just alert my colleagues to be prepared to be here almost every night until 10 or 11 o'clock. There will not be any recesses in the Senate this year that I can see after the Easter recess. We have tried to accommodate our colleagues who want to spend 10 days on this, 3 weeks on this, 3 or 4 weeks on this. And I do not know of any other way to finish our work. But I think every Senator will accept that because, if we want to have these extended debates and we want to have this full discussion, then certainly we understand that it is going to take more time. I do not have any objection to that except to say that we are going to try to complete our work this year. I do not see any other way unless there is some way that the Democratic leader and I could come together and figure out some way to do it. But if you look at what has happened so far this year, we have had about 2 months now on three pieces of legislation. And we have been in session almost every day. Maybe that is the way it is. On that basis, you would pass about 15 pieces of legislation.

I alert my colleagues that we are going to meet with the Democratic leader next week to try to outline a program for the next couple of months. I know that after legislation comes from the House it properly goes to committees here and we have hearings and markups. The line-item veto will be on this floor by the end of next week, and we will stay on the line-item veto and we will be here nights. We are not going to spend 30 days on the line-item veto. We will find out where the votes are when the President says he supports a line-item veto. We will see if he really believes in it. If you are really going to work for the line-item veto. We hope he does.

So I alert my colleagues that though many of us would like to have a little more time off these next few months, I do not believe it is possible. If it is, I will try to accommodate all my colleagues.

I yield the floor.

THE BALANCED BUDGET AMENDMENT

Mr. CONRAD. Mr. President, we have heard speeches this morning that suggest because the balanced budget amendment has been defeated, we somehow have to wait to balance the budget. I simply say that there is no need to wait. There is nothing that prevents us from moving to write budgets that balance the budget. We can do that in the normal process of the Congress—and we should.

Mr. President, no one should use as an excuse that the balanced budget amendment failed. Mr. President, we have an obligation—all of us, Democrats and Republicans—to now go to work to move this country toward balance. And there is no time to spare, because we face a demographic time bomb in this country; that is, when the baby boomers start to retire and the number of people who are eligible for Medicare and Social Security doubles. That requires that we go to work and write balanced budgets.

Mr. President, I want to just put in some perspective why some of us felt so keenly that the balanced budget amendment that was before us was flawed. I come from a financial background. I was a tax commissioner of my State before I came to this body. In that position, I fought the looting of trust funds at the State level. We were faced with it consistently because we had large energy trust funds and, repeatedly, there were attempts by people in the legislature to raid those funds. I thought it was wrong then. I thought it was wrong when I came to this Chamber that we were doing the same thing with respect to trust funds.

Mr. President, I think when people talk about a balanced budget amendment, we ought to ask: What budget was being balanced? What budget was being balanced with that amendment that we considered yesterday?

I remind my colleagues of the language of section 7, which defined what budget was being balanced. It said:

> Total receipts shall include all receipts of the United States Government except those derived from borrowing. Total outlays shall include all outlays of the United States Government except for those for repayment of debt principal.

Mr. President, this definition includes all Social Security revenue and all Social Security outlays. And the problem is, Social Security is not contributing to the deficit; it is in surplus. So, by definition, the amendment we were considering yesterday would have taken Social Security surpluses and applied them to other operating expenses of the Federal Government. That is what was wrong with the amendment we considered yesterday. In principle, that is what was wrong.

Mr. President, I understand fully that when you do not use Social Security surpluses, when you do not use trust fund moneys, that makes the task more difficult. That makes the challenge greater. But I do not think we should say to the American people we are balancing the budget when we are really looting and raiding trust funds in order to balance the budget. That is a fraud. That should not be enshrined in the Constitution of the United States, because that would make it virtually impossible to fix. And if we fail to fix it, the economic implications for the future are far more severe. We will never be able to keep the promise to those who have paid the taxes on the promise that they will receive retirement benefits, if we do not treat the Social Security surpluses that are supposed to be treated as a trust fund in that way.

During the discussions, a number of the leaders who were proponents of the amendment came to me in an attempt to secure my vote and said they would agree to stop using the Social Security trust fund surpluses by the year 2012.

Mr. President, this chart shows what they were suggesting. This chart shows the flow of funds in the Social Security trust fund. The year 2012 is about here on the chart. So when they are saying they would use the Social Security trust fund surpluses until the year 2012, they were saying they would use most of the trust fund moneys, because you can see that is about the high-water mark of the buildup of the trust fund. Then it starts to decline as the baby boom generation starts to retire. I said, no, I would not accept a proposal that would use trust fund moneys until the year 2012. That is about $2 trillion that would have been used. They came back to me several moments later and said, "How about if we stopped using the Social Security trust fund money by the year 2008?"

Mr. President, I said no to 2008 because after consulting on the flow of funds that moved through the trust funds or the projections of the flow of funds, my staff reported to me that it would be $1.3 trillion. Mr. President, I think those exchanges confirm that those who were proponents of the amendment fully intended to use Social Security trust fund moneys to offset other Government operating expenses. I think that is wrong as a principle, just wrong. I do not think we should do that. I think it would be a mistake to do that. I understand that it makes the job tougher.

Mr. President, if we are going to tell the American people we are balancing the budget, then I think we ought to do it honestly. We ought to be really balancing the budget, not taking trust fund moneys to help balance the budget. If that means we have to stretch out the time period so that we set an honest goal, then we should do that. And the reason I feel this so acutely is when we look at what the flow of funds will be, or are projected to be, if we do

not save that money, when we reach out here in 2025 and when we reach 2029, all of the money is gone. It is all gone by 2029. And that assumes that we allow the trust funds to be built up. So I think it is imperative that we treat the trust funds separately from the other operating accounts of the Government.

Mr. President, let me just go back to this final chart because it speaks to the need for all of us to come together.

We have had high levels of partisanship in the last days, and perhaps that was inevitable. I think some of the things that have been said that question each other's motives are unfortunate. I think when Members of Congress start name calling, that is uncalled for. None of us should engage in that. That demeans this institution.

Mr. President, we now do have an obligation to try to address what is a serious crisis facing this country.

This chart shows why current trends are not sustainable. The green line here shows the revenues anticipated for the United States. It shows the history from 1970 to today and a projection out to the year 2030. Revenue is pretty constant. The colored bars here show the expenses. And we can all see what is going to happen because of this demographic time bomb, the tremendous number of baby boomers who are going to retire and what that does to Medicare and Medicaid and Social Security. It explodes the costs. That has to be addressed. And nothing precludes us from doing that.

Mr. President, it is time for us to work together, to put aside partisanship to get the job done.

I thank the Chair and yield the floor.

Mr. SANTORUM addressed the Chair.

The PRESIDING OFFICER. The Chair recognizes the Senator from Pennsylvania.

Mr. SANTORUM. Thank you, Mr. President.

SOCIAL SECURITY AND BALANCING THE BUDGET

Mr. SANTORUM. Mr. President, I just want to make a couple of comments about the arguments that are being made with respect to Social Security, not just by the Senator from North Dakota but many others, not just today but for the last several days.

First, we should not use the Social Security trust fund for balancing the budget. What does that mean? We should not use the Social Security trust fund to balance the budget. Are we taking money out of the Social Security trust fund and spending it directly on other programs? No. No, we do not take money out of the Social Security trust fund to spend it on other programs.

Money in the Social Security trust fund is borrowed, for which we pay interest on the money back to the Social Security Administration, as we would with any fund that runs a surplus in the Federal Government.

We have surpluses in the highway trust fund. What do we do with the highway trust fund money? Do we spend it on other programs? No, that money is in there. It is earning interest. We are investing it in Government bonds, just like we do the Social Security trust fund, just like we do the aviation trust fund, just like we do with any other trust fund that we have in the Federal Government that happens for a period of time to be running a surplus.

So to use the argument that we are using the Social Security trust fund to balance the budget is as fallacious an argument as it is to say we are using the highway trust fund to balance the budget. The highway trust fund has a couple billion dollars surplus in it. I did not see anybody run to the floor to protect our roads and bridges. They did not come to the floor and say, "We can't use the highway trust fund. That is not fair. It hid the deficit."

It is not true. Let us be honest. Let us not hide it from the people.

Where were the highway trust fund advocates? Where were the aviation trust fund advocates?

We were saying let us be truthful and honest in not hiding this from the American people.

What is going on is in the fine spirit of hiding behind the apron of Social Security when you cannot define your program in other ways. That is what is going on here. I had it happen to me in my election. Many of us have had it happen to us in our elections. When you are losing, when you know you cannot defend your record, when you know you cannot defend your vote, you bring up the old red herring: Let us run behind Social Security. Let us scare the public that we are going to get Social Security and we will be OK. They will believe it.

We will never change this place, we will never change this place, until the American public has enough realization to know that there is not any program that could ever compete in popularity and support—not one program that can compete in popularity and support—with the Social Security program. If the Federal Government continues on its way and we continue to have to eliminate programs as the debt gets to be a bigger and bigger and bigger part of our Federal Government, the only program, if we have one program left, I will assure you, will be the Social Security program. Everything else will be gone. That will win. That will always be maintained.

The American public has to stop being afraid that someone is going to come in and raid their Social Security plan. It is not going to happen. We promised it was not going to happen. Unfortunately, I guess the promise of the majority leader of the U.S. Senate is not enough; the promise of the Speaker of the House that we are not going to touch Social Security is not enough. A vote of something like 90 to 10 in this body that we will not cut Social Security or touch Social Security over the next 7 years is not enough. Because people are always afraid.

Is it not sad? Is it not sad what we have done to the people of this country? We have gotten them so addicted to Government that every time we talk about changing it, they run. They get scared. They get scared. We have made them dependent. We have succeeded here in Washington in the first step to really control what goes on in America by having people dependent upon us.

No one in this Chamber is going to take $1 of benefits away from any Social Security recipients in this country to balance the budget. And everyone in this Chamber knows it. Everyone in this Chamber knows it.

This was partisanship. This was political. It is a lot of things. The reason six Members who voted for this exact amendment voted the other way and hid behind Social Security was one reason, and it was not Social Security—partisan advantage. Stop the Contract With America, let us not move things too fast now, let us not change the status quo in Washington.

We have a great opportunity before us in Washington today. We have a House of Representatives that continues to crank out and pass legislation that was called for in their Contract With America that has the support of the American public. And it is sitting over here in the Senate and it will continue to pile up and pile up until the people of America send a message to their Senators that they want something done.

If you want something done in Washington, if you want a leaner, more efficient, smaller Government, if you want that power and freedom back to you, the American public, not centered here in Washington where we can threaten you by pulling the rug out from under a program that you like, but in fact to enable you and empower you to take those challenges and responsibilities yourselves, when you believe that can happen, you have to communicate that to the people here in the Senate. Because if you communicate that, this place will change. And if it is not in the next 2½ years, the 1996 election will make that change.

The opportunity is here. It is up to the American public as to whether that is going to happen or not. It is up to you as to whether we are going to succeed as a body in the Senate.

The rules are structured here—boy, I never knew—but the rules are structured here so we pretty much cannot get anything done. That is the way they sort of crafted this place, so things slow down, so we do not do a lot here.

Now, as Senator LOTT said earlier, I do not want, as a former House Member, I do not want the Senate to be like the House. We need more deliberation. We need to put the brakes on things and cool things off a little bit. I understand that. But, at the same time, we should not be obstructionists for the sake of being obstructionists.

I have here a table, which I ask unanimous consent to have printed in the RECORD.

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

FIRST SESSIONS—STATISTICAL COMPARISONS

Year/Congress	Days in session through February	Time in session	Record/votes
1995/104th	36	316'03"	97
1993/103d	19	91'51"	20
1991/102d	29	145'56"	20
1989/101st	16	43'10"	15
1987/100th	22	89'58"	29
1985/99th	22	105'36"	17
1983/98th	17	53'55"	2
1981/97th	24	71'18"	25

Prepared by the Senate Daily Digest/Office of the Secretary.

The PRESIDING OFFICER. The Chair advises the Senator that his time has expired.

Mr. SANTORUM. I ask unanimous consent for 2 additional minutes.

Mr. EXON. Reserving the right to object, as long as it would not be extended longer than the 2-minute period. We have a problem. The Senator from Michigan has to assume the chair, people have to catch airplanes.

In deference to the Senator, I will not object.

Mr. SANTORUM. I will take 1 additional minute.

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

Mr. SANTORUM. I just wanted to include this in the RECORD and comment that in the 104th Congress, the Congress we are in right now, we have been in 36 days, 316 hours and 3 minutes of debate, 97 votes.

It is unprecedented the amount of time we have spent here in this body to try to move things forward. We have cooled it off, we have debated it, and we got two bills passed. Only one has been signed into law.

If you look at other Congresses through February, in the last Congress they were in 19 days, compared to 36, and only had 91 hours of debate. In 1991, 29 days in session, 145 hours of debate; 1989, 16 days in session, 43 hours of debate.

The fact of the matter is we are working hard, we are debating long, and we are not accomplishing a whole heck of a lot. Cooling off is one thing; stonewalling is another.

What we need to do, I implore my colleagues and the American public, is to rally to the defense of what the voters in November asked for, and move some things forward.

I yield the floor.

Mr. EXON. Mr. President, I ask if I may yield to my colleague from Michigan for a statement, and I ask unanimous consent that I might yield for whatever short period he might need to my friend from Michigan.

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

IN MEMORY OF ED PRINCE

Mr. ABRAHAM. Mr. President, it is with great sadness and a deep sense of personal loss that I note the passing yesterday of a close friend, Mr. Ed Prince of Holland, MI, a successful businessman, family man, and philanthropist.

I had the privilege of knowing Ed Prince and his family for a number of years. Ed was a self-made businessman who took seriously his Christian duty to help his neighbors and others less fortunate than himself.

After quitting his job as chief engineer at the local machine works in Holland, MI, Ed started his own automotive components company. Now that company employs 4,500 people and is the Nation's largest producer of die cast machinery.

But Ed did not let concern with the bottom line take him away from his Calvinist roots and family values. He devoted time and money to family causes on a local, State, and national scale. He was a major contributor to his church, local charitable organizations, and such national organizations as the Family Research Council and Focus on the Family.

Perhaps Ed's greatest accomplishment, other than serving as an exemplary husband and father, is his commitment to his hometown of Holland. When downtown Holland began struggling financially, Ed and his wife Elsa came to the rescue. They bought a number of downtown buildings, refurbished them, and sold or leased them back to small businesses. They even put heaters under the sidewalks so folks could come downtown during Holland's severe winters without fear of slipping and falling or being disinclined because of the winter.

I also know the residents at the Evergreen Commons Senior Center, a facility which I have visited, will miss Edgar and his support. He gave $1 million to that organization so that Holland's senior citizens could maintain their dignity while being helped in their old age. He also has been a major contributor to colleges in his area—both Calvin and Hope colleges owe him a great debt of gratitude. As his pastor, David Guerrin, remarked, "He used all of his resoruces—both personal and financial—not as an end in themselves, but always as a means of glorifying God."

Those words constitute a fine tribute to a great man, a man to whom I also owe a great debt of gratitude for the example he provided through his generosity, strength of character, and spirit of fellowship toward his community.

Mr. EXON addressed the Chair.

The PRESIDING OFFICER. The Chair recognizes the Senator from Nebraska.

Mr. EXON. Will the Chair explain to the Senator, are we in morning business, and are there time restraints on the amount of time that we are allowed to speak under the order?

The PRESIDING OFFICER. That is the order of business, and the time limit is 5 minutes.

Mr. EXON. Mr. President, I will try to stay within that timeframe. I might request an additional minute or 2 if I run out of time.

I want to start out, Mr. President, and briefly compliment my great friend and colleague from West Virginia. There is no Member that I have served more proudly with in the U.S. Senate than ROBERT BYRD. He is a very learned individual, and I listened and I have listened before to his great and persuasive arguments as to why the constitutional amendment should not be placed in the Constitution. And he has made some excellent points.

He did not change my mind, but he made me quiver a few times. I simply say that I thought the statements, the way Senator BYRD, as usual, handled himself in a very professional, gentlemanly manner, made his points very, very well, and I am proud to serve with him. I am proud to serve with all of the Members of this body, even those who of course did not agree with my vote yesterday in support of the constitutional amendment.

Nevertheless, I think it has been a very healthy debate. Basically, the reason this debate has been kept on track is because it has been the herding, keeping the locomotive of straight talk on track, by the Senator from West Virginia.

Let me address some of the concerns I have. The main concern that I have—and I would like to say despite the fact that the balanced budget amendment did not pass yesterday, the world has not come to an end—I hope the comity and the understanding of Members on both sides of the aisle and on both sides of this important and contentious issue is such that we can move ahead in some kind of a proposition to bring our spiraling deficit and skyrocketing national debt under control.

We can lament the fact that the balanced budget amendment failed by one vote yesterday. I think it is safe to assume that those Members who supported the balanced budget amendment think little is served by whipping or arguing at great length about maybe calling it up again tomorrow and turning it around. That is not going to happen. I will simply say that I hope we can leave politics as much as possible out of this debate.

Having said that, I simply say, as a person who has always voted for a balanced budget amendment, I think that even with the great talents and arguments—many of them sound—that Senator BYRD and others advanced, we probably would have carried the day on the balanced budget amendment had it not been that politics got involved in this matter very early.

Not long ago, the Republican National Committee, with their vast resources, decided they were going to put some pressure on Democratic Senators in certain States of the Union, and they went into those States and in some cases enlisted the Republican Governor of those States to attack publicly, at the expense of the Republican hierarchy, to bring pressure to bear.

The facts of the matter are that that backfired. The facts of the matter are—and I am a pretty good vote counter in this body—I think that that activity, as much as anything else, was a prelude to the defeat of the balanced budget amendment yesterday.

There were some talks today, unfortunately, on the floor of the Senate about people resigning because they changed parties and all of these kind of things, which brought a retort, of course, that possibly others who had voted for this previously and did not vote for it this time should resign.

I do not think that kind of debate contributes much to the basic understanding, to advise the people on what the situation is. Let me say in the first place that I believe that there were mistakes made on both sides. I have cited what I think was a critical mistake when obviously the hierarchy of the Republican Party decided to politicize this debate, and if we look at the States where they advertised, we will see what I think is proof positive that their actions were ill advised, bad politics, and certainly bad strategy from the standpoint of passing the constitutional amendment.

Everywhere they tried, they failed. In fact, I happen to feel, in conversations I have had with several of my colleagues that were caught in that attack, that it probably caused them to swing against the amendment, among other reasons. So it was counterproductive.

I will also say that one of the problems I had with the constitutional amendment that I voted for was the fact that the hope was held out—in fact, it was almost a promise—that if we passed the constitutional amendment to balance the budget, we would do so by the year 2002. Well, the facts of the matter are that had we passed that constitutional amendment yesterday, and had we not had a war between now and the year 2002, or a serious downturn in the economy, if everything went according to schedule, we still would not have balanced the budget the way most people think the balanced budget would have worked.

I simply say it would have been far better, it seems to me, had my friends on the other side of the aisle, with whom I worked closely on this, been more upfront and said, "Yes, we would not have actually balanced the budget by the year 2002 because we intend to use the amount of money that we protect and are going to continue to protect that is called the Social Security trust fund."

So, therefore, it should have been said up front that if this constitutional amendment passes, we will balance the budget of the Federal Government by the year 2002, except for counting the surplus in the Social Security trust fund. I think that is evident, and it is evident by the fact that it came up in discussion but has not been, I think, fully understood.

Having said that, I do not agree. I did not agree and I disagree with those on this side of the aisle who, I think, made some very good political points by talking about the looting and the raiding of Social Security. Certainly, I think that was not the intent of all but one of the Members on that side of the aisle who voted for the amendment. It certainly was not the intent of this Senator. But I recognize that it was a good political argument to make.

I do not believe that any of us who were supporting a constitutional amendment—I can only speak for myself, but I have some knowledge of the thinking that went on of others who were supporting this—that we were simply saying we were not raiding anything. We were simply recognizing the fact that some people do not understand; and that is that the Social Security trust fund is presently invested in T bills, securities of the United States of America fully backed with the faith and credit of the United States of America, and there is no way that we could or should raid those funds to balance a budget.

Another way of saying that is a bookkeeping procedure, because clearly the law says that we cannot invest trust funds, especially Social Security trust funds, but all trust funds, we cannot invest them in the stock market or other speculative propositions, only in Government securities, basically T bills. So there was no raid on Social Security in the actual sense of the word.

Let me simply ask, where do we go from here? It seems to me, although the balanced budget amendment would have given us the discipline that I think is necessary—it is not there for many and varied reasons—therefore, that we should press on very aggressively to begin to balance a budget now without the constitutional amendment, as most of us said we hope we could do.

I probably think the best way out of this is simply pass a resolution that the Budget Committee should report out, according to present law, by April 1, a budget that will balance the budget by the year 2002, or whenever. I will simply point out that the present law clearly states that you cannot use the Social Security trust fund to balance a budget. So I hope that possibly we could pass a resolution directing the Budget Committee to come out with a balanced budget amendment, notwithstanding the fact at least of now we are not going to put it in the Constitution, there is no reason why we should not press forward.

I simply say I think people of good will should put politics aside now and try to work toward balancing the budget the only way we have available to us at the present time, and that is the will, the good fellowship and support of the men and women who serve on the Budget Committee; direct them to come forth with a balanced budget amendment by some period of year, hopefully 2002, that could balance a budget the way we have to balance a budget in the absence of a constitutional amendment to do so.

I thank the Chair, and I yield the floor.

Mr. MURKOWSKI addressed the Chair.

The PRESIDING OFFICER (Mr. ABRAHAM). The Senator from Alaska.

EXTENSION OF MORNING BUSINESS

Mr. MURKOWSKI. Mr. President, I believe morning business was to expire at 1. I ask unanimous consent that morning business be extended until 2 p.m., under the same arrangement that was initiated for the previous morning business schedule.

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

MANDATE OF SELF-DISCIPLINE

Mr. MURKOWSKI. Mr. President, I would like to reflect on what I consider a reality. It seems to me that we have managed to do it again. We have put off taking the medicine necessary to correct the accumulated deficits that we have been running because we have again refused to impose a balanced budget mandate in our Constitution. Let me just reflect a little bit on how this body seems to work with unsolvable problems.

We all remember the extended debate on base closures, the fact that we could never agree whose base would be closed. So we finally consented to bring about the creation of a commission staffed by knowledgeable people who would independently evaluate priorities of base closures. The Commission would examine all relevant evidence presented by the individual military services and then make specific recommendations on a package. Congress

would then be given the opportunity to vote up or down on that package.

We saw what happened to that Commission yesterday. We voted unanimously to extend the Commission because it has worked. It worked simply because the other alternatives did not work.

I am kind of a bottom-line person, Mr. President. It seems to me that we have attempted to address our deficits by statute in the past. You remember back in 1985, we had Gramm-Rudman I. And it was our conviction that this would bring about control of runaway spending and it would bring about an end to the continued deficits.

Under Gramm-Rudman I, we were going to have a zero deficit by 1991, at least we were supposed to. Then we had Gramm-Rudman II in 1987. That was supposed to bring about a zero deficit by 1993. It did not work. Then we had the 1990 budget agreement and that was supposed to bring about the decline of the deficits. Under that agreement, the deficit was supposed to be $83 billion. In reality, the deficit for 1995 is more than 100 percent higher—$205 billion.

If we look at our short history relative to trying to correct this matter since 1985, one has to come to the conclusion that statutes do not worked.

I was somewhat amused by the editorial in the Washington Post this morning which suggested that amending the Constitution was the wrong way to do it; we have the capability to do it and, therefore, we should do it. But the fact remains, Mr. President, we did not do it then and we have not done it now. It simply is not going to be addressed. I think the attitude of the American people is that we simply do not have the self-discipline to reduce spending, we do not have the self-discipline to reduce the rate of growth of entitlements, we have simply left the entitlements on automatic pilot.

I reached the conclusion some time ago—and this is the basis for my support of the balanced budget amendment—that since nothing else has worked, this obviously would bring about a mandate to the Congress, and that mandate would be self-discipline.

There is one other factor that I think is important, and that is how the American people are going to view this. Social Security has been mentioned, but it would seem to me that the people of retirement age that are dependent on Social Security, and those who are about to be, have a conscious awareness of the realities associated with the monetary system of this country. We can look at Mexico and see what happened—too much debt.

I do not know, Mr. President, if you have observed what is happening in Canada, but 29.6 percent—29.6 percent—of the Canadian budget is interest on their debt. That is nearly one-third.

We are running deficits each year, Mr. President, but the difficulty with it is that the interest on the accumulated debt now is more than the deficit. So the reality of this action, or lack of action taken by this body is really one that has to be addressed.

Mr. President, I think we have a situation where we have to recognize we do not have the self-discipline to eliminate the deficit. Our monetary system, as we know it, is very much at stake. We should have given the American people, through their State legislatures, the opportunity to decide whether the Constitution should be amended. It takes 38 States to amend the Constitution. There would have been a great debate.

I think by not giving the American people the opportunity to be heard on this matter, we have done a great disservice to them and to ourselves, and we have not corrected the problem that has been addressed in this body over the last several weeks. I think that is, indeed, unfortunate.

I thank the Chair.

(The remarks of Mr. WARNER pertaining to the introduction of S. 496 are located in today's RECORD under "Statements on Introduced Bills and Joint Resolutions.")

THE MEXICAN PESO

Mr. BENNETT. Mr. President, I rise to discuss a situation that has been before us in the Chamber previously.

We were all caught with some surprise earlier this year when the Secretary of the Treasury and the Chairman of the Federal Reserve Board came before a group of Members of Congress, House and Senate combined, to tell us of the crisis in Mexico and to ask for our support for a proposal to extend $40 billion in loan guarantees to the Mexicans.

My initial reaction to that proposal was one of support, as were the reactions of the leadership of both parties in both Houses. Mexico is enormously important to the United States, economically and culturally. In addition, if we want to become crass about it, there are some 750,000 American jobs that are in jeopardy if the Mexican economy should collapse. It made sense for the United States to do what it could to reach out to the Mexicans and try to support their economy, and I supported the administration's request.

As we got into the details of the deal, however, it became clear to me, as it did to a number of other Members of Congress, that the $40 billion loan guarantee was not a good deal, and we advised the Treasury of that. We urged them to come up with some alternative proposals, and they did. To their credit, they listened to the Congress and they proposed the second deal which I stood on this floor and endorsed in principle. It involved $15 billion from the Exchange Stabilization Fund and $5 billion under control of the Federal Reserve for a total of $20 billion in American money and the rest from international sources.

I praised that deal because it increased the participation to include other governments besides our own, and it injected the expertise of the Federal Reserve Board into this circumstance which was not directly the situation previously.

I was forced to come to the floor to express some reservations in a later speech about how this deal was being put together. When it was finally announced and the specifics were signed in the White House, I was shocked, and quoted as being shocked in the national press, by the statement by the Mexican Minister of Finance, Mr. Ortiz, who said we will use this money to shore up our banks, to put more capital into the Mexican banks. That was not what I had understood the deal was going to be. I said I hope it works, but I still think the thing we should do is to get the Federal Reserve Board involved in extinguishing pesos.

Well, Mr. President, Mexico is back in the headlines with the news of the arrest of President Salinas' brother, the accusation being that he profited improperly and enormously from the privatization program that went on under President Salinas, and then the occasion of his arrest on the accusation that he had a hand in the political assassinations that took place in Mexico that helped upset the stability of that nation.

I had dinner just the other evening of this week with people who are doing business in Mexico who say that the economic conditions there are worse than they were in 1981. For those who may not remember the 1981 devaluation, the peso prior to that devaluation was trading at 3 to the dollar. By the time they finally eliminated that peso and replaced it with the new pesos, it was 3,000 to the dollar. And again I say, people doing business in Mexico now are saying it is worse than it was in 1981.

The Mexican Government is still printing pesos as if they had not learned the lessons of 1981 and the lessons of the recent devaluation. I see no action on our part by the Federal Reserve Board to try to extinguish pesos. Perhaps that is logical. If the Mexicans are going to continue to print them, the Federal Reserve Board obviously should not be involved in trying to soak them up.

More in sorrow than anger, I come to the floor now to say it is my opinion that this attempt, well meaning and one which I supported, to aid the Mexicans in their hour of great distress is failing. I stand ready, if the Treasury is interested, to make continued recommendations as to what might be done. But I hear these stories about the assassinations, the breakdown of Mexican political institutions, and the information that the central bank and

the Mexican Government are continuing to print pesos, and I find myself distressed and discouraged at the prospect. It is not a pleasant one. If our neighbors immediately to the south go back into the abyss of the economic disasters that they went through in 1981, it is not just they who will suffer; we in this country will suffer, and I am filled, as I say, with distress and anguish that the American attempt to help them for whatever reason has failed.

Mr. WARNER addressed the Chair.

The PRESIDING OFFICER. The Senator from Virginia.

Mr. WARNER. Mr. President, I ask that I be permitted 2 or 3 minutes to say to my distinguished colleague from Utah that I wish to associate myself with the remarks he has just completed. I have been counseling with him some several weeks now on this subject, and I would like the Senate to know how much time the distinguished Senator from Utah has devoted to independent analysis and research of this subject. I, too, from the very beginning was deeply concerned with the propriety and the manner in which the United States addressed this issue. To date, I have not been able to ascertain enough facts to enable this Senator to reach a final conclusion. However, I am concerned that the actions that our Government has taken will benefit many people who were involved in this transaction from the beginning for purpose of making unusual profits as a consequence of the high interest rates involved.

I also regret that Congress did not become more involved, that time was not permitted to allow hearings so that we could have had a better understanding of the facts. I firmly believe that Congress should have participated in making the decision on this important matter.

I will continue to work with my distinguished colleague from Utah and others to assess this situation in hopes that someday we can provide for the American people and others a complete set of facts as to how this crisis occurred, how it was addressed, and who was to profit and who was to lose.

We have all expressed our compassion and concern about the people of Mexico. Indeed, there is no one who does not feel a desire to help them. That was expressed by the recent action of the Congress, and indeed the President, in certain trade agreements. However, this particular situation still has a large element of mystery that must be resolved in a manner that the American people fully understand.

I thank my colleague.

I yield the floor, Mr. President.

The PRESIDING OFFICER. The Senator from West Virginia.

Mr. BYRD. Mr. President, I ask unanimous consent that I may speak out of order and that I may speak for not to exceed 30 minutes.

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

THE SENATE AND THE CONSTITUTION

Mr. BYRD. Mr. President, I have come to the floor and waited because other Senators wanted to speak, and they were conforming themselves to the order providing that Senators may be permitted to speak for not to exceed 5 minutes. I did not want to attempt to go ahead of anyone who had been waiting. I believe the time has come, now, when I will not be imposing on other Senators who have wished to speak.

I was also told that the distinguished majority leader wanted to come to the floor. I talked with the assistant majority leader and he indicated that he felt Senators would soon have completed speaking so that I would have more time.

Mr. President, Kipling was a great British poet. One of his great pieces of poetry is "The Heritage." If I may at this moment just recall a couple of verses of "The Heritage."

Our fathers in a wondrous age,
Ere yet the Earth was small,
Ensured to us an heritage,
And doubted not at all

That we, the children of their heart,
Which then did beat so high,
In later time should play like part
For our posterity.

* * * * *

Then fretful murmur not they gave
So great a charge to keep,
Nor dream that awestruck time shall save
Their labour while we sleep.

Dear-bought and clear, a thousand year
Our fathers' title runs.
Make we likewise their sacrifice,
Defrauding not our sons.

Mr. President, I feel very deeply that on yesterday the Senate rose to meet the test that was before it and, in doing that, it had in mind our posterity. I think it was a truly great moment in the history of the Senate. I have, from time to time, seen the Senate rise to meet such an occasion, when the occasion demanded courage and perhaps some sacrifice.

We had a thorough debate on the balanced budget amendment to the Constitution. It was not overly long. In terms of lengthy debates, my mind goes back to the 1964 Civil Rights Act. That measure was before the Senate 103 days—from March 9, when the motion to proceed was first offered—by Mr. Mansfield, I believe—until June 19, when the rollcall on the last vote was completed. The motion to proceed took 2 weeks, and then the bill itself was before the Senate for a total of 77 days, with actual debate thereon consuming 57 days, including 6 Saturdays.

I hear, from time to time, the tabulation of the number of hours that we have spent in this Senate on this bill or that bill—100 hours, or 115 hours and 43 minutes, or whatever it may be. I am somewhat—perhaps not amused, but perhaps I regret that we view the role of this Senate and our responsibility as Senators in the context of how many hours we may spend on a matter that is so vital to the Nation as is a constitutional amendment, and especially the constitutional amendment that we have been discussing over the past 33 days.

I have risen to express appreciation to the distinguished majority leader during these days, and to the distinguished manager of the bill on the majority side, Mr. HATCH. I thought we had a good debate, and I have no complaint concerning the time spent. I thought we had spent enough time, to inform ourselves and the American people, and it was, therefore, time to vote. We had reached a point where minds and intentions were pretty much solidified and it was time for a vote. That time was well spent, Mr. President. I do not think it is the role of the Senate to move legislation through this body expeditiously for the mere sake of expedition. We got started early in the year, as I have previously praised the majority leader for that. And we have not had any recesses. I have previously commended the majority leader for that. We have had too many recesses in recent years; too much accommodation of Members. We do have to accommodate one another here. But we have had too much accommodation, often at the expense of thoroughness of debate.

I have been a Member of the Senate for a long time. Only one other Member of the body has been here longer. I have been here when there were all-night sessions, long sessions, Saturday sessions. At times, these are necessary. If it is necessary that we have lengthy sessions, without recesses, to get our work done, then I do not quarrel about that. I feel it is my duty as a Senator to be at my post of duty, whether it is 10 o'clock on Monday morning or 10 o'clock on Saturday night. Duty calls, and I shall be at my post of duty.

Therefore, I am not overwhelmed by references to the number of hours or the number of minutes that we have spent on this or that bill. I think we sometimes are prone to overlook the purpose of the Senate and of its being. I, too, came from the House of Representatives. I came from both houses of the West Virginia Legislature. Forty-nine years ago, I first ran for office. So, my life—most of it—has been spent in various legislative bodies. The House of Representatives plays an important role. But the Senate was not meant to be a second House of Representatives. It was not meant to be a body in which speed in legislating was the overriding standard by which we measure our actions.

I praise the Senate. The debate was a thorough one. We have had thorough

debates too infrequently in recent years. Everything seems to have been measured for the purpose of accommodating Senators' schedules. Unanimous-consent agreements have been entered into so much—I probably have arranged more unanimous-consent agreements than any other Senator in the history of the Senate, because for 22 years I was in the leadership in this Senate in one position or another. Even under my predecessor, Mr. Mansfield, who was a very fine Senator, and a fine leader, who served longer as majority leader than any other Senator has served, but he was perfectly happy to have me do the floor work. And I did it. I stayed on the floor. If anyone wanted to know where ROBERT BYRD could be found at a given time, they could go to the floor of the Senate. They would find him there.

Therefore, I for many years studied the rules and precedents of the Senate and its history. My reverence for the Senate grew as time went by. I do not claim that I walked into the Senate with it. The reverence that I have, came as the years have come and gone. I revere the Senate. My reverence was reinforced in this recent debate.

Let me read what Daniel Webster had to say about the Senate on March 7, 1850.

> Mr. President, I wish to speak today, not as a Massachusetts man, nor as a northern man, but as an American, and a Member of the Senate of the United States. It is fortunate that there is a Senate of the United States; a body not yet moved from its propriety, not lost to a just sense of its own dignity, and its own high responsibilities, and a body to which the country looks with confidence, for wise, moderate, patriotic, and healing counsels.

I think that the Senate rose to its full measure of duty in the course of the recent debate. I can understand the emotions of different Members in the Senate and their purposes for voting for or against the constitutional amendment to balance the budget. There are those who felt deeply that by the amendment, the Social Security trust fund would have been raided. I share that view to some extent. But, Mr. President, I hope that we do not lose sight of the fact that, at least in the opinion of some of us here, what was about to be raided, was the Constitution of the United States.

I have voted for constitutional amendments before, as I say. But on this occasion, we were about to adopt a constitutional amendment that would go to the very heart of our structure of republican government, with its mixed powers, its checks and balances. Additionally, we were about to write into that Constitution a fiscal theory or fiscal policy which, in the minds of many who are far more expert than I, with respect to the economy and with respect to fiscal matters, would have been very destructive of this Nation's economy and would have resulted in economic chaos.

To me—to me—the greatest disaster that we in this body could bring down upon our Nation and its republican form of government, would be to adopt a constitutional amendment such as was rejected on yesterday. And I hope now that we will get a little bit above and beyond talking about additional efforts to write such an amendment into the Constitution—a Constitution that has served our Nation so well for 206 years and that was created by men with great intellect, great wisdom, great experience, great vision. I trust that we will not let politics govern us in our judgments here with respect to tampering with the Constitution of the United States.

We are all politically partisan to some extent. I do not envy the job of the majority leader or the job of the minority leader. Theirs is a tough job. When I became majority leader, I probably lost 10 points in West Virginia. I had been accustomed to winning by 89 percent, or at least very high percentages. When I became majority leader, and majority whip before that, and even secretary of the Democratic conference before that, as I moved on and took over the main party leadership duties, I realized that I also had a constituency here in the Senate whose ideologies ran the entire spectrum, from one end to the other. Consequently, the duty of party leadership impacts on one's votes and his way of seeing various issues and what his duties are. A leader has to remember that he has duties to his constituents who send him here, duties to the Nation, duties to his State, and duties to his constituent colleagues here in the Senate who elect him to the party leadership position which he has sought. I know the pressures that build on both leaders.

I do not envy those who carry such pressures. I worked with Mr. DOLE for a good many years in different capacities—as minority leader and as majority leader. I always worked well with him, and he with me.

As I look at our new leader on this side of the aisle, I admire him. I think he demonstrated true statesmanship in his leadership on the amendment. It was difficult for him. But he rose to the needs of that critical hour of yesterday, and he helped all of us to come together and to reach a decision. There were other profiles in courage—Senator HATFIELD, as I have previously mentioned, and others whose names I laid into the RECORD on yesterday.

Mr. President, I hope we will put away the seductive attraction of a constitutional amendment to balance the budget as we try to deal with this very serious problem that confronts our country. A constitutional amendment to balance the budget, I suppose, would be, to some proponents, a political cover for serious actions that they very well know are going to have to be taken if we are ever going to effectively reduce the deficits. They seek such a political cover to which they can point when their votes are needed to raise taxes or to cut programs. They can then point to a constitutional amendment that has been welded into that organic law and say, well, that made me do it.

Mr. President, that is a terrible price to pay. We ought not seek that cover, because it is purely a political cover and it comes at the price of the Constitution. We ought not do that to our children and grandchildren. We do owe it to our children and grandchildren to come to grips with this problem—the debt, the deficits, the interest on the debt. And we have operated on a national credit card for the last dozen to 15 years.

There is going to have to be some pain involved in any deficit reduction plan, if it is to be truly effective. I deplore the current talk of tax cuts. Having been a legislator now for almost half a century, I know how easy it is to vote for tax cuts. I know how hard it is to vote for tax increases. I have voted for some of both. But, Mr. President, we cannot face this terrible debt—it is almost $5 trillion—this terrible deficit and the interest on the debt, and talk glibly about cutting taxes and balancing the budget, while keeping defense and other programs off the table. It is a joke. We ought to go to the mirror and look ourselves in the face, look ourselves in the eye and ask, "Do you really believe that we can get a handle on these terrible deficits and continue to cut domestic programs that are for the well-being, security and happiness of our people, and, at the same time, cut taxes when the economy is good and unemployment is down?" I just cannot believe we are living in a real world. If anything, we are going to have to increase taxes. If we really mean business about getting the deficits under control and balancing the budget by the year 2002 or 2010, whatever, we have to understand that we are going to have to pay a price, and it is going to be painful.

I have heard the gauntlet thrown down today. We will see how many Senators will vote for tough proposals, it is said. But I note always that nobody includes in those tough decisions the possibility or the probability that we may even have to vote to increase taxes. If we really mean to be serious about balancing the budget, we ought not leave possible tax increases off the table. It is certainly foolish to talk about going in the other direction and cutting taxes in the present climate.

I hope, Mr. President, that we will put yesterday behind us. I have always tried to be magnanimous in defeat as well as in victory. It is easy to be magnanimous in victory. The test is, can one be magnanimous in defeat? We ought not look back. Lot's wife looked

back and she became a pillar of salt. We ought not look back to yesterday. We ought not rake over the old ashes of yesterday. I hope that the American people will not perceive us as being Senators who put politics ahead of the good of the Nation. Political party is important, but George Washington warned us against party and factions.

I am a Democrat. I grew up in a coal miner's home. They were Democrats who raised me. I have never read a political party platform, State or national. I do not have any intention of ever reading a party platform. Party is not first, last, and always with this Senator.

It is not the alpha and the omega, the beginning and the end. There is life beyond political party. Party ranks with this Senator somewhere down about here (pointing)—not up here. We will, of course, have political parties as long as the Republic stands, I am sure.

But I fear that the people must be discouraged, perplexed, and saddened when they listen to some of the things that are being said here about what happened yesterday. It is sad. The people must surely believe that party is everything to us politicians. Party is important, but the people must not get the impression that some of us see the Senate as merely a crucible in which to mold the party's fortunes over the next 50 to 100 years. Mr. President, that is a sad impression to convey.

We hear a great deal about the so-called Contract With America. Mr. President, I, too, ran in the last election. The primary criticism that my opponent used on me was that I had defeated a balanced budget amendment to the Constitution. "Vote ROBERT C. BYRD out of office and we will get a balanced budget amendment to the Constitution," he urged. So that vote was used against me.

But I carried all 55 counties in my State. I am grateful for the faith of Democrats and Republicans and Independents in West Virginia. They gave me every county for the first time in the State's history. I have carried every county in primaries before, but no candidate for office in a statewide, contested general election in West Virginia has ever carried all 55 counties. I carried them all. I am not bragging. I am simply saying that this issue was used on me in the last election.

I voted for a constitutional amendment to balance the budget back in 1982. I voted against a constitutional amendment to balance the budget in 1986. I voted against a constitutional amendment to balance the budget in 1994.

So why did I change? I began to look at this issue and to study it. I came to the conclusion that I had voted the wrong way in 1982. I have changed my viewpoint and I will never—never, never—again vote for a constitutional amendment to balance the budget.

I do not think such an amendment has any business being in the Constitution. Our Framers did not believe that fiscal policy or fiscal theory should be written into the Constitution of the United States. They believed, and rightly, that fiscal policy should be left to the elected representatives of the people, because, when one considers the vicissitudes of time and the vast vacillations in the economy, the changing circumstances from month to month or year to year, then one should surely perceive that fiscal policy is something that should remain flexible and outside the verbiage of the Constitution. It should not be welded into the Constitution, where it would be inflexible and rigid and would result in chaos.

One cannot but conclude that this business about a constitutional amendment to balance the budget has become the Holy Grail in the minds of many politicians. But we do the people of this country a great disservice, in my judgment, when we lead them to believe that a constitutional amendment to balance the budget will correct the fiscal ills that confront us. Sooner or later, we will rue the day that we did it. It will be regretted.

Moving toward the goal of a balanced budget is a job that has to be done. And sometimes, one may have to be willing to sacrifice his political career to achieve that goal.

One may say, "Well, look at him. He's 77 years old. Perhaps he doesn't have much of a political career left."

But let us not be too quick to judge. I have taken difficult positions before in this body that have cost me votes.

Yet, when one stands on a principle in which he believes, and, concerning which he has given the most serious study and reflection over a period of many years, then, he may say,

come one, come all! this rock shall fly
From its firm base as soon as I!

as did Fitz-James to Sir Roderick in Scott's "The Lady of the Lake."

One may so stand if he stands solidly on principle. Even those who disagree with him will say, "Well, I don't agree with him, but he says what he believes and that is what we want. He takes his stand."

I do not hold myself to be a paragon of principle. But having been in politics 49 years and having lived 77 years, I have learned a few things along the way. One cannot compromise principle and expect to be able to defend his position with passion and with conviction.

Winning the White House is important. Winning control of the Senate is important. Winning control of the House is important. Winning reelection is important. But all this shall pass. In the final conclusion, when one walks out of this Chamber forever, he has to look in the mirror and he will say, "Old boy, you stood the test." Or he has to look at himself and in his own conscience know that, on the great national issues of the day, he failed to stand the test.

Conclusions on great national issues should always be reached by much study. And people sometimes reach different conclusions after much reflection. I say that this amendment is not worth the price—it is not worth the price—of shooting an arrow into the heart of the charter of the people's liberties.

This amendment, in my judgment, would have brought about the destruction of the constitutional system of mixed powers and checks and balances. And that is the central pillar of the charter of our liberties.

That was the genius of the Framers of the Constitution. They were men of great experience. They knew about the history of Englishmen, who had shed blood for the liberties of Englishmen and for the right of the people to elect their representatives to Parliament. The people of England, sometimes with the sword, found their way to what became the great British Constitution. It is not written, except in the form of certain documents, certain statutes, the Petition of Right, confirmation of the charters, the Magna Carta, court decisions, custom, and so on.

Our forebears knew about that great British Constitution. They knew the history of the struggle of our forebears in the motherland. James Wilson was born in Scotland. Robert Morris, who was the financier of the revolution, was born in England. Their roots to the motherland were very close to them. They also knew about classical Rome.

I have read that a certain Senator spoke derisively about my yen for Roman history and for taking up the time of the Senate to talk about my little dog Billy. Well, I only have this to say. If one does not study history, he is not likely to be remembered by history. As far as my little dog Billy is concerned, during my long life I have at times thought that the more I learn about dogs the less I think of some people. There is no deceit in Billy. No deceit in a dog. No devious ways in a dog. But I accept those criticisms and laugh about them.

Mr. President, the Senate did the right thing yesterday, and I make no apology for my part. We all at times get carried away and perhaps say things, perhaps a little untactfully, but one cannot expect always to be absolutely perfect in his approach to things. I look at yesterday's passing as something that is gone. I hope other Senators will look at things of the past in the same way.

We all have a job to do here. We ought to recognize that the American people have reposed their confidence in us. This is an honor, Mr. President, that should weigh heavily upon every Senator. The American people did not have to send me here. The people of

West Virginia did not have to send me here. They did not have to return me when I sought to be returned. They demonstrated the same faith in each of us, and they expect us to carry out our responsibilities.

What the American people would like to hear from their representatives is the truth. We do the people of this country a great disservice when we play upon their emotions and when we play pure politics with the vital concerns of a nation that confront us here.

Surely we must know that in our hearts. I hope we will turn our backs on yesterday and that we will seek to come together, because achieving a balanced budget will require bipartisanship. We can keep on pointing the fingers and bickering and trying to jockey around and get the upper hand in a political squabble, looking to the next election. We can point the fingers at those who voted this way or that way or some other way, but each time I point my finger at you, Mr. President, I point three fingers at myself. I point three fingers at myself.

For God's sake, can we not forget politics once in a while? Does politics mean everything? Does politics mean that we have to scramble and scratch and crawl over the bodies of other people to achieve victory for a political party? The Framers did not know anything about the Democratic Party or the Republican Party when they wrote that Constitution. It saddens me.

We are all politically partisan sometimes, but, Mr. President, we should not pay just any price for political victory. Not just any price. Every day that goes by, I feel a greater appreciation for this Constitution. I have read all of the 85 Federalist Papers. Five by John Jay: the second, third, fourth, fifth, and 64th Federalist Papers; two-thirds of the papers, approximately, were written by Hamilton; and the remainder by Madison.

If one really wants to get a true understanding of this political system, and if one really wants to marvel at the genius of the men who wrote this Constitution, let him or her read the Federalist Papers. The Framers were well-acquainted with Plutarch, and Polybius, Tacitus, Livius, Suetonius, and other great ancient historians. They also knew the history of England. They were familiar with Montesquieu, Locke, Plato, Aristotle, Cicero—they were men who counseled with history.

Yet, here we are, tinkering with their handiwork as though it were a platform in some so-called Contract With America. I have not read the Contract With America. I do not owe it any allegiance. None! I try to remind those who may feel a little perturbed by that, that I also do not read any Democratic or Republican platforms. But I do read the Constitution. And it is too magnificent a piece of handiwork—by the most illustrious gathering of men that ever met anywhere at a given time in history—to risk destruction by an amendment to balance the budget. Here we are, with our little feeble perceptions, attempting to tinker with that great document. Not only to tinker with it but to tinker in a way that would destroy the fundamental pillars of its structural design.

There was never anything like it—never—in the history of the world, and we Pygmies, 206 years later, would assault, by way of a political amendment—a political amendment to give ourselves cover—assault that Constitution. This was not a proposed statute yesterday we were talking about. A statute can be changed, as we all know, by the same Congress that enacted it, but not so with a constitutional amendment. Not a constitutional amendment.

Men have died and shed their blood to keep in place this fundamental charter of liberties, unblemished, untarnished, and unstained. And here, we go about glibly talking about a constitutional amendment to that great document—a document so great that we refer to it from time to time as being immortal.

We should not look back on yesterday as a defeat. It was a victory for the American people. They may not realize it, but it was a victory for the American people. There were courageous men and women here who stood firmly against the amendment.

I do not denigrate those who voted the other way. A lot of those men and women have courage, too, and they have good intentions. But study that Constitution! Study the Federalist Papers! Study the history of the United States of America, study the history of England, study the history of Rome, study the history of the ancients, and then match the wisdom you have acquired with that of those who know little about history, who care even less, who know little about the Constitution, apparently, and who put party—political party—ahead of everything.

There are many things above party—one's family, his duty to his Maker. That is first, and his duty to his oath to support and defend the Constitution of the United States.

Mr. President, I think we ought to try to bind up our wounds. We all ought to look ahead and work together with the goal in mind and in heart that we are going to reduce the budget deficits, even though it hurts. I do not like to vote to increase taxes, and it is not because I am 77. Who knows, Abraham lived to be 175. I may be around awhile yet. No man knows how long he will be around, whether he will be around for the next election or not.

Boast not thyself of tomorrow; for thou knowest not what a day may bring forth.

While we are here, let us be true to our oath, and let us be able to look in that mirror when the last day comes and say, "Old boy, you didn't bend."

So I hope we will move away from this talk that, well, I want to vote for a constitutional amendment to balance the budget, but this is just not the right amendment. Mr. President, in my view, there is not any amendment that is the "right amendment" to the Constitution when it goes to the heart of the constitutional system of mixed powers and checks and balances and when it comes to writing fiscal policy into that great document. It has no place in the Constitution. Forget about it.

Let us move away from that plateau. That is a low plateau. Now that the amendment has been rejected, let us get down to business and work on the problem. Let us all be willing to take a little skin off the finger or off the back of the head, or wherever. If it means cutting some of my programs that I am interested in, well, we will just have to cut them. I took a cut yesterday in the Appropriations Committee, several million dollars in respect to something that is very vital to my State, coal research. I said somebody has to give.

Now, let us take that attitude. I do not want to give on everything, but we all have to give up something. Let us not challenge other Senators' courage by saying, "We'll see if you vote for the tough decisions" unless we are also willing to lay on that table another tough option—the option of tax increases. Then the American people will understand we mean business.

Mr. President, as I conclude, I have been in the minority and I have been in the majority. I have won at times, and I have lost at times. But I have to face tomorrow, and the Senator who may be my opponent today may be my champion tomorrow. These things pass. But we cannot avoid the real problem that faces us, and we all ought to do our level best to play down party just a little bit. Not only those people out there beyond the beltway will have to sacrifice; we are going to have to sacrifice, too. We may have to take a little political skin off our backs.

Come what may, let us remember—I have heard much about children and grandchildren around here in this debate. We all love our children, we all love our grandchildren, and we all want them to honor us as we have honored our fathers. The greatest thing we can do in this difficult situation is to preserve the Constitution for them, not put political careers or political parties ahead of the Constitution, and work hard to achieve a bipartisan plan to reduce the deficits and balance the budget.

If I might be so immodest, I would like to repeat my own words which are written in "The Senate 1789–1989," volume 2.

After 200 years, the Senate is still the anchor of the Republic, the morning and evening star in the American constitutional constellation * * *. It has weathered the

storms of adversity, withstood the barbs of cynics and the attacks of critics, and provided stability and strength to the nation during periods of civil strife and uncertainty, panics and depressions. In war and in peace, it has been the sure refuge and protector of the rights of the states and of a political minority. And, today, the Senate still stands—the great forum of constitutional American liberty!

Thank God for the Senate! Thank God for the Constitution! Thank God for men and women who will rise above the sorry spoils of politics and stand for that Constitution! We can then say, with Longfellow:

Thou, too, sail on, O Ship of State!
Sail on, O Union, strong and great!
Humanity with all its fears,
With all the hopes of future years,
Is hanging breathless on thy fate!

We know what Master laid thy keel,
What Workmen wrought thy ribs of steel,
Who made each mast, and sail, and rope,
What anvils rang, what hammers beat,
In what a forge and what a heat
Were shaped the anchors of thy hope!

Fear not each sudden sound and shock,
'T is but the wave and not the rock;
'T is but the flapping of the sail,
And not a rent made by the gale!

In spite of rock and tempest's roar,
In spite of false lights from the shore,
Sail on, nor fear to breast the sea!
Our hearts, our hopes, are all with thee,
Our hearts, our hopes, our prayers, our tears,
Our faith triumphant o'er our fears,
Are all with thee, are all with thee!

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

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

Mr. HELMS. Mr. President, has time for morning business expired?

The PRESIDING OFFICER. The Senator is correct.

Mr. HELMS. I ask unanimous consent that I be permitted to proceed as in morning business.

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

The Senator from North Carolina is recognized.

Mr. HELMS. I thank the Chair.

(The remarks of Mr. HELMS pertaining to the introduction of S. 497 are located in today's RECORD under "Statements on Introduced Bills and Joint Resolutions.")

THE WORDS WILL FLY

Mr. LAUTENBERG. Mr. President, we are obviously getting close to closing up business for the day. Over the weekend, I am sure we are going to hear a lot about what took place in these Chambers these last few days, about who was right, who was wrong, who was accused of deception, who was taking the unique responsibility for being the one or the ones who wanted to tell the truth, who wanted to be honest with the American people. The words will fly, Mr. President, at a fairly rapid pace.

I think one thing ought to be said, because I have been here now a dozen years. I came out of the business community, and I do not remember the people in the boardrooms where I spent some time, or people in business conferences where I spent a lot of time, or people who shared in the responsibilities in these companies—I very seldom heard a business leader, a CEO, a chairman of the board saying, "I have been fleecing my customers and I have been doing it for a long time, but we do not have to do anything else."

Around here, in these last days, I heard people suggest that we ought to tell the American people the truth, that we ought to stop the deception, that we ought to come straight. I do not know who they were talking about. I can tell you I resent it if the accusation includes me and some of the finest people I have ever known who worked hard here trying to do their best, trying to always level with the public. Yes, we could have a difference on either side of the aisle. We could have a difference in the way the information is presented. We could have a difference in the way the slant is tilted.

But I do not remember, in my angriest moment with someone with whom I disagreed, saying that they are lying, or saying that they are telling untruths because they disagreed with a position that I took.

I have heard rhetoric from the House that says we have been picking the pockets of the American citizens way too long. I do not know who does that, Mr. President. Occasionally, there is someone in this Congress of ours who does commit a dishonest act or who breaks the rules. That is true. But it is wrong to suggest we collectively are doing this purposefully to take advantage of the public.

Many are here at wages far less than they might earn in the outside world, and take abuse far more than they might take in the outside world. It is far more disruptive to family life than it would be in the outside world, when you know you can get home for dinner and review your kids' lessons or say hello to your spouse and enjoy some moments of relaxation. It is not possible here. We all talk about the quality of life and how we would like to make it better and how tough it is, when your home is in Minnesota or New Jersey or New York or Idaho, to be sitting here in Washington, which is our workplace for the most part, not our home State and not our house where family exists. So there is always that kind of thing to consider.

Therefore, Mr. President, those who serve here are not looking for some particular advantage.

I believe that, even, again, with those with whom I most disagree, they are here because they believe that we have a purpose; that this country of ours is such a valuable asset and we are so lucky to live in this Nation that they want to serve and serve honestly.

Sometimes the rhetoric escapes and we start talking about things that are nonsense, about how we have been tricking the American people. It is not true.

We just had a vote on the balanced budget amendment that lost temporarily, a balanced budget amendment to change our Constitution. There are many who voted against the balanced budget amendment—almost every one—who would like to see life made easier on our citizens and on ourselves by balancing the budget, by getting our House in order.

Mr. President, we heard references so many times to the way individuals, businesses, and States conduct their affairs. They say they balance their budgets. Those who suggest that willy-nilly do not know what they are talking about, because the average family is far more in debt because they try to own a house or a piece of property that they feel will be an asset to pass on to future generations, and they leave far more debt when they pass on in a situation like that than is being suggested as laid out in front because of the way we conduct business here.

Businesses borrow money constantly. I do not know of any company of size—and I am a student of business, as well as a former business leader. I am considered a pioneer in the computing industry, one whose name is listed in the Data Processing Hall of Fame. It does not compare to my colleague, Bill BRADLEY's, identification with the Hall of Fame of Basketball, but it is a hall of fame, as small as it may be.

The fact of the matter is, Mr. President, that there were many times when I discussed business problems with leaders and they talked about their borrowing and they talked about their indebtedness and they talked about what they had to do now to plan for the future.

State after State, including my own that has a balanced budget requirement, nevertheless, has the opportunity to borrow for capital investments and either put it up as collateral or go to the marketplace for bonds to be paid off over a period of years. We do not have that sensible structure in Federal Government. And that is a point, I think, though discussed many times, that is still not clear.

If we in the U.S. Government make the decision to build a building that has a 50-year life and we can build it in 1 year and it costs $1 billion, we charge off $1 billion in that fiscal year. If it

were in the business world, it would be written off at the rate of about $20,000 a year. Excuse me, I have not been doing arithmetic enough since I have been out of the business world. But the fact of the matter is, it would be written off over a period of time. We do not do that here.

In many ways, our financial house is in far better condition than many here would admit.

Mr. President, we were looking for responses from those who supported the balanced budget amendment in relation to Social Security and Medicare. What would happen if we did not use the Social Security trust fund to force a better balance on our books than we have? We asked for those proponents to lay out a budget that would balance; let them do the arithmetic.

It never happened, Mr. President, because we pretended that by force feeding the process, that we could achieve something that we would not do on our own even though our constituents sent us here specifically for the purpose of watching out for their interests.

I can tell you, Mr. President, that the balanced budget amendment, had it gone into place or if it goes into place, would severely impair life and the economy in the State of New Jersey. We could be looking at tax increases of 17.5 percent to make up for the funds that we would not be getting from the Federal Government. We would lose $2.1 billion a year in funding for Medicaid. We would lose almost $200 million a year in highway trust fund grants. We would lose almost $1 billion a year in lost funding for education, job training, the environment, housing, and other areas. To restate, New Jersey would have to increase State taxes by 17.5 percent across the board to make up for losses in grants.

On the jobs side of things, the most critical index, according to the Treasury, by forcing Congress to raise taxes and/or cut spending in a recession, the balanced budget amendment would substantially worsen the effects of economic downturn.

During the recession of 1990 to 1992, the unemployment rate in my State of New Jersey rose from 4.9 percent to a peak of 9 percent. Had the balanced budget been in effect, unemployment in New Jersey would have peaked at a much higher level, somewhere, it is estimated, between 9.9 percent and 11.8 percent. Had the balanced budget been in effect, the unemployment rate in New Jersey would have been punitive. Thus, Mr. President, the balanced budget amendment would not have done my State any good.

What will do my State good is if all of us get together and work to balance the budget, whether it is in the year 2002 or 2010. The fact is if we put this on an ever-decreasing glidepath from where we are, we will be substantially better off, better off than having a law that would force feed our economy into an unnatural structure that could be the most painful decision that this country has seen, perhaps, in its history.

Mr. President, I close by asking the question, where's the beef? Where is the interest by those who propose the balanced budget amendment, into presenting a budget that will, in fact, balance itself, reduce the deficit, ultimately wind up in a zero annual deficit.

Let them produce it. I am on the Budget Committee, Mr. President. I am more than willing to work with the distinguished leader of the Budget Committee and the ranking member to try and devise a budget that answers that need. Right now, I do not see a willingness to tackle the problem. I see an intent, rather, to do the politically satisfying or advantageous thing.

It is regrettable, Mr. President, that we had the kind of bitter rhetoric that permeated this place in these last couple of weeks. I do not think it does the Congress any good. I do not think it does the institution any good. I do not think it does the country any good.

Right now there is chaos in the currency markets across the world. The dollar is dropping rapidly. I think much of it is due to the fact that there was such dire forecasts made here that unless we balance the budget, unless we took this artificial means of dealing with our fiscal responsibilities that catastrophe would fall.

I hope that that is not true, Mr. President. As I said earlier, I often disagree with colleagues on the other side, sometimes with colleagues on this side. I really believe that in this body, in this institution, there are people whose will is good, who want to do the right thing.

I would not accuse any of those who take a different position of lying to the public, of trying to deceive the citizens of the country. No, Mr. President, I think we ought to cool the rhetoric and get on with our responsibilities. I hope that in the next weeks we will do just that. I yield the floor.

MORNING BUSINESS

WAS CONGRESS IRRESPONSIBLE? THE VOTERS HAVE SAID YES!

Mr. HELMS. Mr. President, as of the close of business on Thursday, March 2, the Federal debt stood at $4,851,006,718,917.40 meaning that on a per capita basis, every man, woman, and child in America owes $18,414.50 as his or her share of that debt.

ANNUAL REPORT OF THE DEPARTMENT OF TRANSPORTATION—MESSAGE FROM THE PRESIDENT RECEIVED DURING THE RECESS—PM 25

Under the authority of the order of January 4, 1995, the Secretary of the Senate, on Wednesday, March 1, 1995, during the recess of the Senate, received the following message from the President of the United States, together with an accompanying report; which was referred to the Committee on Commerce, Science, and Transportation:

To the Congress of the United States:

In accordance with section 308 of Public Law 97–449 (49 U.S.C. 308(a)), I transmit herewith the Twenty-seventh Annual Report of the Department of Transportation, which covers fiscal year 1993.

WILLIAM J. CLINTON.

THE WHITE HOUSE, *March 1, 1995.*

MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated to the Senate by Mr. Zaroff, one of his secretaries.

EXECUTIVE MESSAGES REFERRED

As in executive session the Presiding Officer laid before the Senate messages from the President of the United States submitting sundry nominations which was referred to the Committee on Energy and Natural Resources.

(The nominations received today are printed at the end of the Senate proceedings.)

MESSAGES FROM THE HOUSE

At 12:25 p.m., a message from the House of Representatives, delivered by Ms. Goetz, one of its reading clerks, announced that the House has passed the following bill, in which it requests the concurrence of the Senate:

H.R. 926. An act to promote regulatory flexibility and enhance public participation in Federal agency rulemaking and for other purposes.

MEASURES REFERRED

The following bill was read the first and second times by unanimous consent and referred as indicated:

H.R. 926. An act to promote regulatory flexibility and enhance public participation in Federal agency rulemaking and for other purposes; to the Committee on Governmental Affairs.

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. KYL (for himself, Mr. GRAMS, Mr. ABRAHAM, and Mr. CRAIG):

S. 494. A bill to balance the Federal budget by fiscal year 2002 through the establishment of Federal spending limits; to the Committee on the Budget and the Committee on Governmental Affairs, jointly, pursuant to the order of August 4, 1977, with instructions that if one Committee reports, the other Committee have thirty days to report or be discharged.

By Mrs. KASSEBAUM:

S. 495. A bill to amend the Higher Education Act of 1965 to stabilize the student loan programs, improve congressional oversight, and for other purposes; to the Committee on Labor and Human Resources.

By Mr. WARNER (for himself and Mr. ROBB):

S. 496. A bill to abolish the Board of Review of the Metropolitan Washington Airports Authority, and for other purposes; to the Committee on Commerce, Science, and Transportation.

By Mr. HELMS (for himself and Mr. FAIRCLOTH):

S. 497. A bill to amend title 28, United States Code, to provide for the protection of civil liberties, and for other purposes; to the Committee on Governmental Affairs.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. KYL (for himself, Mr. GRAMS, Mr. ABRAHAM, and Mr. CRAIG):

S. 494. A bill to balance the Federal budget by fiscal year 2002 through the establishment of Federal spending limits; to the Committee on the Budget and the Committee on Governmental Affairs, jointly, pursuant to the order of August 4, 1977, with instructions that if one Committee reports, the other Committee have thirty days to report or be discharged.

THE BALANCED BUDGET/SPENDING LIMITATION ACT OF 1995

Mr. KYL. Mr. President, I rise today with my colleagues, ROD GRAMS, SPENCER ABRAHAM, and LARRY CRAIG to introduce the Balanced Budget/Spending Limitation Act of 1995, a bill designed to balance the budget by fiscal year 2002, through the establishment of Federal spending limits and sequestration. An identical bill is being introduced in the House of Representatives by Representatives JIM MCCRERY and MEL HANCOCK.

The Balanced Budget/Spending Limitation Act establishes a mechanism to limit spending and enforce limits. It establishes a Federal spending limit as 21.5 percent of the gross domestic product in fiscal year 1996, declining one-half percent of GDP per year to 19 percent in fiscal year 2001.

In subsequent years, Federal spending would have to balance with revenue but could not exceed 19 percent of the gross domestic product. Any excess of spending over receipts or the Federal spending limits would be eliminated by sequesters, including a new fiscal year start sequester designed to hold a fiscal year's spending accountable for any actual deficit in the prior year.

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The Federal spending limits in the Balanced Budget/Spending Limit Act are established in recognition of the fact, as the Senator from Idaho said a moment ago, that revenues have fluctuated only within the narrow bands of 18 to 20 percent of the gross domestic product for the last 40 years, despite tax increases, tax cuts, economic contractions, and expansions and fiscal policies pursued by Presidents of both parties.

In effect, the economy has already imposed an effective limit on how much revenue the Federal Government can raise—19 percent of the gross domestic product, exactly the level of today. While tax rate increases and tax cuts may produce temporary surges and declines in revenue, revenues always adjust at about 19 percent of GDP, and that is because changes in the Tax Code affect people's behavior. Higher taxes discourage work, production, savings, and investment, slowing economic growth. And with less economic activity to tax, of course, revenues to the Treasury are never as great as the tax writers expect.

On the other hand, lower tax rates stimulate work, production, savings, and investment so revenues to the Treasury increase even at lower tax rates.

With that in mind, the only way that Congress really can ever balance the budget is to ratchet spending as a share of GDP down to the level of revenues the economy has historically been willing to bear—19 percent of GDP.

Limit spending, and there is no need for Congress to consider tax rate increases. It would not be allowed to spend any additional revenue that it raised. Besides, as reflected in historical trends, tax rate increases are more likely to slow economic growth than produce additional revenue relative to the gross domestic product.

Link spending to economic growth, as measured in terms of GDP, and a positive incentive is created for Congress to support pro-growth economic policies. The more the economy grows, the more Congress is allowed to spend, although always proportionate to the size of the Nation's economy. In other words, 19 percent of a larger GDP represents more revenue to the Treasury and, thus, more than Congress is allowed to spend, than 19 percent of a smaller GDP.

The advantages of the Federal spending limits are thus threefold.

First, it will get us to a balanced budget by limiting spending, not increasing tax rates; second, it will shrink Government relative to the size of the economy; and third, it gives Congress a strong incentive to support policies that will keep the economy healthy and strong, policies of less taxation, less regulation and less spending that the American people are demanding anyway.

For those Members of the Senate who voted against the balanced budget amendment saying Congress could do the job if it only had the courage and the will, well, here is your chance. For those who express concern about Social Security, this bill provides for protection of the trust funds that we promised during the debate on the balanced budget amendment. The balanced budget amendment will never be a threat to Social Security.

Mr. President, with or without a balanced budget amendment, deficit spending must stop. We know that. The economic security of the Nation is at stake. The future of our children and our grandchildren is at stake as a result of the mountain of debt Congress is leaving behind.

This bill we are introducing today defines the glidepath and includes the enforcement mechanism to get the budget to balance, and I am going to urge its prompt consideration by this body so that we can immediately demonstrate to the State legislatures, to the people of this country and, frankly, to many of our colleagues who did not support the balanced budget amendment yesterday that we mean business, that we mean to balance this budget by the year 2002 and that we are prepared to begin the steps to achieve that goal. One of the first steps should be the adoption of legislation such as this to establish the framework for achieving our goal.

By Mrs. KASSEBAUM:

S. 495. A bill to amend the Higher Education Act of 1965 to stabilize the student loan programs, improve congressional oversight, and for other purposes; to the Committee on Labor and Human Resources.

THE STUDENT LOAN EVALUATION AND STABILIZATION ACT

• Mrs. KASSEBAUM. Mr. President, I introduce the Student Loan Evaluation and Stabilization Act. Similar legislation has been introduced in the House by Congressman GOODLING and others.

The provisions of this bill are designed to accomplish four main goals:

First, to cap the direct loan program at 40 percent of student loan volume;

Second, to correct problems in the budget scoring process which result in an inaccurate accounting of the full costs of the direct loan program;

Third, to clarify congressional intent on a number of provisions of the legislation which established the direct loan program; and

Fourth, to level the playing field with respect to direct loans and guaranteed loans so that they can be evaluated based on real differences in the administration, efficiency, and effectiveness between the two programs.

It is no secret that I have serious reservations and concerns about the direct loan program enacted into law last Congress in the Omnibus Budget Reconciliation Act, otherwise known as OBRA 1993.

I am troubled that the President is proposing a further expansion of this program in his fiscal year 1996 budget request. This proposal, which would institute 100 percent direct lending by academic year 1997-98, amounts to a total Federal takeover of a successful public/private sector partnership—the Student Loan Program. This approach stands in stark contrast to the "reinventing" Government message promoted by Vice President GORE, where the focus is on privatizing more Federal functions and reducing the size of the Federal Government.

I can support a demonstration of a direct loan program, but I believe that the small 5-percent demonstration included in the Higher Education Act Amendments of 1992 was adequate. I believe that OBRA 1993 went far beyond a demonstration in allowing for the eventual replacement of 60 percent of the Federal guaranteed student loan program with a direct loan program.

Thus, my legislation would cap the direct lending program at the level specified in current law for the second year of the program—permitting up to 40 percent of the total student loan volume to be made through direct Government loans. All schools which signed participation agreements with the Department of Education in 1994 to enter the program in July of this year will be able to enter the program, but the program will not expand beyond this level until Congress authorizes such an expansion.

Restoring the direct loan program to a more appropriate demonstration level will allow for a more thoughtful evaluation and comparison of the guaranteed Federal Family Education Loan [FFEL] Program and the Federal Direct Student Loan [FDSL] Programs. It will allow both programs to operate with continued stability until Congress has enough information to determine which program is more effective and cost-efficient for students, institutions of higher education, and taxpayers.

Through the reconciliation process, the 103d Congress made a substantial change in the student loan program without the benefit of comprehensive hearings or debate or of any evaluation results of the direct loan demonstration included in the 1992 higher education amendments.

This change was made in order to take advantage of the current budget treatment of direct loans—which produces an inaccurate picture of its true budgetary consequences because certain direct loan costs are excluded in the scoring. These distortions have been well-documented by the Congressional Budget Office. It is unfortunate that serious policy decisions were driven by a budget process which hid the true costs of this program.

As evidence of this shell game, the Department of Education has criticized the companion bill introduced by Representative GOODLING stating that it would increase costs or budget outlays by $4.9 billion because the bill would change the budget scoring process. The Department's analysis notes that this change in the scoring process "does not change the long-term cost of the Direct Loan program, it only changes when those costs are scored for budgetary purposes."

This analysis illustrates the frustrating situation we face in getting a handle on the real costs of direct lending. What the materials developed by the Department say, in effect, is that current scoring practices undercount $4.9 billion in costs for the current direct loan program! Moving to 100 percent direct lending to claim more savings, as proposed by the President, will only compound the problem. We cannot and should not continue to operate in this type of budgetary Fantasyland.

The Department's criticism is also disingenuous because a change in scoring would not increase costs or force the Congress to pay for the scoring change. It would simply allow the direct and guaranteed student loan programs to be scored in the same manner so we can truly compare the costs of the two programs.

Therefore, I have included in this legislation an amendment to the Congressional Budget Act that would provide a more accurate comparison of direct and guaranteed student loans.

The bill also clarifies congressional intent with respect to several provisions of the direct loan authorization legislation. Specifically:

First, my legislation specifies that direct consolidation loans are intended to be offered only to students with guaranteed loans who cannot obtain consolidation loans or income-contingent repayment from participating guaranteed loan lenders. This clarification is important, as the administration is in the process of developing a plan that could result in transferring millions of dollars worth of guaranteed loans into the direct loan program through the direct consolidation loan program. The magnitude of this program, as well as the circumstances under which the administration envisions it would apply, goes far beyond congressional intent in providing authority for consolidation loans.

Second, the bill makes clear that Department officials must calculate default rates for direct lending schools just as they do for guaranteed loan schools. To date, Department officials have not indicated how they will calculate default rates for direct loan schools or for students that select income-contingent loan repayment. Many schools with high or rising default rates entered the direct loan program because they saw this as a way to escape penalties for high default rates or to reduce their default rates.

Third, in order to determine the effect of income-contingent repayment on institutional cohort default rates, the bill also requires the Department to report various data on loans being repaid through such repayment.

Finally, the bill clarifies certain provisions of the law which the Department has interpreted and implemented in a way that gives direct lending an edge over the guaranteed loan program. True comparisons between the two programs are not possible with such differences. Thus, my bill levels the playing field between the two programs.

Having described what my bill does, I would also like to clarify what the bill does not do.

First, the changes that I am proposing will have no effect on student access to Federal loans, on the costs of those loans to students, or on the amount that students may borrow. There is a widespread misconception that the direct loan program offers lower fees and interest rates than those available to guaranteed loan borrowers. This is simply not the case.

The issue in this debate is who should be making the loans and providing the capital—the Federal Government or the private sector. The issue is not the availability or cost of loans to students.

Second, my legislation will not reduce the number of repayment options available to students. The repayment options available to students in the guaranteed loan program are virtually identical to those in the direct loan program. Students have multiple repayment options available to them in both programs—including options to repay over longer periods of time or to make smaller initial payments which gradually increase over time as earnings increase.

In fact, my bill will increase the number of repayment options available by permitting students in the guaranteed loan program to repay their loans based on their incomes—an option now available only to students participating in the direct loan program. I would hope that students would exercise caution in selecting this option, given that it could greatly increase the amount they end up repaying. However, I feel the option should be made available to both guaranteed and direct loan student borrowers—many of whom may otherwise default on their loans.

As the legislative process continues, I will be keeping an open mind to other program changes designed to maximize the benefits of private sector participation in the Federal student lending program while holding down the costs to taxpayers. These changes could include steps such as increased risk-sharing by lenders and guaranty agencies—coupled with relief from burdensome and unnecessary regulations.

It is my hope that Congress can act promptly to correct the problems I have identified, so that decisions regarding Federal student loans can be

made on the basis of sound policy rather than on flawed budget scoring procedures.

Mr. President, I ask unanimous consent that the text of the bill and additional material be printed in the RECORD.

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

S. 495

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE; REFERENCES.

(a) SHORT TITLE.—This Act may be cited as the "Student Loan Evaluation and Stabilization Act of 1995".

(b) REFERENCES.—References in this Act to "the Act" are references to the Higher Education Act of 1965 (20 U.S.C. 1001 et seq.).

SEC. 2. FINDINGS.

The Congress finds that:

(1) The current public/private student loan partnership is fulfilling the mission set for it by Congress, delivering loans to students reliably and in a timely fashion, and should be preserved.

(2) The Administration's dismantling of the Federal Family Education Loan (FFEL) Program which has begun in order to replace it with an unproven direct Government lending program, which increases the Federal debt, further enlarges the Federal bureaucracy, adds major new financial oversight activities to the already overburdened Department of Education, and forces Congress to depend on estimated budget savings which may prove illusory, needs to be stopped so that a true and valid comparison of the student loan programs can occur.

(3) The Federal Direct Student Loan (FDSL) Program pilot is only now getting started and has proceeded fairly smoothly when dealing with 5 percent of new loan volume. This slow and cautious approach should be continued as the volume increases to 40 percent. This pilot program should continue to proceed slowly and cautiously and demonstrate successful results before expanding it to additional loan volume.

(4) While the FDSL Program pilot continues its test phase, reform of the FFEL Program which will benefit students and institutions of higher education, should be a continuing priority for the Department of Education.

SEC. 3. PARTICIPATION OF INSTITUTIONS AND ADMINISTRATION OF DIRECT LOAN PROGRAMS.

(a) LIMITATION ON PROPORTION OF LOANS MADE UNDER THE DIRECT LOAN PROGRAM.—Section 453(a) of the Act (20 U.S.C. 1087c(a)) is amended—

(1) by amending paragraph (2) to read as follows:

"(2) DETERMINATION OF NUMBER OF AGREEMENTS.—In the exercise of the Secretary's discretion, the Secretary shall enter into agreements under subsections (a) and (b) of section 454 with institutions for participation in the programs under this part, subject to the following:

"(A) for academic year 1994–1995, loans made under this part shall represent 5 percent of new student loan volume for such year; and

"(B) for academic year 1995–1996 and for any succeeding fiscal year, loans made under this part shall represent 40 percent of new student loan volume for such year, except that the Secretary may not enter into agreements under subsections (a) and (b) of section 454 with any additional eligible institutions that have not applied and been accepted for participation in the program under this part on or before December 31, 1994.".

(2) by striking paragraph (3); and

(3) by redesignating paragraph (4) as paragraph (3).

(b) ELIMINATION OF CONSCRIPTION.—Section 453(b)(2) of the Act is amended—

(1) by striking subparagraph (B);

(2) by redesignating subparagraphs (A)(i) and (A)(ii) as subparagraphs (A) and (B) respectively; and

(3) in such subparagraph (B) (as so redesignated) by striking "clause (i); and" and inserting "subparagraph (A).".

(c) CONTROL OF ADMINISTRATIVE EXPENSES.—

(1) ADMINISTRATIVE EXPENSES.—Section 458(a) of the Act is amended to read as follows:

"(a) IN GENERAL.—For each fiscal year, there shall be available to the Secretary from funds not otherwise appropriated, funds for all direct and indirect expenses associated with the Direct Student Loan program under this part."

(2) IMPROVED CONGRESSIONAL OVERSIGHT OF ADMINISTRATION.—(A) Section 458(b) of the Act is amended to read as follows:

"(b) FUNDING TRIGGERS.—For each fiscal year, funds available under this section may be obligated only in such amounts and according to such schedule as specified in the appropriations Act for the Department of Education of a detailed proposal of expenditures under this section.".

(B) Section 458(d) of the Act is amended to read as follows:

"(d) QUARTERLY REPORT.—The Secretary shall provide a detailed quarterly report of all monies expended under this section to the Chairman of the Committee on Labor and Human Resources of the Senate and the Chairman of the Committee on Economic and Educational Opportunities of the House of Representatives. Such report shall specifically identify all contracts entered into by the Department for services supporting the loan programs under parts B and D of this title and the current and projected costs of such contracts."

(3) ADMINISTRATIVE COST ALLOWANCE.—Section 428(f) of the Act is amended—

(A) in subsection (A) by striking out "For a fiscal year prior to fiscal year 1994, the" and inserting in lieu thereof "The"; and

(B) by inserting after the first sentence of subsection (B) the following new sentence:

"For fiscal year 1996 and each succeeding fiscal year, each guaranty agency shall elect to receive an administrative cost allowance, payable quarterly, for such fiscal year calculated on the basis of either of the following:

"(i) 0.85 percent of the total principal amount of the loans upon which insurance was issued under part B during such fiscal year by such guaranty agency; or

"(ii) 0.08 percent of the original principal amount of loans guaranteed by the guaranty agency that was outstanding at the end of the previous fiscal year."

(d) ELIMINATION OF TRANSITION TO DIRECT LOANS.—The Act is further amended—

(1) in section 422(c)(7)—

(A) by striking "during the transition" and all that follows through "part D of this title" in subparagraph (A); and

(B) by striking "section 428(c)(10)(F)(v)" in subparagraph (B) and inserting "section 428(c)(9)(F)(v)";

(2) in section 428(c)(8)—

(A) by striking "(A)" after the paragraph designation; and

(B) by striking subparagraph (B);

(3) in section 428(c)(9)(E)—

(A) by inserting "or" after the semicolon at the end of clause (iv);

(B) by striking"; or" at the end of clause (v) and inserting a period; and

(C) by striking clause (vi);

(4) in clause (vii) of section 428(c)(9)(F)—

(A) by inserting "and" before "to avoid disruption"; and

(B) by striking ", and to ensure an orderly transition" and all that follows through the end of such clause and inserting a period;

(5) in section 428(c)(9)(K), by striking "the progress of the transition from the loan programs under this part to" and inserting "the integrity and administration of";

(6) in section 428(e)(1)(B)(ii), by inserting "during the transition" and all that follows through "part D of this title";

(7) in section 428(e)(3), by striking "of transition";

(8) in section 428(j)(3)—

(A) by striking "DURING TRANSITION TO DIRECT LENDING" in the heading of paragraph (3); and

(B) by striking "during the transition" and all that follows through "part D of this title," and inserting a comma;

(9) in section 453(c)(2), by striking "TRANSITION" and inserting "INSTITUTIONAL" in the heading of paragraph (2);

(10) in section 453(c)(3), by striking "AFTER TRANSITION" in the heading of paragraph (3); and

(11) in section 456(b)—

(A) by inserting "and" after the semicolon at the end of paragraph (3);

(B) by striking paragraph (4);

(C) by redesignating paragraph (5) as paragraph (4); and

(D) in such paragraph (4) (as redesignated), by striking "successful operation" and inserting "integrity and efficiency."

SEC. 4 DIRECT LOANS HAVE THE SAME TERMS AND CONDITIONS AS FEDERAL FAMILY EDUCATION LOANS.

(a) IN GENERAL.—Section 455(a)(1) of the Act (20 U.S.C. 1087e(a)(1)) is amended to read as follows:

"(1) PARALLEL TERMS, CONDITIONS, BENEFITS AND AMOUNTS.—Unless otherwise specified in this part, loans made to borrowers under this part shall have the same terms, conditions, eligibility requirements and benefits, and be available in the same amounts, as the corresponding types of loans made to borrowers under section 428, 428B, 428C and 428H of this title.".

(b) DIRECT CONSOLIDATION LOANS.—Section 455(a)(2) of the Act is amended—

(1) by striking "and" at the end of subparagraph (B);

(2) by redesignating subparagraph (C) as subparagraph (D); and

(3) by inserting after subparagraph (B) the following new subparagraph:

"(C) section 428C shall be known as 'Federal Direct Consolidation Loans'; and".

SEC. 5. ABILITY OF BORROWERS TO CONSOLIDATE UNDER DIRECT AND GUARANTEED LOANS PROGRAMS.

(a) ABILITY OF PART D BORROWERS TO OBTAIN FEDERAL STAFFORD CONSOLIDATION LOANS.—Section 428C(a)(4) of the Act (20 U.S.C. 1078–3(a)(4)) is amended—

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

(2) by redesignating subparagraphs (C) and (D) as subparagraphs (D) and (E); and

(3) by inserting after subparagraph (B) the following new subparagraph:

"(C) made under part D of this title;".

(b) ABILITY OF PART B BORROWERS TO OBTAIN FEDERAL DIRECT CONSOLIDATION LOANS.—Section 428C(b)(5) of the Act is amended to read as follows:

"(5) DIRECT CONSOLIDATION LOANS FOR BORROWERS IN SPECIFIED CIRCUMSTANCES.—(A) The Secretary may offer a borrower a direct consolidation loan if a borrower otherwise eligible for a consolidation loan pursuant to this section is—

"(i) unable to obtain a consolidation loan from a lender with an agreement under subsection (a)(1); or

"(ii) unable to obtain a consolidation loan with an income contingent repayment schedule from a lender with an agreement under subsection (a)(1).

"(B) The Secretary shall establish appropriate certification procedures to verify the eligibility of borrowers for loans pursuant to this paragraph.

"(C) The Secretary shall not offer such consolidation loans if, in the Secretary's judgment, the Department of Education does not have the necessary origination and servicing arrangement in place for such loans, or the projected volume in the program would be destabilizing to the availability of loans otherwise available under this part.".

SEC. 6. INCOME CONTINGENT REPAYMENT IN THE FEDERAL FAMILY EDUCATION LOAN PROGRAM.

(a) INSURANCE PROGRAM AGREEMENT.—Section 428(B)(1)(E)(i) of the Act (20 U.S.C. 1078(b)(1)(E)(i)) is amended by striking "or income-sensitive repayment schedule" and inserting in lieu thereof "repayment schedule or either an income-sensitive or income contingent repayment schedule".

(b) REPAYMENT SCHEDULES.—Section 428(c)(A) of the Act is amended by striking "or income-sensitive repayment schedules" and inserting in lieu thereof "repayment schedules or either income sensitive or income contingent repayment schedules".

(c) DEFINITIONS.—Section 435 of the Act is amended by adding a new subsection (n):

"(n) INCOME CONTINGENT REPAYMENT SCHEDULES.—For the purpose of this part, income contingent repayment schedules established pursuant to section 428(b)(1)(E)(i) and 428(c)(2)(A) may have terms and conditions comparable to terms and conditions established by the Secretary pursuant to section 45(e)(4).".

SEC. 7. RESERVE FUND REFORMS.

(a) GUARANTY AGENCY RESERVE LEVELS.—Section 428(c)(9) of such Act (20 U.S.C. 1078(c)(9)) is amended—

(1) in subparagraph (E)—

(A) by striking "The Secretary" and inserting "After notice and opportunity for hearing on the record, the Secretary"; and (2) in subparagraph (F)—

(A) by inserting "dedicated to the functions of the agency under the loan insurance program under this part" after "assets of the guaranty agency" in clause (vi); and

(B) in clause (vi), by inserting before "; or" the phrase ", except that the Secretary may not take any action to require the guaranty agency to provide to the Secretary the unencumbered non-Federal portion of a reserve fund (as defined in section 422(a)(2))".

(b) ADDITIONAL AMENDMENTS.—Section 422 of the Act is further amended—

(1) in the last sentence of subsection (a)(2), by striking "Except as provided in section 428(c)(10) (E) or (F), such" and inserting "Such";

(2) in subsection (g), by striking paragraph (4) and inserting the following:

"(4) DISPOSITION OF FUNDS RETURNED TO OR RECOVERED BY THE SECRETARY.—Any funds that are returned to or otherwise recovered by the Secretary pursuant to this subsection shall be retuned to the Treasury of the United States for purposes of reducing the Federal debt and shall be deposited into the special account under section 3113(d) of title 31, United States Code.".

SEC. 8. DEFAULT RATE LIMITATIONS ON DIRECT LENDING.

(a) INELIGIBILITY BASED ON DEFAULT RATES.—Section 435(a)(2) of the Act (20 U.S.C. 1085(a)(2)) is amended by inserting "or part D" after "under this part".

(b) COHORT DEFAULT RATE.—Section 435(m)(1) of the Act is amended by:

(1) striking "428, 428A, or 428H" in paragraph (A) and inserting "428, 428A, 428H, or part D of the Act (except for Federal Direct PLUS Loans)";

(2) striking "428C" in paragraph (A) and inserting "428C or 455(g)";

(3) striking "428C" in paragraph (C) and inserting "428C or 455(g)"; and

(4)(A) in paragraph (B), by striking "only"; and

(B) in paragraph (B) by inserting "and loans made under part D determined to be in default," after "for instance.".

(c) INCOME CONTINGENT REPAYMENT.—Section 435(m) of the Act is amended by adding at the end thereof the following new paragraph:

"(5)(A) The Secretary shall produce an annual report on loans subject to repayment schedules under sections 428(b)(1)(E)(i), 428C(c)(2)(A), and 455(e)(4) at the end of each fiscal year detailing, by institution and for the title IV, part B and D programs separately and together—

"(i) the number and amount of loans scheduled for payments that did not equal the interest accruing on the loan,

"(ii) the number and amount of loans where no payment was scheduled to be received from the borrower due to their low-income status,

"(iii) the number and amount of loans where a scheduled payment was more than 90 days delinquent, and

"(iv) the projected amount of interest and principal to be forgiven at the end of the 25 year repayment period, based on the projected payment schedule for the borrower over that period.

"(B) Such report shall be made available at the same time as the reports required under section 435(m)(4) of this Act.".

(d) TERMINATION OF INSTITUTIONAL PARTICIPATION.—Section 455 of the Act is amended by adding at the end the following new subsection:

"(k) TERMINATION OF INSTITUTIONS FOR HIGH DEFAULT RATES.—

"(1) METHODOLOGY AND CRITERIA.—After consultation with institutions of higher education and other members of the higher education community, the Secretary shall develop—

"(A) a methodology for the calculation of institutional default rates under the loan programs operated pursuant to this part;

"(B) criteria for the initiation of termination proceedings on the basis of such default rates; and

"(C) procedures for the conduct of such termination proceedings.

"(2) COMPARABILITY TO PART B.—In developing the methodology, criteria, and procedures required by paragraph (1), the Secretary shall, to the maximum extent possible, establish standards for the termination of institutions from participation in loan programs under this part that are comparable to the standards established for the termination of institutions from participation in the loan programs under part B. Such procedures shall also include provisions for the appeal of default rate calculations based on deficiencies in the servicing of loans under this part that are comparable to the provisions for such appeals based on deficiencies in the servicing of loans under part B.".

"(3) LIMITATION ON AUTHORIZATION TO ISSUE NEW LOANS UNDER THIS PART.—Such standards and procedures required by paragraphs (1) and (2) shall be promulgated in final form no later than 120 days after date of enactment of this paragraph. Notwithstanding any other provision of this part, no new loan under this part shall be issued after 120 days after the date of enactment of this paragraph if the standards and procedures required under this section have not been promulgated prior to that date. The authority to issue new loans under this part shall resume upon the Secretary's issuance of such standards and procedures."

SEC. 9. USE OF ELECTRONIC FORMS.

Section 484(a) of the Act (20 U.S.C. 1091b(a)) is amended by adding the following new paragraph after paragraph (a)(4):

"(5) ELECTRONIC FORMS.—(A) Nothing in this Act shall preclude the development, production, distribution or use of the form described in subsection (a)(1) in an electronic format through software produced or distributed by guaranty agencies or eligible lenders, or consortia thereof. Such electronic form need not require the signature of the applicant to be collected at the time the form is submitted, if the applicant certifies the output of the application in a subsequent document. No fee may be charged in connection with use of the electronic form described in subsection (a)(1).

"(B) The Secretary shall approve the use of an electronic form submitted for approval that is not inconsistent with the provisions of this part or part B within 30 days of such submission. In the case of any electronic form not approved, the Secretary shall specifically identify the changes to the form necessary to secure approval.".

SEC. 10. APPLICATION FOR PART B LOANS USING FREE FEDERAL APPLICATION.

Secton 483(a) of the Act (20 U.S.C. 1090(a)) is amended—

(1) in paragraph (1)—

(A) by inserting "B," after "assistance under parts A,";

(B) by striking "part A) and to determine the need of a student for the purpose of part B of this title" and inserting "part A).''; and

(C) by striking the last sentence and inserting the following: "Such form may be in an electronic or any other format (subject to section 485B) in order to facilitate use by borrowers and institutions."; and

(2) in paragraph (3), by striking "and States shall receive," and inserting", any guaranty agency authorized by any such institution, and States shall receive, at their request and".

SEC. 11. CREDIT REFORM.

(a) AMENDMENT.—Section 502(5)(B) of the Congressional Budget Act (31 U.S.C. 661a(5)(B)) is amended to read as follows:

"(B) The cost of a direct loan shall be the net present value, at the time when the direct loan is disbursed, of the following cash flows for the estimated life of the loan:

"(i) Loan disbursements.

"(ii) Repayments of principal.

"(iii) Payments of interest and other payments by or to the Government over the life of the loan after adjusting for estimated defaults, prepayments, fees, penalties, and other recoveries.

"(iv) In the case of a direct student loan made pursuant to the program authorized under part D of title IV of the Higher Education Act of 1965, direct and indirect expenses, including but not limited to the following: expenses arising from credit policy and oversight, activities related to credit extension, loan origination, loan servicing, training, program promotion and payments to contractors, other Government entities, and program participants, collection of delinquent loans, and write-off and close-out of loans.".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) of this section shall apply to all fiscal years beginning on or after October 1, 1995, and to statutory changes made on or after the date of enactment of this Act.

SUMMARY OF S. 495

The bill will do four basic things:

(1) Cap the direct loan program at 40 percent of student loan volume.

(a) This allow for the continued implementation of the Federal Direct Student Loan Program (FDSL) at the loan volume currently authorized for the second year of the program (beginning July 1995).

(b) It provides for the continued stability of the Federal Family Education Loan Program (FFELP—previously known as the Guaranteed Student Loan or the Stafford and PLUS loan programs).

(c) It improves congressional oversight of administrative expenditures.

(2) Improve the accuracy of the budget scoring process.

The bill revises the Congressional Budget Act so that budget scoring will be fair and accurate when determining and comparing costs associated with the FFELP loan program and the direct lending program.

(3) Clarify congressional intent with respect to provisions of the law establishing the direct loan program.

(a) Clarifies that direct consolidation loans are intended to be offered only to those students who cannot obtain consolidation loans or income-contingent repayment from participating lenders.

(b) Clarifies that default rates should be calculated for direct lending schools as they are for FFELP loan schools.

(c) Also requires the reporting of data on direct loans being repaid through income-contingent repayment in order to determine the effect of such repayment on cohort default rates.

(4) Make the FDSL and FFELP programs more comparable so that they can be evaluated based on "real" differences between the administration, efficiency, and effectiveness of the two programs.

(a) Clarify that the guaranteed loan program and the direct loan program have essentially the same terms and conditions for loans and their repayment.

(b) Allow income-contingent repayment for FFELP borrowers.

(c) Make the application processes similar for FFELP and direct loan students.

SECTION-BY-SECTION ANALYSIS

Section 1. Short Title. The bill is to be cited as the "Student Loan Evaluation and Stabilization Act of 1995."

Section 2. Findings. The bill makes four findings upon which the legislation is based. The findings highlight the fact that the Federal Direct Student Loan Program (direct loan program) is in its pilot phase and that a slow and cautious approach toward implementing the program should be continued. The findings further emphasize that the federal debt, further enlarges the federal bureaucracy, adds major new financial oversight activities to the Department of Education, and forces Congress to depend on an estimated budget savings that may prove illusory. In addition, the findings note that reform of the Federal Family Education Loan Program (guaranteed loan program) should be a continuing priority of the Department of Education.

Section 3. Participation of Institutions and Administration of Direct Loan Programs.

Subsection (a). Participation in direct loans is limited as follows:

(1) five percent of new student loan volume for academic year 1994–1995;

(2) for academic year 1995–1996 loans to those students and parents of students attending institutions who have applied and been accepted for participation in the direct loan program on or before December 31, 1994.

Subsection (b). The authority of the Secretary to force schools into the direct loan program is eliminated.

Subsection (c). Section 458 of the HEA is amended so that administrative expenses for the direct loan program under are made available on an entitlement basis to cover the full administrative costs of direct loans made under Part D. These costs are recognized on a net present value basis under the Credit Reform Act amendment in section 11 of this legislation.

This section also establishes "funding triggers" for the release of funds under section 458. Funds may be obligated only in such amounts and according to the schedules specified under the Appropriations Act for the Department of Education after submission of a detailed proposal for expenditures under this section.

In addition, this section also directs the Secretary to produce a detailed quarterly report of the expenditures of monies under section 458.

Finally, this section mandates payment of an administrative cost allowance to guaranty agencies based on the following formula: .85 percent of the total principal amount of the loans for which insurance was issued during the fiscal year, or .08 percent of the original principal amount of the loans guaranteed by the program that are outstanding at the end of the previous fiscal year. Agencies elect which formula under which to receive payment.

Subsection (d). References to the transition to the direct loan program are eliminated from the HEA.

Section 4. Direct Loans Have the Same Terms and Conditions as Federal Family Education Loans. The legislation clarifies and strengthens Congressional intent that direct and guaranteed loans have essentially the same terms, conditions, eligibility requirements, and loan limits.

Section 5. Ability of Borrowers to Consolidate Under Direct and Guaranteed Loan Programs.

Subsection (a). Borrowers of direct loans under Part D are made eligible to consolidate such loans into a Federal Stafford Consolidation Loan.

Subsection (b). The HEA is clarified to reflect Congressional intent that a guaranteed loan borrower is only eligible to obtain a direct consolidation loan when they are unable to obtain a consolidation loan from a lender. The law is also modified to limit eligibility of a guaranteed loan borrower to those students who are unable to obtain a consolidation loan with an income-contingent loan repayment schedule from a lender.

This section also requires the Secretary to establish appropriate certification procedures to verify eligibility of borrowers and it prohibits the Secretary from offering consolidation loans if the Department lacks the capacity or if the projected loan volume would destabilize the availability of guaranteed loans.

Section 6. Income Contingent Repayment in the Federal Family Education Loan Program. The legislation authorizes guaranteed student loan borrowers to repay their loans through income-contingent repayment to lenders like in the direct loan program.

Section 7. Reserve Fund Reforms. The legislation requires due process procedures, including a hearing on the record, for the return of guaranty agencies reserve funds. The legislation further restricts the expenditure of such funds, and those funds otherwise recovered by the Secretary, by requiring the funds to be returned to the U.S. Treasury.

Section 8. Default Rate Limitations on Direct Lending. This section clarifies the HEA to reflect Congressional intent that the Secretary is required to calculate default rates for direct lending schools and to terminate such schools if they exceed the default rates established in the law as is done currently for the guaranteed loan schools.

This section also requires the reporting of data on direct loans being repaid through income-contingent repayment in order to determine the effect of such repayment on cohort default rates.

In addition, section 455 of the HEA is modified by directing the Secretary to develop criteria for the calculation of default rates for institutions participating in the direct loan program. The methodology, criteria, and procedures to be used in determining such default rates must be comparable to those applied to schools participating in the guaranteed loan program under Part B of the HEA. Such standards must be promulgated no later than 120 days after the date of enactment of this legislation or the Secretary may no longer make any new direct loans.

Section 9. Use of Electronic Forms. This section permits the development, production, distribution and use of an electronic version of the common application form by guaranty agencies, lenders, and consortium thereof to expedite the processing of student loans. Requires that the Secretary approve the form to ensure it is consistent with the requirements of the HEA. Allows the applicant to certify that the output of the application is accurate in a subsequent document. The legislation prohibits a fee from being charged to students in connection with the use of this form.

Section 10. Application for Part B Loans Using the Free Federal Application. Section 483(A) of the HEA is amended to clarify that the application may be the Free Application for Federal Student Assistance (FAFSA). The legislation also clarifies that the application may be in an electronic or other format in order to facilitate use by borrowers and institutions. Finally, this section clarifies that data shall be available to any guaranty agency authorized by an institution.

Section 11. Credit Reform. The bill modifies section 502(5)(B) of the Congressional Budget Act to require consideration of direct and indirect expenses associated with Federal Direct Student Loans, including, but not limited to, expenses arising from credit policy and oversight, credit extension, loan origination, loan servicing, training, program promotion, and payments to contractors. The amendment would apply to all fiscal years beginning on or after October 1,

1995, and to statutory changes made on or after the date of enactment of this bill.●

By Mr. WARNER (for himself and Mr. ROBB):

S. 496. A bill to abolish the Board of Review of the Metropolitan Washington Airports Authority, and for other purposes; to the Committee on Commerce, Science, and Transportation.

THE BOARD OF REVIEW OF THE METROPOLITAN WASHINGTON AIRPORTS AUTHORITY ABOLITION ACT OF 1995

Mr. WARNER. Mr. President, on January 26, 1995, I joined with my colleagues Senators MCCAIN and ROBB in introducing legislation in the Senate to abolish the Board of Review of the Metropolitan Washington Airports Authority.

Mr. President, I have been involved for many years in seeking to devise a legislative solution to the constitutional issues that exist due to the decisions of the Congressional Board of Review.

Unfortunately, Mr. President, I have learned that the legislation which my colleagues and I introduced does include a provision which I do not support. The provision is contained in section 3 of the legislation which is the elimination of the perimeter rule with respect to certain nonstop flights.

After further review and analysis of this provision, and after consultation with the Governor of Virginia and the Metropolitan Washington Airports Authority, I have learned that adoption of such a provision would be detrimental to the current and projected operations of Washington National Airport and Washington Dulles International Airport. Eliminating the perimeter rule could in the short term disrupt existing air service patterns, with nonstop flights to cities within the perimeter being canceled as flights are added to more distant and economically beneficial destinations. In the longer term, both the airlines and the cities that could suffer a loss in nonstop service to National could call for increases in the number of flights allowed at National.

Mr. President, today I am introducing legislation along with my colleague Senator ROBB, which will seek to abolish the Board of Review of the Metropolitan Washington Airports Authority.

Mr. President, our legislation would: First, remove the unconstitutional sections of the Metropolitan Washington Airports Act; second, provide a savings clause to protect all actions of the Authority taken under the old legislation; and third direct the Secretary of Transportation to amend the Authority's 50-year lease.

This legislation provides a necessary cure to a constitutional deficiency as defined by the Federal courts, in the structure of the Airports Authority, which is operating and improving the two airports that serve the Nation's Capital and the Washington region, Washington National and Washington Dulles International.

In April 1994, the Court of Appeals for the District of Columbia Circuit found that the Board of Review, made up of current and former Senators and Members of Congress, violated constitutional separation of powers principles. This was the second time the courts have struck down the Board of Review, which was designed to represent users of the airports and to preserve some Federal control over them.

The court of appeals stayed its decision until the Supreme Court had time to consider the issue. The Supreme Court decided not to hear the case in January, and the stay expires March 31, 1995.

Therefore, I repeat, all Congress is required to do to keep the airports in operation is to pass this legislation. Such continued uninterrupted operations are essential to the travel requirements of Members of Congress and their staffs.

If the Congress does not amend the Metropolitan Washington Airports Act by that date, the Airports Authority Board of Directors will lose all its power to take basic, critical actions, including the ability to award contracts, issue more bonds, amend its regulations, change its master plans, or adopt an annual budget.

This shutdown could not come at a worse time. The Airports Authority is in the middle of a $2 billion construction program between two airports.

In 1986, the Congress transferred the airports to an interstate agency created by the District of Columbia and the Commonwealth of Virginia. We did this because we recognized that an independent state-level authority could do what the Federal Government apparently could not—issue revenue bonds and undertake the major construction that was so long overdue at both airports.

The Airports Authority has done a credible job carrying out congressional intent. It has sold over $1.3 billion in tax-exempt bonds, and has multimillion dollar projects underway to double the size of the Dulles terminal and replace many of the National Airport facilities with a modern new terminal building.

As of today, the Authority has already completed $331 million in construction projects, and has an additional $416 million under construction. The steel superstructure at National is visible to all; just this week, construction crews topped off the new 220-foot high air traffic control tower there.

Thus, we cannot afford to interrupt this construction progress by Congress not acting by March 31, 1995. The Congress must pass this legislation now.

Mr. President, recently the House Transportation subcommittee on Aviation adopted H.R. 1036, the Metropolitan Washington Airports Amendments Act of 1995. This legislation contains provisions which we cannot support at this time.

Specifically, the legislation imposes a reauthorization provision in which the Congress would reauthorize the Airports Authority every 2 years. Also, the statutory freeze on the 37 slots under the high density rule would be repealed. This would mean that the Federal Aviation Administration would be able to increase slots through a rulemaking process.

Mr. President, all the Congress must consider now—before March 31—legislation to abolish the Congressional Board of Review. Any further delays will result in slowing the schedule and increasing the costs of the major construction projects at both airports.

By Mr. HELMS (for himself and Mr. FAIRCLOTH):

S. 497. A bill to amend title 28, United States Code, to provide for the protection of civil liberties, and for other purposes; to the Committee on Governmental Affairs.

ACT TO END UNFAIR PREFERENTIAL TREATMENT

Mr. HELMS. Mr. President, momentarily I am going to send a bill to the desk for introduction but I want to make a few remarks before I do that.

First of all, this bill will simply get us started along a road that the Senate ought to have taken a long time ago. Senator DOLE may have a similar bill, in which case I will gladly serve as a cosponsor of his bill, and I feel sure that he will want to be a cosponsor of mine. There may be others. But somebody has to start the ball rolling and that is what I am doing here at about 18 minutes until 3 p.m. on Friday.

Mr. President, unless I am badly mistaken, when the bill I shall offer today hits the hopper there is likely to be the usual outburst of usual phony demagoguery among our liberal brethren in the political arena and in the news media. It always happens when a proposal is made to do away with any Federal program that was established in the first place to attract votes for liberal candidates and liberal issues.

The liberal brethren can begin their holier than thou lamentations, because here comes the bill that proposes to eliminate so-called affirmative action programs that have done more harm than good in terms of race relations, which have been exceedingly costly to the American taxpayers, and worst of all, have been so burdensome for people trying to operate small businesses or, in fact, businesses of any size.

This legislation, which I shall send to the desk presently, is almost identical to the California Civil Rights Initiative which proposes to erase several decades of State-sponsored preferential programs in California based on race, color, gender, or ethnic background. If you want to call it the Helms bill that is fine, but I want to call it, "An Act to

End Unfair Federal Preferential Treatment." And I hope that hereinafter it will be known as that.

This bill's principal difference with the California legislation is that I am proposing to eliminate the same kinds of discriminatory, expensive, and counterproductive programs on the Federal level as California is attempting on the State level.

As I said at the outset, Mr. President, we are likely to hear and see the customary antics by the liberal news media who always start tossing epithets around any time efforts are proposed to put an end to Federal programs that do not work and that have done more harm than good—in this case, the heavy-handed effort of Government to force so-called affirmative action down the throats of the American people of all races.

But I say, here and now, that this legislation—indeed this issue—is not about race—although an intellectually dishonest liberal media may try to portray it as such. It is about fairness. It is about putting an end to reverse discrimination at the hands of ruthless bureaucrats.

Reasonable men and women may disagree about the wisdom of the Government's having gotten into the business of racial and other quotas, and affirmative action in the first place. But, now is not the time to revisit that argument, or to attempt to unscramble that egg. And that is not what this legislation is all about.

Rather, Mr. President, this legislation is based on questions being raised by a vast percentage of the American people. For example:

First, with a Federal debt of $4.8 trillion, can Congress justify forcing the American taxpayers to continue paying for programs that are today no longer needed?

Second, should Congress—which so recklessly ran up this $4.8 trillion debt—now act to do away with the social engineering foolishness that is so harming the country?

Third, after 30 years of federally funded affirmative action programs, it is now time to say enough is enough.

Fourth, should America return to the fundamental principles laid out prayerfully, and with specificity, by our Founding Fathers?

Is not the answer "yes" to each of these questions?

Of course it is.

You see, Mr. President, the American dream has been within the reach of citizens of all races, religions, and ethnic backgrounds because our Nation has adhered for so many years to the principles of free enterprise, self reliance, personal responsibility, and, of course, the concept that every citizen should be free to pursue his or her personal dream—based not on birthright, but rather on hard work, initiative, talent, and character.

The now-entrenched, but nonetheless discriminatory system of affirmative action preferences established by Congress, the courts, and virtually every Federal agency flies in the face of the merit-based society that the Founding Fathers envision, which is why my legislation, aimed at removing these preferences, is called the "Act to End Unfair Federal Preferential Treatment."

Mr. President, I am convinced this legislation reflects the thoughts of countless citizens across America of every color and creed who struggle each day to make the American dream become a reality—to own their own homes, raise their families, and provide educations for their children. But the all-powerful Federal Government somehow manages to get in the way at nearly every turn. This is the thing that we must put an end to.

Those familiar with the debate surrounding affirmative action and quota programs likely have heard of the California Civil Rights Initiative, which residents of that State will vote upon as early as next March. For those unfamiliar with this initiative, it reads:

> Neither the State of California nor any of its political subdivisions or agents shall use race, sex, color, ethnicity or national origin as a criterion for either discriminating against, or granting preferential treatment to, any individual or group in the operation of the State's system of public employment, public education or public contracting.

As I stated previously, the Act To End Unfair Federal Preferential Treatment—which I will shortly send to the desk—differs in that it puts an end to taxpayer funding of such programs on the Federal level.

Mr. President, polls show that 73 percent of Californians support this initiative to roll back racial and other quotas and preferences. But California is not alone in this sentiment. According to a recent Wall Street Journal/NBC News survey, 2 out of every 3 Americans—including half of those who voted for President Clinton—oppose so-called affirmative action.

This demonstrates, I believe, that the American people are once again far ahead of their leaders in Washington. Americans recognize that such programs are divisive, discriminatory, and in fact, harm the very citizens they claim they want to help. In short, these programs pervert the concept of equality. As Senator Malcolm Wallop, the great statesman from Wyoming, put it, "Any government that is not strictly blind in matters of race is quite simply un-American."

Mr. President, we simply cannot afford to continue to pour money into ineffective and ultimately destructive affirmative action programs when the total Federal debt, as of March 1, stood at exactly $4,848,389,403,816.26. That is $18,404.57 for every man, woman, and child in America.

Of course, those who pay taxes—because so many do not—will pay even far more than that in the theoretical sense of how much it will cost to pay off the debt. We must stop wasting the taxpayers' money on programs that demonstrably cannot and will not work.

If the California initiative passes, one legislative analysis predicts that high schools and community colleges would save $120 million a year in administrative costs. Universities would save another $50 million a year. Think of the savings we could realize if Federal programs are terminated nationwide. It boggles the mind.

Let me offer a few examples of Government-sponsored affirmative action programs that are so counterproductive and divisive they make me wonder how much more of this we can swallow. These few programs are only the tip of the iceberg.

First, the State Department has been instructed that certain new positions must be filled with women and minorities rather than white workers. The administration complained when a State Department list of candidates for ambassadorial posts did not contain enough minorities and women. The White House returned the list to Secretary Christopher.

Second, the Federal Communications Commission has for years implemented a program where women and minorities are given special tax breaks and special incentives to enable them to acquire mass media facilities, such as radio and television stations.

The most well-known example is the special tax break that Viacom, the world's second largest entertainment conglomerate, is trying to use. Under current FCC law, Viacom can defer $1.1 to $1.6 billion in taxes on the sale of its cable operations simply by selling them to an African-American buyer. And this buyer just happens to be the same man who conceived the minority tax-break program while working on FCC issues in the Carter White House. This minority buyer now plans to invest $1 million of his own money in the acquisition. I ask you, Mr. President, is this someone in need of a Federal preference? I say no way, José.

Third, the Forest Service has a firefighter program where certain positions can be filled only with women or minorities. And a North Carolina constituent and Forest Service employee recently sent me articles regarding an internal Forest Service document that actually states, "Only unqualified applicants will be considered." This policy was supposed to be a set-aside for women. So much for qualifications being important.

Fourth, and what about the Defense Department's special hiring directive that said, "special permission will be required for promotion of all white men without disabilities."

Mr. President, I have it on good authority that there are more than 160 such preference programs in place

today in the Federal bureaucracy. That is what this bill is aimed at. And who pays for them? That is right. The American taxpayers pay for them.

Citizens visiting my office frequently note on my office wall a picture of a man who was a friend of all of us who served with him, Hubert Humphrey of Minnesota. Hubert was the author of the original Civil Rights Act of 1964. True enough, Senator Humphrey and I disagreed on just about every policy issue but we disagreed agreeably. We were friends, nevertheless. And I respected him for having the courage of his convictions, wrong as I thought those convictions were sometimes. He stated many times to me that my feeling about him was mutual, and I appreciated that.

In any event, Hubert Humphrey was exactly right when he stated during a debate in this room over the Civil Rights Act of 1964:

> * * * if there is any language [in the Civil Rights Act of 1964] which provides that any employer will have to hire on the basis of percentages or quotas related to color, race, religion or national origin, I will start eating the pages one after another because it is not there.

Well, the distinguished majority leader, Mr. DOLE, recently remarked,

> Now we all have indigestion from living in an America where the government too often says that the most important thing about you is the color of your skin or the country of your forefathers * * * that's wrong, and we should fix it.

I agree with Senator DOLE. BOB DOLE was on target, and hopefully the legislation that I am introducing today will serve as a first step toward fixing this problem.

As I said at the outset, I anticipate that Senator DOLE may offer legislation on this subject. I hope others will too so that we can all think together and act together on a problem that should not be allowed further to beset the greatest country on Earth.

But, Mr. President, back to Hubert Humphrey. Hubert Humphrey hated the idea of quotas and preferential treatment based on race. He knew instinctively that such programs, if instituted, would turn America inside out—which is exactly what has occurred: there is much evidence that so-called affirmative action programs have exacerbated racial problems—not healed them. Former Secretary of Education William Bennett put it this way.

> Affirmative Action has not brought us what we want—a colorblind society. It has brought us an extremely color-conscious society. In our universities we have separate dorms, separate social centers. What's next—water fountains? That's not good, and everybody knows it.

George Weigel of the Ethics and Public Policy Center had this observation regarding how divided a country America has become:

> People have not grasped the extent to which the notion of governmentally appointed preference groups is pernicious to American democracy * * * They have not grasped what it means to balkanize the United States. My guess is that there will be a tremendous revolt against this.

Paul Sniderman of Stanford University and Thomas Piazza of the University of California recently completed a book, "The Scar of Race." These authors demonstrate that whites are more likely to view African-Americans in a negative light if they are first asked questions about affirmative action. Here's what Sniderman and Piazza found:

> A number of whites dislike the idea of affirmative action so much and perceive it to be so unfair that they have come to dislike blacks as a consequence.

Parenthetically, Mr. President, that is an awful state of affairs, but I believe it to be true. It should not be true, but it is. The authors continued:

> Hence the special irony of the contemporary politics of race. In the very effort to make things better, we have made some things worse.

Sharon Brooks Hodge, an African-American writer and broadcaster, perhaps summed it up best when she observed:

> * * * white skepticism leads to African-American defensiveness * * * Combined, they make toxic race relations in the workplace.

And, as is the case with so many forays into social engineering by the Federal Government, affirmative action and quota programs, have, at the end of the day, harmed the very people their proponents designed them to assist. Peter Schrag of the San Diego Union-Tribune hit the nail on the head when he asked:

> To what extent will the real achievements of minorities be diminished by the suspicion that they got some sort of break?

Although Federal agencies designed affirmative action programs to benefit victims of discrimination at the lowest rungs of the economic ladder, today they benefit chiefly educated, middle-class minorities. As Linda Chavez, the Hispanic leader and President of the Center for Equal Opportunity and former staff director of the U.S. Commission on Civil Rights under President Reagan, observed today's government affirmative action programs benefit those who can make it on their own.

Mr. President, after 30 years of affirmative action, America now finds itself a more racially ethnically divided society than ever before. The cohesiveness which once brought all of us together as Americans first is slipping away.

After 30 years, it is obvious that this social experiment called affirmative action has outlived its usefulness. It is time for the Federal Government to scrap these programs, and restore the principles upon which our country was built—personal responsibility, self-reliance, and hard work.

Mr. President, that formula for achievement was the answer 200 years ago and it is still the same today. And I might add, it is the only road to reaching the American dream for all our citizens, whether they be black, white, Hispanic or Asian, men or women. The Act To End Unfair Federal Preferential Treatment is the first step toward this dream.

Mr. President, I ask unanimous consent that the following items be printed in the RECORD at the conclusion of my remarks following the text of the bill, an August 21, 1994, article by Peter Schrag of the San Diego Union Tribune; a February 15, 1995, article by Linda Chavez in USA Today; and a February 13, 1995, article by Steven Roberts in U.S. News & World Report.

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

S. 497

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Act to End Unfair Preferential Treatment".

SEC. 2. PUBLIC EMPLOYMENT, PUBLIC CONTRACTING, AND FEDERAL BENEFITS.

Part VI of title 28, United States Code, is amended by inserting after chapter 176 the following new chapter:

"CHAPTER 177—CIVIL LIBERTIES

"§ 3601. Public employment, public contracting, and Federal benefits

"Notwithstanding title VII of the Civil Rights Act of 1964 (42 U.S.C. 2000e et seq.), title IX of the Education Amendments of 1972 (20 U.S.C. 1681 et seq.), section 15 of the Small Business Act (15 U.S.C. 644), or any other provision of law, no agent or agency of the Federal Government may use race, color, gender, ethnicity, or national origin—

"(1) as a criterion for either discriminating against, or granting preferential treatment to, any individual or group; or

"(2) in a manner that has the effect of requiring that employment positions be allocated among individuals or groups;

with respect to providing public employment, conducting public contracting, or providing a Federal benefit for education or other activities.

"§ 3602. Necessary classifications based on gender

"Nothing in this chapter shall be interpreted as prohibiting classifications based on gender that are reasonably necessary to the normal provision of public employment, conduct of public contracting, or provision of a Federal benefit.

"§ 3603. Court order or consent decree

"Nothing in this chapter shall be interpreted as—

"(1) affecting any court order or consent decree that is in effect as of the date of enactment of this chapter; or

"(2) forbidding a court to order appropriate relief to redress past discrimination.

"§ 3604. Definitions.

"As used in this chapter:

"(1) The term 'agent' means an officer or employee of the Federal Government.

"(2) The term 'Federal benefit' means—

"(A) funds made available through a Federal contract; or

"(B) cash or in-kind assistance in the form of a payment, grant, loan, or loan guarantee, provided through any program administered or funded by the Federal Government.".

MINORITIES CAN'T MEASURE UP? THAT'S WHAT AFFIRMATIVE ACTION POLICIES IMPLY, THOUGH YOU WON'T HEAR ITS LIBERAL BACKERS SAY SO

(By Linda Chavez)

BETHESDA, MD.—For years I've suspected that many liberals favor affirmative action because they believe blacks and Hispanics can't measure up to the same standards as whites, but it's been difficult to get any of them to say so publicly.

Now Rutgers University President Francis L. Lawrence, a staunch proponent of affirmative action throughout his career, has let the cat out of the bag.

In comments to a faculty group discussing the school's admission criteria, Lawrence referred to blacks as a "disadvantaged population that doesn't have the genetic, hereditary background" to score equally with whites on the Scholastic Aptitude Test.

Lawrence has since apologized for his comments—which he now says he doesn't actually believe—and students have led angry protests demanding his resignation.

But the fact is that affirmative-action programs at universities around the country operate as if Lawrence were right.

They routinely apply lower admission standards to black and Hispanic applicants, all the while pretending that such double standards won't reinforce negative stereotypes and stigmatize students admitted under them.

The University of California at Berkeley, for example, admits black and Hispanic students with test scores and grade-point averages significantly below those it requires of both white and Asian students.

Berkeley is one of the few universities that has made available such information, even on a limited basis.

In 1989, Berkeley turned away approximately 2,800 white students with perfect 4.0 GPAs—straight As. But half of the minority students it admitted that year had below a 3.53 GPA.

And contrary to the assumptions of many affirmative-action supporters, students admitted on the basis of lower test scores and grades aren't necessarily economically disadvantaged graduates of poor inner-city schools.

At Berkeley, for example, the Hispanic student admitted through the affirmative action program comes from a middle-class family, and many if not most attended integrated schools, often in the suburbs.

In fact, 17% of Hispanic entering freshmen admitted to Berkeley in 1989 came from families that earned more than $75,000 a year, as did 14% of black students.

Statistics like these make it increasingly difficult for advocates to argue that affirmative action is intended to benefit disadvantage minorities.

One Mexican-American student told researchers studying the Berkeley program she was "unaware of the things that have been going on with our people, all the injustice we've suffered, how the world really is. I thought racism didn't exist, and here, you know, it just comes to light."

No doubt she was referring to the political indoctrination many minority students receive in such programs so they'll know how "oppressed" they really are, despite attending one of the world's elite institutions of higher learning.

But the comments that racism at Berkeley "just comes to light" might just as well apply to the university's own admission standards, which clearly do treat applicants differently according to their race.

Affirmative action advocates can't have it both ways. A system that depends on holding minorities to different—and lower—standards than whites invites prejudice and bolsters bigotry.

But it also sends a clear message to the intended beneficiaries that those who claim to want to help minorities don't really believe blacks and Hispanics can ever measure up to whites.

Most supporters of affirmative action no doubt would be horrified that anyone might interpret their intentions so malignly. But their actions speak as loudly as words.

WHAT OTHERS ARE SAYING

"We are happily at a time when a number of the compensations that were earlier advanced to make up for earlier discrimination are no longer needed."—Calif. Gov. Pete Wilson.

"If the president respects the goal of affirmative action as fully as he should, he might gain political support from voters who believe in pursuing an integrated society. * * * But if he ignores the subject and lets critics set the terms of the debate * * * he's likely to be stuck with affirmative action as a thin cover for nasty, race-minded politics—the Willie Horton issue of 1996. And it's likely to contribute to his loss."—Lincoln Caplan, Newsweek magazine contributing editor.

"The people in America now are paying a price for things that were done before they were born. We did discriminate. * * * But should future generations have to pay for that?"—Senate Majority Leader Bob Dole.

"We know that affirmative action has created problems, abuses we didn't contemplate. But if you eliminate or severely curb * * * then what?"—Calif. Lt. Gov. Gray Davis.

"(It's) going to be hell. * * * You better make sure you prepare for it."—Franklyn Jenifer, president of the University of Texas at Dallas, warning college administrators of a backlash from minority students if affirmative action policies are removed.

[From the U.S. News & World Report, Feb. 13, 1995]

AFFIRMATIVE ACTION ON THE EDGE—A DIVISIVE DEBATE BEGINS OVER WHETHER WOMEN AND MINORITIES STILL DESERVE FAVORED TREATMENT

Affirmative action is a time bomb primed to detonate in the middle of the American political marketplace. Federal courts are pondering cases that challenge racial preferences in laying off teachers, awarding contracts and admitting students. On Capitol Hill, the new Republican majority is taking aim at the Clinton administration's civil rights record. On the campaign trail, several Republican presidential hopefuls are already running against affirmative action. And in California, organizers are trying to put an initiative on next year's ballot banning state-sanctioned "preferential treatment" based on race or gender.

This increasingly angry and divisive debate about the role of race and gender in modern America could help the Republicans unseat Bill Clinton in 1996 and change the way many institutions allot jobs, business and benefits. A recent Wall Street Journal NBC News survey found that 2 out of 3 Americans, including half of those who voted for President Clinton in 1992, oppose affirmative action. The Los Angeles Times found 73 percent of Californians back the ballot initiative. "The political implications are enormous," says Will Marshall of the Democratic leadership Council, a moderate group. "Obviously, a lot of Republicans look at affirmative action as the ultimate wedge issue."

The assault on affirmative action is gathering strength from a slow-growth economy, stagnant middle-class incomes and corporate downsizing, all of which make the question of who gets hired—or fired—more volatile. Facing attacks on such a broad front, women's groups, civil rights organizations and other defenders of affirmative action are circling their wagons. Women and minorities still need preferential treatment, they argue, because discrimination still exists, causing blacks and other minorities to lag far behind whites in terms of economic status. "If African-Americans are taking all these jobs," asks Barbara Arnwine of the Lawyers Committee for Civil Rights Under Law, "why is there double-digit unemployment in the African-American community?" Adds Patricia Williams, a professor at Columbia Law School: "There is this misplaced sound and fury about nothing. Access is still very limited, and the numbers are still very low."

But the sound and fury are real. Affirmative action poses a conflict between two cherished American principles: the belief that all Americans deserve equal opportunities and the idea that hard work and merit, not race or religion or gender or birthright, should determine who prospers and who does not. In 1965, Lyndon Johnson defended affirmative action by arguing that people hobbled by generations of bias could not be expected to compete equally. That made sense to most Americans 30 years ago, but today many argue that the government is not simply ensuring that the race starts fairly but trying to decide who wins it.

Moreover, many women and racial minorities are no longer disadvantaged simply because of their race or gender. Indeed, most of the young people applying for jobs and to colleges today were not even born when legal segregation ended. "I'll be goddamned why the son of a wealthy black businessman should have a slot reserved for that race when the son of a white auto-assembly worker is excluded," says a liberal Democratic lawmaker. "That's just not right."

DISHEARTENING

The critics of affirmative action include some conservative minority and women's leaders who believe it has a destructive effect on their own communities. Thomas Sowell, the black economist, argues that affirmative action has created a process of "mismatching," in which competition for talented minorities is so fierce that many are pushed into colleges for which they are not ready. "You can't fool kids," says Linda Chavez, a Hispanic activist. "They come into a university, they haven't had the preparation and it's a very disheartening experience for some of them.

Others say affirmative action causes coworkers to view them with suspicion. "White skepticism leads to African-American defensiveness," says Sharon Brooks Hodge, a black writer and broadcaster. "Combined, they make toxic race relations in the workplace." Glenn Loury, an economics profession at Boston University, says proponents of affirmative action have an inferiority complex: "When blacks say we have to have affirmative action, please don't take it away from us, it's almost like saying, 'You're right, we can't compete on merit.' But I know that we can compete."

William Bennett, former education secretary and a leading GOP strategist, says that "toxic" race relations, aggravated by affirmative action, have led to a damaging form of re-segregation: "Affirmative action has not brought us what we want—a colorblind society. It has brought us an extremely color-conscious society. In our universities we have separate dorms, separate social centers. What's next—water fountains? That's not good, and everybody knows it."

But supporters of affirmative action maintain that arguments like Bennett's are unrealistic—even naive. "We tried colorblind 30 years ago, and that system is naturally and artificially rigged for white males," says Connie Rice of the NAACP Legal Defense and Education Fund. "If we abandon affirmative action, we return to the old-boy network."

Voices on both sides of the debate are starting to discuss a possible compromise that would focus eligibility on class, instead of on race or gender. For example, the son of a poor white coal miner from West Virginia would be eligible for special help, but the daughter of a black doctor from Beverly Hills would not. "Some of the conventional remedies don't work as one might have hoped," says University of Pennsylvania law professor Lani Guinier, whose ill-fated nomination as Clinton's chief civil rights enforcer sparked a storm of protest from conservatives. "Perhaps there is an approach that does not suggest that only people who have been treated unfairly because of race or gender or ethnicity have a legitimate case."

No one questions the sensitivity of the subject. For years, the civil rights lobby, backed by Democrats in Congress, was so strong that critics often felt intimidated. Even today, Democrats who disagree with affirmative action are reluctant to voice their doubts. "The problem is political correctness—you can't talk openly," says a member of Congress.

Democrats are talking privately, however, urging the White House to formulate a response to the antiaffirmative-action wave before it swamps the president and the party. At the Justice Department, chief civil rights enforcer Duval Patrick is ready: "We have to engage; we can't sit to one side."

But despite the fact that the California initiative could cost Clinton a must-win state in 1996, the administration seems sluggish, even paralyzed. Laments a senior adviser, "We're going to wait until it's a crisis before reacting." White House political strategists admit one reason for the inaction: The issue is a sure loser.

REFEREE?

Caught between angry white males and the party's traditional liberal base, White House advisers think the best they can do is position the president as an arbiter between two extremes. In a recent interview with U.S. News, the president voiced his aim this way: "What I hope we don't have here, and what I hope they don't have in California, is a vote that's structured in such a way as to be highly divisive, where there have to be winners and losers and no alternatives can be easily considered." Asked his views on affirmative action, the president tried—as he often does—to please both sides: "There's no question that a lot of people have been helped by it. Have others been hurt by it? What is the degree of that harm? What are the alternatives? That's a discussion we ought to have."

But a senior administration official admits that the middle ground will be an uncomfortable place: "The civil rights groups are going to say we're caving in if we make any compromises. And the Republicans are going to shout, 'Quotas.'" That same tension is already developing within the White House. U.S. News has learned that Chief of Staff Leon Panetta is quietly asking friends on Capitol Hill whether the president should simply endorse the California initiative—a position sure to trigger outrage among the president's more-liberal advisers.

Unsure how resolute the White House will be, civil rights groups are looking for their own strategy to defend affirmative action. One of their main jobs, they say, is to debunk the "myth" that unqualified women and minorities are being hired in large numbers. And some of the best salesmen for affirmative action are big corporations that adjusted long ago to the demands for a more-diverse work force, dread bad publicity and fear the uncertainty change would produce. James Wall, national director of human resources for Deloitte & Touche LLP, a management consulting firm, says diversity is good business: "If you don't use the best of all talent, you don't make money."

Even so, the combination of old resentments, new economic hardships and shifting political winds threatens to explode. "There's a great deal of pent-up anger beneath the surface of American politics that's looking for an outlet," says conservative strategist Clint Bolick of the Institute for Justice. It's the same anxiety that helped pass Proposition 187 in California, which sharply restricts public assistance to the children of illegal immigrants, and thwarted Clinton's plan to push a Mexican aid plan through Congress. "If there is a squeeze on the middle class," says GOP pollster Linda Divall, "people get very vociferous if they think their ability to advance is being limited."

Some African-American leaders insist that this white-male anger is being stirred up by demogogues who make blacks and women into scapegoats. Says Derrick Bell, professor of law at New York University: "There is a fixation among so many in this country that their anxieties will go away if we can just get these black folks in their place."

But the anxieties are strong and are coupled with a growing belief that affirmative action is another aspect of intrusive and inefficient big government. "The real back-to-basics movement is not in education but in politics," says William Bennett. "We're rethinking basic assumptions about government."

Accordingly, the fight over affirmative action is playing out in four arenas:

CALIFORNIA

The real question is whether the civil rights initiative will appear on the primary ballot in March of 1996 or on the general-election ballot. If it appears in November, the measure could seriously damage President Clinton's chances to carry the nation's most populous state. That is precisely why national Republicans are promising to raise money for the effort—as long as organizers aim for November.

The initiative is the brainchild of two academics, Tom Wood and Glynn Custred, who say they were alarmed by the prevalence of "widespread reverse discrimination" in the state's college system. The initiative has already attracted some unlikely support: Ward Connerly, a black member of the University of California Board of Regents, said last month that he favors an end to racial and gender preferences. "What we're doing is inequitable to certain people. I want something in its place that is fair." and Hispanic columnist Roger Hernandez wrote: "I've never understood why Hispanic liberals, so sensitive to slights from the racist right, don't also take offense at the patronizing racists of the left who say that being Hispanic makes you an idiot."

California Assembly Speaker Willie Brown, who is black, opposes the initiatives as an attempt "to maintain white America in total control." But other Democrats are scurrying for cover. "The wedge potential is absolutely scary," says Ron Wakabayashi, director of the Los Angeles County Human Rights Commission. "The confrontation of interests looks like blacks and Latinos on one side and Asians and Jews on the other."

THE COURTS

The Supreme Court has generally supported race and gender preferences to remedy past discrimination, but an increasingly conservative bench has moved to limit the doctrine. In 1989, the court struck down a program in Richmond, Va., that set aside 30 percent of municipal contracts for racial minorities, and that decision set off a flurry of litigation. In the current term, the court already has heard arguments in a key case: A white-owned construction company is claiming that it failed to get a federal contract in Colorado because of bonuses given to contractors that hire minority firms.

In another case making its way toward the high court, a black teacher in Piscataway, N.J., was retained while an equally qualified white teacher was fired, in the name of diversity. The Bush administration sided with the white teacher after she sued the school board. The Clinton administration backs the board. Two other cases relating to education are also moving forward. In one, white students at the University of Maryland are challenging a scholarship program reserved for minorities. In the other, the University of Texas law school is being sued for an admissions policy that lowers standards for blacks and Hispanics.

While most court watchers do not expect sweeping changes in current doctrine, the high court is closely divided on racial-preference questions, and the deciding votes could be cast by Justice Sandra Day O'Connor. Legal analysts cite her opinion in a 1993 case challenging voting districts that were drawn to guarantee a black winner: "racial gerrymandering, even for remedial purposes, may balkanize us into competing racial factions." The court's most likely move: require programs to be more narrowly tailored to remedy past discrimination.

CONGRESS

Republican victories last year mean that critics of affirmative action now control the key committees and the congressional calendar. A strategy session was held last Friday at the Heritage Foundation, a conservative think tank, bringing together about two dozen Hill staffers, lawyers and conservative activists. Already, Rep. Charles Canady, the Florida Republican who heads the key House subcommittee, has written to the Justice Department requesting every document relating to affirmative action cases. His goal oversight hearings that try to demonstrate that the administration's civil rights policies far exceed the original intent of Congress.

Conservatives are considering amendments to appropriations bills that would restrict the administration's flexibility. There also is talk of a measure banning racial and gender preferences altogether. Civil rights proponents remain confident that Clinton would veto any measure that eviscerates affirmative action and that his veto would survive.

CAMPAIGN '96

The affirmative action issue will be test-marketed this year by Buddy Roemer, a Republican candidate for governor of Louisiana. But it is already intruding into the politics of 1996: California Gov. Pete Wilson has all but endorsed the initiative and Sen. Phil Gramm of Texas, who will soon announce his presidential candidacy, has taken over the appropriations subcommittee that handles the Justice Department. He will use it, predicts an administration official, "as a platform to rail against quotas."

The danger for Republicans lies in going too far in attacking affirmative action and courting resentful white males. If the antiaffirmative-action campaign "turns into mean-spirited racial crap, to hell with it," William Bennett warned fellow Republicans.

But the questions at the core of the affirmative action debate remain unanswered. How much discrimination still exists in America? And what remedies are still necessary to aid its victims?

[From the San Diego Union-Tribune, Aug. 21, 1994]

THE PREFERENTIAL TREATMENT BACKLASH

(By Peter Schrag)

A Republican attempt to prohibit California government agencies from discriminating for or against individuals on the basis of race, ethnicity or gender got a three-hour hearing in the Assembly Judiciary Committee this month, followed by the predictable brushoff from the committee's majority Democrats. "It is one of the most dangerous pieces of legislation I have witnessed in my four years here," said Assemblywoman Barbara Lee, D-Oakland.

We should only be so lucky.

The California Civil Rights Initiative (CCRI), a constitutional amendment that would have required a two-thirds vote in each house of the Legislature in order to go on the ballot, had as much chance as a snowball in a furnace. It was sponsored by Assemblyman Bernie Richter of Chico and had some 42 legislative co-sponsors, one of whom was a Democrat and one an Independent.

It's a simply worded proposition. Its key passage says, "Neither the state * * * nor any of its political subdivisions or agents shall use race, sex, color, ethnicity or national origin as a criterion for either discriminating against, or granting preferential treatment to, any individual or group in the operation of the state's system of public employment, public education or public contracting."

Put that proposition to the voters unadorned and you're likely to get a sweep. It's as American as Abraham Lincoln and Martin Luther King Jr.: Judge people as individuals on what they can do, on the content of their character, not on what group they belong to or the color of their skin.

It's not the way things work, either in the universities, where much of the push and inspiration for CCRI comes from, or many other places in the public arena. Everywhere there are preferences based at least partly on something else—in hiring, in college admissions and in a thousand subtle other ways.

The reasons for some official preferences are obvious enough: 1) to make up for the lingering effects of past discrimination and 2) to try to get in the professions, in the civil service and on the campuses people who, at the very least, are not strikingly different in pigmentation from the rest of the populace.

But as the backers of the CCRI point out, the thing has gone to the point where new offenses are committed in the effort to remedy the old: Should there be scholarships reserved for blacks or Hispanics? Should college departments be offered bounties for bagging minorities in their faculty recruiting? Should there be legislative requirements of racial proportionality, not only in university admissions, but in graduation rates?

Should people of the right color or sex be given preference in contracting with public agencies, even if it costs the public more? And to what extent should success of a particular ethnic group—Asians in academic achievement for example—itself become a reason for race-based restrictions against them?

In some instances, these things have reached such totemic proportions that just questioning them is regarded as evidence of racism.

But it's not the whole story. Even CCRI's sponsors, who now hope to get the measure on the ballot by the initiative route, acknowledge that there are colleges that give preference in admission to children of alumni or, as at the University of California, to the offspring of legislators. And there are almost without doubt fire and police departments, and probably other public agencies as well, where it still doesn't hurt to be related to somebody, or at least to know them, whatever the civil service regulations say.

More important, there are legitimate sensibilities and experiences that come with certain backgrounds that may well be important in the selection of police officers or in enriching the composition of a campus. Where two candidates are otherwise similarly qualified, what's wrong with giving preference to the one whose parents are immigrants and grew up in the barrio?

CCRI's backers point out, correctly, that economic disadvantage could be used more legitimately to accomplish almost the same thing. But the very precision in CCRI's language is likely to run colleges and other state agencies afoul, on the one hand, of federal laws that encourage affirmative action and, on the other, to invite still more suits from disappointed applicants every time there's a suggestion that race or gender might have been used, however marginally, as a criterion.

All that being said, however, CCRI nonetheless reflects a set of increasingly serious problems and grievances that, as the state becomes ever more diverse, will become all the more vexing.

At what point do objective criteria and real performance become secondary to the politically correct imperatives of diversity, as in some cases they already are, thereby making it harder and harder to maintain standards of quality? To what extent do preferences for marginal candidates lead to frustration when its beneficiaries are overwhelmed?

The questions run on: To what extent will the real achievements of minorities be diminished by the suspicion that they, too, got some kind of break? To what extent does the whole process generate mutually self-validating backlash that further institutionalizes race in our society? And at what point, given our growing diversity, do the definitional problems about who is what—definitions, ironically, that squint right back to the slaveholders' racial distinctions—become both absurd and totally unmanageable?

The problem may lie as much in the idea of subjecting these processes to a rigid legal formula as in the formula chosen. And it lies in the unchecked spread of the idea that everything—college admissions, college graduation, a job—is an entitlement not to be abridged without due process.

But the complaint of the CCRI people is real enough, and it has legs.

ADDITIONAL COSPONSORS

S. 17

At the request of Mr. SPECTER, the name of the Senator from Pennsylvania [Mr. SANTORUM] was added as a cosponsor of S. 17, a bill to promote a new urban agenda, and for other purposes.

S. 47

At the request of Mr. SARBANES, the name of the Senator from Mississippi [Mr. COCHRAN] was added as a cosponsor of S. 47, a bill to amend certain provisions of title 5, United States Code, in order to ensure equality between Federal firefighters and other employees in the civil service and other public sector firefighters, and for other purposes.

S. 111

At the request of Mr. DASCHLE, the name of the Senator from Delaware [Mr. BIDEN] was added as a cosponsor of S. 111, a bill to amend the Internal Revenue Code of 1986 to make permanent, and to increase to 100 percent, the deduction of self-employed individuals for health insurance costs.

S. 242

At the request of Mr. DASCHLE, the name of the Senator from Delaware [Mr. BIDEN] was added as a cosponsor of S. 242, a bill to amend the Internal Revenue Code of 1986 to allow a deduction for the payment of tuition for higher education and interest on student loans.

S. 252

At the request of Mr. LOTT, the name of the Senator from Nevada [Mr. REID] was added as a cosponsor of S. 252, a bill to amend title II of the Social Security Act to eliminate the earnings test for individuals who have attained retirement age.

S. 254

At the request of Mr. LOTT, the name of the Senator from New Jersey [Mr. LAUTENBERG] was added as a cosponsor of S. 254, a bill to extend eligibility for veterans' burial benefits, funeral benefits, and related benefits for veterans of certain service in the U.S. merchant marine during World War II.

S. 262

At the request of Mr. GRASSLEY, the name of the Senator from Alaska [Mr. MURKOWSKI] was added as a cosponsor of S. 262, a bill to amend the Internal Revenue Code of 1986 to increase and make permanent the deduction for health insurance costs of self-employed individuals.

S. 303

At the request of Mr. LIEBERMAN, the name of the Senator from Oklahoma [Mr. INHOFE] was added as a cosponsor of S. 303, a bill to establish rules governing product liability actions against

raw materials and bulk component suppliers to medical device manufacturers, and for other purposes.

S. 304

At the request of Mr. SANTORUM, the name of the Senator from Oklahoma [Mr. INHOFE] was added as a cosponsor of S. 304, a bill to amend the Internal Revenue Code of 1986 to repeal the transportation fuels tax applicable to commercial aviation.

S. 442

At the request of Ms. SNOWE, the name of the Senator from Iowa [Mr. GRASSLEY] was added as a cosponsor of S. 442, a bill to improve and strengthen the child support collection system, and for other purposes.

S. 448

At the request of Mr. GRASSLEY, the name of the Senator from Montana [Mr. BAUCUS] was added as a cosponsor of S. 448, a bill to amend section 118 of the Internal Revenue Code of 1986 to provide for certain exceptions from rules for determining contributions in aid of construction, and for other purposes.

SENATE CONCURRENT RESOLUTION 3

At the request of Mr. SIMON, the names of the Senator from Wyoming [Mr. SIMPSON], the Senator from Utah [Mr. HATCH], and the Senator from New York [Mr. D'AMATO] were added as cosponsors of Senate Concurrent Resolution 3, a concurrent resolution relative to Taiwan and the United Nations.

ADDITIONAL STATEMENTS

THE SENATE WITHOUT SENATOR METZENBAUM

• Mr. SIMON. Mr. President, it has been only 2 months since the retirement of our former colleague, Senator Howard Metzenbaum of Ohio, but already it is clearly apparent that his unique role remains unfilled in this body.

None of the phrases coined to describe Howard Metzenbaum—"The People's Watchdog," The Tiger From Ohio—quite does justice to the real service he performed for the public and for the Republic in his duties here.

Someone of his stature, courage, and sheer persistence comes to the fore all too infrequently in public life today.

I commend to my colleagues, and to all others who care about this institution, an article written in the closing days of Howard Metzenbaum's Senate service that adds some historic perspective to his distinguished career. I ask that the article be printed in the RECORD.

The article follows:

[From the Cleveland Plain Dealer, Dec. 4, 1994]

HOWARD'S END

(By Thom Diemer)

Metzenbaum was true to form through his last days in the Senate. His leaving was like a fingernail scratching a chalkboard.

He always had a chip on his shoulder.

His pursed-lipped scowl could intimidate a trash-talking bureaucrat or unnerve an imperious Republican. He knew he had the edge, he confided to aides, once his adversary got angry.

Howard Metzenbaum was true to form through his last days in the United States Senate. He went out with neither a bang nor a whimper. His leaving was more like a fingernail scratching a chalkboard.

Some of his colleagues squirmed as Metzenbaum battled for one last lost cause. But most shrugged or grinned, saying in so many words, "That's Howard."

In a special lame-duck Senate session on Thursday, Metzenbaum railed against the General Agreement on Tariffs and Trade, saying it was weighted down with "deals for big business" and would "shortchange American workers." He was one of only 13 Democrats voting against the trade pact.

His determination, fearlessness and unrelenting partisanship brought him acclaim and notoriety during 19 remarkable years as Ohio's junior senator.

"I think people know I vote in accordance with the dictates of my conscience, not with the political winds," he said in an interview last month. "There are people who hate me with a passion, but when I do meet them, I laugh and kid them, and I tell them I absolutely defend their right to be wrong."

His character was shaped by a work ethic cultivated during the Depression, a commitment to government activism personified by the New Deal, close ties with the American labor movement and an ethical grounding in Reform Judaism.

"I always worked," he said.

A lean upbringing in Cleveland's Glenville neighborhood fueled his resentment for a system that he saw as stacked against the little guy. Brushes with anti-Semitism opened his heart to the plights of other minorities and persecuted groups.

POPULARITY DEFIED LOGIC

Metzenbaum's national stature grew as he gained power and influence in the Senate, yet there was no mellowing. He could be vitriolic, blustery and reckless even with retirement looming at the age of 77.

He never shed his partisan image.

Political analysts puzzled for decades over the secret to his electoral success: How did an acerbic, left-wing ideologue, out of step philosophically with many of his constituents in a Republican-leaning state, become one of the most dominant public figures in Ohio history?

"There is no question that in my political career I have taken strong stands. No question some people were very unhappy with those stands," he said at his last Senate news conference. "But fortunately, enough people decided they were positions of conscience or conviction and they respected me for it. Therefore, a number of them voted for me and I was able to remain in office."

He was a curmudgeon, the last angry liberal.

In 1988, his final campaign, he vanquished Cleveland Mayor George V. Voinovich by 588,000 votes. Results strongly suggested more than 1 million Ohioans split their tickets, voting for both Metzenbaum and Republican President George Bush.

"He has been able to convert his liberalism into a populism that not only benefits people on the bottom rungs of the ladder, but also the middle class," Ohio State University political scientist Herb Asher once said. "That's why he has been so successful in Ohio: Howard Metzenbaum is a fighter, and a fighter for us—the middle class."

Ohio Senate President Stanley J. Aronoff, who helped the late Robert Taft Jr. of Cincinnati defeat Metzenbaum in Metzenbaum's first Senate bid 24 years ago, said "voters have a propensity to like him or dislike him—very little in-between."

"The interesting thing with Metzenbaum is that, as time went on, he was able to become comfortable even in conservative Cincinnati," Aronoff added. "In some respects, even though his philosophy would be leftish, he came to be regarded as conservative."

CONSISTENCY APPLAUDED

John C. Green, director of the University of Akron's Raymond C. Bliss Institute for Applied Politics, explained it this way: Metzenbaum, he said, had a "tremendous knack for being right about issues people care about"—job security, pensions, workplace safety, cable television rates and a raft of consumer issues.

Conversely, his battles on Capitol Hill against the Central Intelligence Agency, multi-national corporations—or in favor of gays in the military—were of little consequence to average, working Ohioans.

"Talking to people we hear over and over again, 'I don't like Metzenbaum, I don't agree with him, but I always know where he stands and I admire him for that,' Green said. "Although he was perhaps more liberal on many issues than Ohioans were, Sen. Metzenbaum has been remarkably consistent."

A Republican critic, media consultant Roger J. Stone, was less generous.

"Two words," he said when asked to explain Metzenbaum's electoral success, "luck and money."

Metzenbaum's fund-raising prowess was unmatched by any other Ohio politician. He raised a record $8 million to battle Voinovich, taking from union members, Hollywood stars, the arts community and liberal-oriented interest groups. He was never shy about asking.

MENTOR AND TORMENTOR

For years, Metzenbaum was said to be hated by Republicans, unloved by his staff and disrespected by reporters, many of whom saw him as a shameless publicity-monger. There was some truth to all those observations, but Washington loves success. Metzenbaum converted many of his critics because he was effective at what he did.

Joel Johnson, his administrative assistant for most of his last term, said he had been both a "mentor and a tormentor" to his staff.

He was fiendish about punctuality, demanded that work be nearly perfect, and read the riot act in unsparing, colorful language when an aide let him down.

"We were all pretty tough," said Barry Direnfeld, a Cleveland native who started as a mailroom clerk for Metzenbaum in 1974 and later became his legislative director. "It was a hyper place."

At a Capitol Hill retirement party for the old tiger during the final week of the Senate session, dozens of former staffers nodded as Johnson's voice cracked as he said how proud he was to work for Metzenbaum, a tough boss who inspired loyalty.

There were no tears from the Republicans or the reporters. But they came to his party—from crusty Strom Thurmond, the one-time Dixiecrat and only senator older than Metzenbaum, to Doug Lowenstein, the journalist Metzenbaum credits for hanging the nickname "Headline Howie" on him. Lowenstein eventually worked as a legislative assistant for Metzenbaum.

His decision not to seek a fourth term opened the door for a Republican, Mike DeWine, who defeated Metzenbaum's son-in-law, Joel Hyatt, in the campaign for the open Senate seat in November. But Metzenbaum battled to the wire, a whirl of activity as the clock ran out on the 103rd Congress.

BASEBALL OBSESSION

He made a pest of himself trying to convince the Senate it should jump into the baseball strike, stripping the owners of their antitrust immunity so the players union could take them to court.

His contempt for the millionaire owners, passion for anti-monopoly laws and instinct for media attention drove him, even while friends like Sen. Tom Harkin of Iowa implored him to drop the issue. He seemed oblivious to the fact that the ballplayers he supported were a far cry from the blue collar trade unionists he stood up for as a labor lawyer in the 1950s and 1960s.

On Sept. 30, Metzenbaum ignored his pals' pleas and struggled in vain to get his antitrust amendment attached to another bill, But that wasn't the only item on the agenda. The same day, he fired off a letter to President Clinton, urging him to fire CIA Director James Woolsey for his handling of the Aldrich Ames spy case.

On Oct. 8, the Senate's last day of regular business, he had "holds" on a half-dozen bills and was threatening to block a dozen more. Sen. Carl Levin, the Michigan Democrat, said his office had forms to keep track of bills that were stalled: "a box for Republican holds, one for Democrats, and one for Sen. Metzenbaum."

HE DID IT HIS WAY

Howard Morton Metzenbaum was born on Chesterfield Ave. on Cleveland's East Side on June 4, 1917.

His father, Charles Metzenbaum, was a wholesale jobber who sold bankrupt stocks during the Great Depression. "They were struggling to eke out an existence," he says of his father and mother, Anna. "They were wonderful parents. I found no fault with them at all."

No fault. That's about it. He is devoted to Shirley Metzenbaum, his wife of 48 years, but he doesn't talk much about the family he grew up with. When he does, it is with a certain detachment.

An older brother, Irwin, once ran unsuccessfully for the Ohio Senate and lives in obscurity in Cleveland. A cousin, Jimmy, served in the Ohio legislature, immediately preceding Metzenbaum, who was elected to the Ohio House in 1942. Years later an uncle, Myron Metzenbaum, developed the "Metzenbaum scissors," a surgical tool common in operating rooms.

"I cannot explain why I am the way I am," said a man not given to introspection. "I cannot think of any individual who molded me."

No teacher, no mentor, no guru. He did it on his own.

Metzenbaum hurried through Glenville High School, running track for the Tarblooders and once racing against the great Jesse Owens, then at East Tech, who left him in the dust.

And he worked.

In high school, he sold magazines and hauled groceries in a wagon to housewives at 10 cents a delivery.

He owned a car before he was old enough to drive. An older boy operated an unlicensed delivery service for him, ferrying patrons to a race track. The business was short-lived. He woke up one morning, and the car, a 1926 Essex, was gone. His dad had sold it to make a mortgage payment on their home.

Worse still, he and Alva "Ted" Bonda, a lifelong friend and business partner, tried to sell class rings at Glenville, but their entire inventory was stolen from a school locker. "The person we bought them from bothered us for years," Bonda said, laughing at the debacle. "I think that's why Howard became a lawyer."

At Ohio State University, he ran a bike rental business and played trombone for 50 cents an hour in a youth orchestra. During law school, he began drafting legislation for state lawmakers.

He scalped tickets and sold mums outside Buckeye football games and hit the road from time to time with a carload of consumer items. Driving through towns like Findley and Fremont, Metzenbaum and partners sold shopkeepers razor blades, toiletries, pencils, and—yes, the old rumor is true—condoms.

"The police would hassle you, because condoms at that point were sort of something dirty or smutty," he recalled.

LEFTWARD TILT BEGINS

War broke out in Europe. Metzenbaum, despite his allegiance to Franklin D. Roosevelt, initially questioned U.S. involvement. He was embarking on a dangerous flirtation with the far left—associations that would haunt him throughout his career.

Metzenbaum said he conducted himself in a way that no one ever thought or suggested he was a communist—"Well, I won't say nobody."

Some did regard him as a fellow traveler. He had been a member of the National Lawyers Guild and a co-founder of the Ohio School of Social Sciences—organizations regarded as communist fronts by red-hunters of the 1940s and 1950s.

Metzenbaum was red-baited in the 1970 campaign against Taft, and again in 1987 when an old rival sprang to his defense. A briefing paper urged GOP candidates to use his past connections to brand Metzenbaum a "communist sympathizer." Sen. John Glenn, Ohio Democrat, a bitter foe of Metzenbaum in the Democratic primaries of 1970 and 1974, was among the first to denounce the paper, material prepared by the National Republican Senate Campaign Committee.

The material was scrapped, but the irony couldn't be missed: Metzenbaum, for all his left-wing leanings, is a capitalist of the first order.

He started out as a tax consultant when he found the prestigious law firms were not hiring "nice young Jewish lawyers," as he put it in a 1988 Plain Dealer Sunday Magazine article.

He jumped into politics in 1942, right after law school, serving first in the Ohio House, then in the Ohio Senate where he sponsored a groundbreaking fair-employment act.

He remained in Columbus until 1950, leaving after he lost a bid to become majority leader. He suspects anti-Semitism was to blame; he can still tick off the names of the five state senators who turned against him.

BUSINESS BLOSSOMS

After the war, he and Bonda and a third partner, Sidney Moss, got interested in the rental car business, but soon realized there was more money to be made in airport parking lots. At the time, airports were still on the order of tourist attractions. Most travelers used trains or buses.

"There was no organized parking at airports," Bonda said, "it was just free parking."

Not for long. APCOA—Airport Parking Co. of America—made them millions of dollars, branching out with well-lighted, guarded lots at dozens of airports. The partners sold APCOA to ITT in 1966 for an estimated $6 million.

It was the first of many profitable ventures for Metzenbaum and Bonda, including the suburban Sun Newspapers, and part-ownership in the Cleveland Indians. Some enterprises used union labor; others kept unions out.

Metzenbaum married, reared four daughters and kept his finger in politics and the labor movement. He served as counsel to the Ohio AFL-CIO.

He marched in Selma with Martin Luther King Jr. and Viola Liuzzo.

In 1958, he managed the campaign of the cantankerous Stephen M. Young to a stunning upset victory over Sen. John Bricker, a diehard Republican conservative. Six years later, he helped Young win again, this time over Robert Taft Jr.

GOING FOR THE BIG TIME

By 1970, Metzenbaum, his fortune made, his family secure, decided to re-enter politics. All he had to do was defeat a national hero—astronaunt John Glenn, who was also seeking the Democratic Senate nomination.

That race was recalled at his farewell bash in October as a number of old friends wore buttons from that campaign, proclaiming, "I'm a Metz fan."

Little known outside the Cleveland area, he ran a brilliant campaign against the overconfident Glenn. He used television advertising extensively—a pioneering effort by Ohio standards—and emphasized bread-and-butter issues.

Organized labor closed ranks behind him. The young consumer movement embraced him. He even capitalized on the success of the miracle New York Mets, using the "Metz fan" slogan.

He upset Glenn but lost to Taft in the general election. Four years later when William Saxbe gave up Ohio's other Senate seat to become attorney general, Gov. John J. Gilligan, at the urging of union leaders, named Metzenbaum to the open seat.

Glenn was furious and immediately challenged Metzenbaum in the bar-knuckled 1974 Senate Democratic primary—the Civil War of Ohio politics.

It was a low point for Metzenbaum, one of many in his mercurial career.

When Metzenbaum suggested that "Col. Glenn," a Marine career officer, had never held a real job, Glenn unloaded on him:

"Go with me and tell a Gold Star mother her son didn't hold a job. Go with me to Arlington National Cemetery. . . ." He lectured his opponent, who, because of substandard eyesight, had never served in the military.

Glenn won. Metzenbaum had to wait until 1976, when he finally unseated Taft in what was almost certainly his last chance to win a big one.

But the feud with Glenn lasted for years. The two men hardly spoke during Metzenbaum's first term. Glenn refused to expressly endorse him for re-election in 1982.

They reconciled at mid-decade, and worked well together when Democrats recaptured the Senate majority in 1986.

"I've been waiting 20 years to say this," Glenn said at Metzenbaum's goodbye party, "come January of 1995, I'll be the only one of us who has a job."

THE METZENBAUM STYLE

Metzenbaum's big mouth and perpetual wheeling and dealing got him in trouble.

In 1974, 22 Republican senators voted not to seat the freshman Metzenbaum because of his dispute with the Internal Revenue Service over a five-year-old tax liability. The millionaire entrepreneur hadn't paid any federal income taxes in 1969.

"That didn't bother me," he said. "I stood there in back and I said, 'Incredible. Howard Metzenbaum's the subject of a Senate debate. Isn't that great?'

Metzenbaum was embarrassed by the revelation in 1983 that he accepted a $250,000 "finders fee" for putting together a seller and buyer for the elegant Hay-Adams Hotel, a block from the White House. Insisting all the while he had done nothing wrong, he eventually gave back the fee, with interest.

He called his clumsy performance in the Anita Hill-Clarence Thomas hearings in 1991 a "low point" in his political career. Charges that one of his staffers had leaked Hill's sexual harassment allegations to the media knocked him off balance.

Foreign affairs were not his forte. He once called for the assassination of Libyan dictator Moammar Gadhafy—and he praised Iraq's Saddam Hussein as a potential peacemaker, before the Persian Gulf war.

A lifelong opponent of capital punishment, he disappointed many of his closest supporters in 1987 when, with re-election coming up the next year, he backed the death penalty for drug kingpins in federal cases.

"In retrospect," he said recently, "I am not positive whether there was some rationalization about that decision or not."

He rarely had doubts about which course to take. He didn't hesitate in opposing a popular constitutional amendment banning desecration of the American flag, for instance.

But he almost voted for the Gramm-Rudman deficit reduction plan—wrestling free from a panicked aide trying to stop him—and the advocacy of his close friend Sen. Paul Simon sorely tempted him to back a balanced budget law.

Pernnial roadblock

Despite a productive third term, Metzenbaum will be most remembered for what he stopped, rather than what he pushed through the legislative maze. He was a master of the filibuster and an upsetter of the pork barrel. He had a Holmesian knack for finding the mischievous language hidden in legislation.

"The first major decision that Howard made was a break with a new president and filibuster on decontrol of natural gas prices," Direnfeld said, recalling the senator's battle with President Carter in 1977. He said Metzenbaum's attitude was, "I will do whatever it takes."

Metzenbaum lost and later had to admit deregulation didn't cause the price explosion he feared.

As he said in announcing his retirement last summer, "I've won my share of battles and fought my share of lost causes."

He was so proficient at weeding out waste, extravagance and special interest projects that the Washington Post headlined a 1982 news story: "Thank God for Metzenbaum!"

He stopped the free transfer of a federal railroad to Alaska, exposed a timber industry giveaway in the same state and shut down a multi-billion tax break for the oil industry—to name a few battles won.

It was often said he saved taxpayers billions, yet he frequently appeared on "big spender" lists put out by conservative groups targeting lawmakers enamored of social spending and redistribution-of-wealth tax policies.

He frequently got knocked down. He failed to bar companies from replacing strikers with permanent new hires; had little success in his war against the insurance industry, often fell short in bids to deny antitrust exemptions to various concerns, including baseball.

"Howard Metzenbaum seemed to go out of his way to antagonize business," said Jack Reimers, immediate past president of the Ohio Chamber of Commerce, recalling Metzenbaum's Ohio Senate days. "He was the opitome of the anti-business politician—he thrived, savored and sought to be viewed that way."

He infuriated colleagues too, making lasting enemies who waited for chances to torpedo his bills. "One man's pork is another man's building project," noted one former House member.

Rep. David L. Hobson, a Springfield Republican respected on both sides of the aisle, said the senator from his home state never opened a line of communication with him.

"We don't have any contract with Metzenbaum—none," said Hobson. "You know what people say to me? 'That's Howard.'

CHAMPION OF CAUSES

When he joined the Senate majority in 1987, Metzenbaum was determined to show he could legislate constructively. He compiled a solid if unspectacular record of accomplishment.

The Ohioan passed legislation forcing companies to give workers 60 days notice of a plant shutdown, ordering the food industry to put nutrition labels on its products, and making bankrupt companies honor their pension commitments.

He was a burr under the saddle of the National Rifle Association. He sponsored the Brady handgun waiting-period law and co-sponsored the assault weapons ban. He led the successful fights to ban armor-piercing bullets and guns that cannot be identified by airport metal detectors.

He wrote the key age discrimination law and was co-sponsor of the Civil Rights Act of 1991. He was one of Israel's best friends on Capitol Hill and a consistent voice for organized labor.

Sen. Ernest Hollings, a South Carolina Democrat, angered by Metzenbaum's interruptions during a debate, once referred to him as "the senator from B'nai B'rith."

He championed laws for the smallest of constituencies. He provided incentives for drug manufacturers to develop "orphan drugs" for treatment of rare diseases. Typical of Metzenbaum, when he discovered some of the drug firms were reaping big profits, he tried to trim back the incentives.

He won breakthrough federal funding for Alzheimer's research, watched out for migrant workers, and was always protective of America's children. One of the last bills he got enacted—and one of his proudest achievements—will make it easier for couples to adopt a child from a different race.

His dedication to the wellbeing of children, his adoration of Shirley, his delight in his grandchildren—that was his softer side.

"He is not the same man who came here 19 years ago. He had a chip on his shoulder. He was demanding and impatient and wanted to accomplish a lot," said Johnson. "He changed. He grew and matured."

BACK TO THE FUTURE

To this day, he thinks he could have defied the Republican landslide and won re-election this year, had he chosen to run again. But even in semi-retirement, as president of the Consumer Federation of America, he will be in the face of the business interests he fought for years.

Take one last look at his Senate office in the Russell Building on Capitol Hill. It is a revelation, nothing less than a small gallery of contemporary art.

Instead of the tiresome grip-and-grin photos with presidents and other luminaries, the works of Red Grooms, Robert Rauschenberg and Frank Stella—all Metzenbaum intimates—are on display.

He and Shirley nurtured the artistic communities in Washington and Cleveland.

His instincts for good art, a good deal, and good politics seldom failed him.

He was prescient in his maiden Senate speech. On April 10, 1974, he scolded his new colleagues for their leisurely pace—for running an "elephantine government that moves clumsily to set policy by reacting to crisis."

"The people pay a terrible price," he said. "No wonder the people are angry—they have a right to be."•

CORRECTION

• Mrs. HUTCHISON. Mr. President, yesterday while introducing the letter from Col. William Barrett Travis, I read from the wrong notes and misstated the date of the Texans' victory at San Jacinto. March 2 is the birthday of Sam Houston, the anniversary of the signing of the Texas Declaration of Independence, and the day we honor as the birthday of our State. Of course, the victory at San Jacinto occurred the following month on April 21, 1836.•

TEMPLE EMANU-EL

• Mr. MOYNIHAN. Mr. President, this spring Temple Emanu-El in New York City celebrates its sesquicentennial. This vibrant house of worship is both the largest Jewish congregation in the world and the fountainhead of America Reform Judaism.

Dr. Ronald Sobel, Temple Emanu-El's distinguished senior rabbi, has prepared a brief history of this dynamic temple which I believe will be of great interest to Members of the Senate. I ask that this history of Temple Emanu-El be printed in the RECORD.

The history follows:

THE CONGREGATION: A HISTORICAL PERSPECTIVE

(By Dr. Ronald B. Sobel, Senior Rabbi)

The Jewish historical experience is inextricably interwoven with the history of Western civilization. It is the story of a minority interacting reciprocally with large complex societies and cultures. Therefore, unlike the history of any other people or civilization, the historical experience of the Jewish people cannot be viewed or analyzed in isolation. In this respect there are no historical analogs.

From the dawn of civilization in the ancient Near East to the post-industrial era of our own time, Jews have been a part of and remained apart from each circumstance encountered in history. They have created responsive forms appropriate to the cultures and societies in which they have lived throughout the globe for almost four thousand years. The Jewish people became experts in creative adaptation.

However, there was and remains a single constant amid the bewildering responses to

changing historical circumstances. The constant is a concept of unity, the affirmation that God is One and omnipotent. Commitment to this idea of oneness in nature and human nature did not breed repetitive conformity century after century, but rather produced creative diversity generation after generation. The concept of God's unity allowed the Jewish people to live, survive, and create amid changing historical realities; the concept of unity allowed for the diversity necessary for survival. It was and remains the mortar with which the Jewish people have built their many houses among many peoples.

The process of Jewish adaptation to the society and culture of the United States has been defined within the broader phenomenon known as "Americanization." It was a complex process and the many methodologies employed reflect the diversities of Jewish life. The Jews who came to the United States as immigrants defined their destiny as inseparably bound to the well-being of all Americans. They became passionate advocates of the American experiment in democracy.

Though the first Jews to arrive on these shores came as early as 1654, it was not until the mid-nineteenth century that sufficient numbers of Jewish immigrants were present to allow the forms and shapes of Americanization to emerge. It was during that time that Temple Emanu-El was founded. The Jews who established Emanu-El, and those who joined their ranks during the first decades of the Congregation's existence, were immigrants from Germany who sought to reorient themselves by adapting their individual lives and collective institutions to the new environment of American civilization. The congregation they created and the lifestyles they fashioned were only the most recent chapter in a long history of creative adaptation; what they accomplished was nothing new in the Jewish historical experience.

From the very beginning the United States provided a polity in which the freest Jewish community the world has ever known was able to develop and grow. It was, and remains, within this unique experiment in democracy that Temple Emanu-El originated and subsequently flowered to world prominence.

It is useful to understand the nature of Western European immigration to the United States in the nineteenth century in general, and German Jewish immigration in particular, to grasp fully the origins of Temple Emanu-El. The conservative reactions that dominated Europe following the final defeat of Napoleon created a climate wherein many of the dreams set in motion by the Emancipation and the French Revolution were considerably constrained. The climate of rigid conservatism inhibited liberal growth in religion, in politics, and in the social sphere. After unsuccessful attempts to change that conservative trend, many liberals, finding no future in Europe, turned to America. They came to these shores with the hope and dream that in this land the preciousness of personality would be cherished and the dignity of individuality honored. Among those who came from Western Europe in the late 1830s were the men and women who would soon found Temple Emanu-El.

In September 1884, a "cultus verein" (cultural society) was established on New York's Lower East Side, and it was out of that cultural society that Emanu-El had its origins. In April 1845, thirty-three members of the society decided to establish a Reform congregation.

They were not particularly conversant with Reform Judaism and were only vaguely aware of its origins in their native Germany. Seeking advice, they wrote first to Congregation Beth Elohim in Charleston, South Carolina, which in 1824 was the first Reform congregation established in the United States; they also wrote to the leaders of the Har Sinai Congregation in Baltimore, Reform Judaism's second congregation in America, which was founded in 1843. They received some responses and proceeded to establish their own congregation, which they called Temple Emanu-El.

When they banded together as a religious community it was simultaneously the first in New York to be established as a Reform congregation and the third such Liberal congregation in America. It is of some interest to note that the use of the word "Emanu-El" as the name of a congregation is the first time in history that we know of that a Jewish congregation adopted this word as a designation. By choosing "Emanu-El," which means "God is with us," the founders were not doubt reflecting their hopes that God would be with them as they came to this new land, and as they put down their roots here.

Their spiritual hopes knew no bounds, but their material resources were limited. Thus the first place of worship was a rented room on the second floor of a private dwelling at the corner of Grand and Clinton streets. The records indicate that at the organizing meeting in 1845, the men present contributed a total of less than thirty dollars, and with that modest sum began the Congregation. The founders quickly outgrew that rented room, and in 1848 they moved to Chrystie Street, a few blocks west of their original location. The Congregation was still limited by its financial resources and did not possess the means to erect its own synagogue. By necessity, therefore, they purchased an existant building, which had previously been used as a methodist church, and with some changes transformed it for Jewish worship and communal meetings.

In the first few years, Temple Emanu-El's growth, through not dramatic, was steady, and the members remained modest of means. Yet there was sufficient development that by 1854 the Congregation felt the need to move again, this time northwest to Twelfth Street near Fourth Avenue. As the general population in Manhattan was moving uptown so too was the Jewish population, and thus inevitably the members of Emanu-El as well. Again unable to build on their own, they bought a structure that had been a Baptist church and refurbished it as a synagogue. However, their dreams of building a great temple were neither to be denied nor postponed to some distant future. In 1868, three years after the conclusion of the Civil War and twenty-three years after the final meeting of the "cultus verein," the members of Congregation Emanu-El were in a position to erect an imposing sanctuary at the northeast corner of Fifth Avenue and Forty-third Street, which a critic of the time described as "the finest example of Moorish architecture in the Western world." That religious home was to remain the Congregation's place of worship until the latter part of 1927, when construction of the present edifice began.

It is remarkable that within a span shorter than twenty-five years the Congregation that had begun with so few in number and so little in material means was able to erect a building that was judged an architectural wonder not only by the Jewish world but also by the people of the city of New York. The first quarter century of the Congregation's history may be viewed as a microcosm of the success of the Western European immigrant in general, and of the German Jewish immigrant in particular.

The first rabbi to serve Temple Emanu-El was Dr. Leo Merzbacher. Little is known about him, but it seems probable that he was the first ordained rabbi to serve a congregation in New York. Dr. Merzbacher led the Congregation in its earliest encounters with Reform Jewish philosophy and practice and authored one of the first Reform prayer books in America. Following his death in 1856, he was succeeded by Dr. Samuel Adler, who by that time had already achieved a reputation as one of the great philosophical and theological leaders of the Reform movement in Germany. The first three decades of the Congregation's history were thus marked by significant radical reforms in liturgy, theology, and practice. But after 1875, having achieved great eminence, the Congregation tended to become somewhat more conservative. Innovations, ritual changes, and prayer book adaptations thereafter came slowly. Dr. Adler preached in German, as had Dr. Merzbacher before him, and that language adequately served the needs of the first generation of Temple Emanu-El's members. However, it did not serve the needs of the founders' children, whose principal language was English, and thus it was inevitable that this second generation expressed a desire for an English-speaking preacher. That need was satisfied with the election of Emanu-El's third rabbi, Dr. Gustav Gottheil. Although born in Germany, Dr. Gottheil was fluent in English, having served a Liberal congregation in Manchester, England.

It is not without significance that Emanu-El's first three rabbis were trained in Europe, a circumstance necessitated by the fact that the American Jewish community had not yet been able to establish a successful rabbinic seminary. (However, it was not long thereafter that the need for such an institution was satisfied, two years following Gottheil's arrival in New York, Isaac Mayer Wise created the Hebrew Union College in Cincinnati.) Dr. Gottheil served the congregation until 1900 and advanced the cause of Reform Jewish life in several important ways: he was an innovator in liturgy, particularly by his authorship of a hymnbook, and he was one of the earliest rabbis in the United States to consciously reach out to the Christian community, and his rabbinate witnessed the beginnings of the interfaith movement. Better understanding between Christians and Jews has been an important element in the experience of the American Jewish community, and it significantly began at Temple Emanu-El. Dr. Joseph Silverman, who joined the rabbinic staff in 1888 as Dr. Gottheil's assistant, was the first American-born rabbi to serve in New York and was a member of the second graduating class of Hebrew Union College.

In 1895, amid great joy and elaborate ceremony, the Congregation celebrated the fiftieth anniversary of its founding. On that occasion the city's most prominent rabbis, Christian clergyman, educators, and political figures were present. Their participation and the wide press coverage reporting the Golden Jubilee celebration reflected the enormous growth of Temple Emanu-El. A congregation that had begun so humbly on the Lower East Side was now, a half century later, being recognized as among the most important religious institutions in the city.

Gottheil's successor was Dr. Judah Leon Magnes, who was also American born and a

graduate of Hebrew Union College. Magnes was an active member of the nascent Zionist movement and also played an important role in bridging the cultural diversities that separated the Jewish community of German origin from those who had emigrated from Eastern Europe. Magnes remained at Emanu-El only a few years and later became the first president of Hebrew University in Jerusalem. In 1912, the Congregation called the scholarly Dr. Hyman G. Enelow to the pulpit. His contributions to higher Jewish learning were profound, and his writings are still studied by scholars all over the world.

When Temple Emanu-El was founded in 1845 there were approximately fifteen thousand Jews in the United States. Thirty-five years later that number had grown to a quarter of a million. In 1881, following the assassination of Czar Alexander II, dread pogroms were unleashed throughout most of Eastern Europe, and with them a great wave of immigration to America began as Jews fled from physical persecution, political oppression, and economic hardship. During the next forty years the Jewish population in the United States increased by an additional two-and-a-half-million men, women, and children.

Recognizing their responsibilities by remaining receptive to a centuries-old Jewish tradition that held that one must "aid the poor, care for the sick, teach the ignorant, and extend a helping hand to those who have lost their way in the world," the members and leaders of Temple Emanu-El responded generously and creatively to the profound poverty of their Jewish brethren who had emigrated to New York from Eastern Europe during this forty-year period. The wealth and talent of the uptown German Jews who worshiped at Emanu-El were generously bestowed upon the newly arrived Russian Jews. (However, even prior to this period of massive immigration, the Congregation had established its own tradition of philanthropic largesse.)

Although the members of Temple Emanu-El may have felt a sense of noblesse oblige in the performance of their charitable activities, and perhaps their efforts were largely directed toward Americanizing their "poor cousins" in order to reinforce their own standing in society, nevertheless what they and other German Jews in America did was nothing short of creating private institutions of philanthropy and education such as no community, Jewish or non-Jewish, had ever done before in history. The Temple and its leaders set an example to a world willing to learn about caring, and that caring including concern for non-Jews as well as Jews.

In 1920, the Congregation celebrated its seventy-fifth anniversary, again with great joy, but this time combined with a thanksgiving celebrating the recent American victory at the end of World War I. The fact that the United States had been at war with Germany caused somewhat of an identity crisis for many Americans of German origin, including some members of Temple Emanu-El. (There were also ambivalent feelings compounded by the fact that Russia, which had been our ally in the war, was the country that, during the previous four decades, was responsible for inflicting such horrible brutality upon the Jewish people.) However, the war was over, the Allies were victorious, and Emanu-El celebrated its anniversary in an exaltation of freedom.

By the beginning of the third decade of the twentieth century those Jews who had more recently arrived from Eastern Europe were beginning to settle into American life, to define themselves, and to make their own place in their new land of freedom. Less and less were they in need of the kind of assistance they had received for so long from the German Jews. And thus Emanu-El and its membership were now able to begin to address their own inner needs. In the 1920s a call for spiritual renewal went forth from the pulpit, and what followed was the establishment of many of the auxiliary organizations and activities that continue to this day to give so much vitality and meaning to the Congregation's programs and activities. It is also of interest to note that by the early 1920s some Eastern Europeans were beginning to join the Temple. A generation later, by the conclusion of World War II, the majority of the Congregation's members were men and women who traced their ancestry to either parents or grandparents of Eastern European rather than Western European origin.

In 1868, when the Congregation dedicated its Temple, Forty-third Street and Fifth Avenue was at the center of the most elegant residential section of the city. However, by the mid-1920s that part of Fifth Avenue and its surrounding streets had undergone a radical transformation. What had been for so long quietly residential had now become noisily commercial, so much so that on Saturday mornings worshipers found it difficult to pray over the cacophony coming from the adjacent streets. Furthermore, until the early 1900s the majority of the Congregation's members lived in the immediate vicinity of the Temple, but by the 1920s the overwhelming majority were residing much farther north, on the Upper West Side as well as the Upper East Side. While the old building at Forty-third Street remained architecturally beautiful, it had serious functional problems. The student body in the Religious School was growing in size, and the classrooms were inadequate. There were insufficient meeting rooms to house the expanding programs of the Temple. Following several years of debate and consideration, the Congregation, upon the recommendation of its respected president, Louis Marshall, purchased property on the northeast corner of Fifth Avenue and Sixty-fifth Street. A better location could not have been chosen. The assumption was then, and the reality today remains, that so long as there is a Central Park, this part of Fifth Avenue would be exclusively residential in character.

It was also in the late twenties that the second most influential Reform congregation in New York, Temple Beth-El (House of God) consolidated with Emanu-El. Possessor of its own distinguished history, Temple Beth-El had been established in 1874 through the amalgamation of two earlier congregations, Anshe Chesed (Men of Mercy) and Adas Jeshurun (Congregation of Israel). Its first rabbi was Dr. David Einhorn, one of the most important architects of nineteenth-century Reform Jewish thought. He was succeeded by the equally brilliant theologian Dr. Kaufmann Kohler, who left the pulpit of Beth-El in 1903 to become president of Hebrew Union College in Cincinnati.

The newly merged congregations combined rabbinic resources as well as lay brilliance into one new great Congregation. The people of Emanu-El left Forty-third Street in 1927, and during the years that it took to erect the new building, they worshiped at the handsome Temple Beth-El, which stood at Fifth Avenue and Seventy-sixth Street.

The first religious service at the new Temple at Fifth Avenue and Sixty-fifth Street was conducted in September 1929; sadly, that gathering was occasioned by the death of Louis Marshall, the man who perhaps more than any other was responsible for the building of the great new Temple. A few weeks later, services for Rosh Hashanah and Yom Kippur were conducted. How fortuitous it was that the members of the Congregation decided to build and create this magnificent Temple when they did, for had they delayed, for whatever reason, in all probability this gloriously magnificent edifice that now stands as Temple Emanu-El would probably never have been built. In the latter part of October 1929 the stock market crashed, and the Great Depression began.

The Temple was formally dedicated in January 1930 in a ceremony presided over by the rabbis of the Congregation: the great orator Dr. Hathan Krass, who had come to Temple Emanu-El in 1923; Dr. Hyman G. Enelow, the gentle scholar who had been with the Congregation since 1912; and the equally brilliant scholar Dr. Samuel Schulman, who had been Senior Rabbi of Temple Beth-El. The newly elected President of the Congregation was the Honorable Irving Lehman, Judge of the New York State Court of Appeals (and Chief Judge from 1940 onward), whose family had been affiliated with the Congregation since the 1870s.

Sharply contrasting moods characterized the decade and a half that rounded out Temple Emanu-El's first hundred years. On April 4, 1945, the Congregation entered the majestic Sanctuary for a Service of Rededication, climaxing seven months of Centenary Celebration. It was a decade and a half that began with hope and ended with promise, while the interval was filled with crisis and horror, sorrow and tragedy, such as the human family had never before endured. The Jewish people, schooled in centuries of persecution, were made the victims of an ancient hatred welded to modern technology, and by the time Nazism was finally destroyed by the Allied victory, the virtual annihilation of European Jewry had come to pass. The fortunate few who escaped to America were welcomed to Temple Emanu-El with the same attention and devotion shown by an earlier generation to those who had fled the tyranny of Czarist Russia.

As a result of the economic catastrophe precipitated by the Depression, the membership of the Congregation was significantly diminished. However, to the credit of the Broad and the congregants of Emanu-El, in the face of burdensome debt they wholeheartedly assumed social responsibility for those beyond the precincts of the Temple. Both to the needs of the refugees from Hitlerism and the call for patriotic service during the war, Temple Emanu-El's men and women responded generously and willingly. In both areas they established and maintained programs of excellence.

During 1934 Rabbis Enelow, Krass, and Schulman retired, and Dr. Samuel H. Goldenson was selected as their successor. A gentle man, and a champion of Classical Reform, Dr. Goldenson brought to the rabbinate of Emanu-El a spirit of saintliness. Two years previously, in 1932, the ministry of Dr. Nathan A. Perilman had begun; he came to the Congregation with the expectation of staying only six months, but remained for forty-one-and-a-half years, making his rabbinate the longest active service in the Congregation's history. Upon the retirement of Dr. Goldenson in 1948, Dr. Julius Mark was elected the Temple's Senior Rabbi. Dr. Mark had won wide recognition for the important role that he played as a Navy Chaplain during World War II. At the time of Dr. Mark's

election, Dr. Perilman was made Rabbi of the Congregation.

The years following World War II saw an enormous growth in the Temple's membership. The 1950s were characterized by an age of significant revival in religious institutions, and the Congregation grew wondrously as America was able again to settle down to a peacetime environment. New programs were introduced, old programs were revitalized, and adult-education offerings were significantly expanded. After twenty distinguished years, Dr. Mark retired in 1968 and was succeeded as Senior Rabbi by Dr. Perilman, who remained with the Congregation for an additional five-and-a-half years, retiring at the end of 1973.

Dr. Perilman was then succeeded by Dr. Ronald B. Sobel, who had come to Temple Emanu-El as Assistant Rabbi immediately following his ordination at Hebrew Union College in 1962. When elected Senior Rabbi at the end of 1973, Dr. Sobel was the youngest spiritual leader ever elected by the Congregation. Today he is assisted by two longtime associates, Rabbi David M. Posner and Rabbi Richard S. Chapin.

The 1970s and the 1980s have continued to witness further growth in the Congregation, so much so that today Temple Emanu-El is world Jewry's most prominent house of worship. Physically it is the largest Jewish synagogue in the world, and the size of its membership also makes it the largest Reform congregation in the world. Innovative programs continue to be introduced and older programs are expanded as the members of the Congregation reach out more and more to the Jewish world in New York and beyond and to the other communities of which we are a part.

The past is always prelude to the present, the present forever a preparation for the future. In 1995 the Congregation will celebrate its one hundred fiftieth anniversary. We have every expectation and hope that Emanu-El will continue to be a beacon and a pride to world Jewry.

Although much has changed in the near century and a half since the Congregation was founded at Grand and Clinton streets, the members of Temple Emanu-El continue to be fundamentally committed to a faith that proclaims:

First, instead of one fixed and changeless revelation from God to Moses at Sinai, the Jewish people have been heir to a progressive revelation, which continues throughout history in the discoveries of science and in the insights of wise, sensitive human souls. The Bible and Talmud are valuable permanent records of earlier and decisive stages in this process. But, since revelation comes from God through human beings, all the documents of revelation are a mixture of the divine and the human, the eternally valid as well as the temporary and transient. Judasiam is a living, growing way of life, evolving gradually from earlier and more primitive forms to the full flowering of its universal spiritual message.

Second, central and changeless is the belief in the one and holy God, who is to be served through righteousness and mercy. God's law is basically ethical. Ritual and ceremony, as the prophets declared long ago, are not the essence of religion. Moreover, historical study reveals that ceremonial practice has been constantly subject to change. Indeed, ritual is not without value; it is a means of making religious truth more vivid and inspiring to the worshiper. But the forms are not sacrosanct. If they fail to instruct and uplift those who practice them, they may be modified or discarded.

Third, the universal ethical aspect of Judaism must forever remain primary in the consciousness of the Jewish people. Therefore, the members of Temple Emanu-El do not hope for the coming of a personal Messiah to usher in a period of national restoration, but rather look forward with anticipation to a universal messianic era for all humanity. Neither the establishment of a nation-state in the ancient homeland, nor the restoration of the Jerusalem Temple, nor the reinstitution of the sacrificial cult are necessary prerequisites for the realization of the messianic dream. Thus, we believe that Jews are, and should remain, citizens of the various nations in which they live.

Fourth, the survival of the Jewish people as a religious group is a sacred and urgent obligation. The Jewish people have a mission to humankind, a mission ordained of God and proclaimed by the prophets of ancient Israel. This mission requires that the people born in, or adopted into, the Covenant of Abraham must persuade humankind through teaching and example that the One and Only God can be worshiped in holiness only as His children serve each other in love. To acknowledge God's unity requires obedience to, and reverence for, His ethical mandates and moral imperatives. The mission of Israel will not have been fulfilled until righteousness and peace prevail everywhere for everyone. Until that great messianic fulfillment, the Jewish people must survive as a "kingdom of priests" dedicated to the service of God and humanity.

These were the principles of faith proclaimed by the founders of Congregation Emanu-El in 1845; they remain the principles to which this generation of Temple Emanu-El constantly rededicates itself.

The story of Temple Emanu-El is the history of successful Americanization. From 1845 to the present the members of the Congregation have authorized a new chapter in the chronicle of Jewish creative adaptation. Their lives have served as an enviable model of what the Jew could strive to become, and continue to be, in the United States.●

BOB SAMPSON TURNS 70

● Mr. SIMON. Mr. President, I want to take this opportunity to congratulate my friend Robert Sampson, of Arlington Heights, IL, on the occasion of his 70th birthday, Saturday, March 4. He is a truly remarkable person, whom I admire and respect.

Bob Sampson has been an inspiration to many Americans. He has muscular dystrophy, which has caused him to be in a wheelchair since he was 9 years old. He lost his college scholarship when the school he was to attend found out he was disabled. Undaunted, he went on to college and law school and became a successful attorney for the city of Chicago. He then joined United Airlines, where he rose to be a senior vice president.

As a successful member of the business community, Bob could have chosen to stay out of the struggles surrounding disability issues. Instead, he has been unselfish in his drive to help other people with disabilities gain access to buildings and equal employment opportunities. He was one of President Carter's first appointments to the U.S. Architectural Transportation Barriers Compliance Board, after having served as the Vice Chairman of the President's Committee on Employment of the Handicapped. A long-term member of the board of directors of the Muscular Dystrophy Association, Jerry Lewis' "big kid," he has told his personal story to millions of people to raise money to find a cure for muscular dystrophy. He has never forgotten his roots.

Bob Sampson has been a role model for all of us, teaching that disability is not inability. I join his wife Jean, his children—Patty, Rob, and Kathy—his grandchildren, and his many friends in wishing him a very happy birthday, and many more.●

TRIBUTE TO VENICE HIGH SCHOOL BAND

● Mr. GRAHAM. Mr. President, I rise today to commend a group of young people from Venice High School for honoring our veterans. On November 11, 1994, the Venice Area Veterans Council presented a special salute to Korea veterans during a Veterans Day ceremony. The Venice High School Band, under the direction of John Lapato, performed the "Korea Veterans March" composed by Charles Gabriele. Marilyn Sexton was the vocalist. The band included Renee Arata, Mary Baker, Katy Banks, Leeann Bennett, Heather Bibbee, Jennifer Britton, Colleen Buckley, Joshua Burgett, Buddy Corbin, Amanda Coronado, Neejay Cowan, Kevin Crissman, J.B. Dewitt, Erika Fauser, Kelly Feldhouse, Natalie Fleming, Robert Fuller, Kevin Gifford, Brook Greene, John Greenwald, Chris Haines, Eric Hill, Shane Hobbs, Loyom Khan, Aimee Kervin, Stephanie Klinge, Christina Magero, Renee McGoogan, Tim Milligan, Scott Moudy, Emile Paradiso, Ryan Persky, Jeanne Piehl, Michelle Poirier, Chris Ryon, Eric Ryon, Kelly Shetterly, C. Siller, Laura Suffoletto, Grady Smith, James Taylor, Cortnie Thornberger, Melissa Thorley, and Debby Whisler.

I applaud these young Americans for honoring our Korea veterans with their time and talents. It was a memorable event for all those involved.●

THE TOP QUARK

● Mr. SIMON. Mr. President, last May scientists at Fermi Laboratory in Batavia, IL found the first direct evidence of the top quark, the sixth and last component of a standard model of matter that explains the relationships between subatomic particles. This week, teams at Fermi Laboratory announced that they have confirmed evidence of the particle, leaving no doubt about its existence.

I want to congratulate them on their accomplishment. And, I want to add

that basic science research in this country, like that which goes on at Fermi Laboratory in Illinois, Brookhaven in New York, and Stanford in California, contributes greatly to our understanding of basic science and provides vision and hope to thousands of curious students and researchers who are pursuing a future in the sciences.

The President in his fiscal year 1996 budget proposed adding $100 million above the 1995 level to enhance the work going on at our major DOE-operated basic research facilities. I support this initiative. The United States currently leads the world in particle physics research. Without a continued investment in our DOE laboratories, our scientists will find themselves uninvolved and disadvantaged in what's becoming a worldwide community of basic science research.

For nearly a decade, the superconductor super collider was the centerpiece of the Nation's basic science program. While I fully supported the project and opposed its termination, the project's expense sacrificed valuable resources going to other worthy laboratories, like Fermi lab in Illinois. With the cancellation of the SSC, we gutted our high-energy physics research budget and threatened to send a message to the world that we no longer were willing to invest in high energy physics research.

We now have the opportunity to make effective use of our current facilities and to remain important contributors to a world-wide effort. With the leadership of Senator BENNETT JOHNSTON and President Clinton, we are once again investing in the research capabilities at Fermi lab and other leading laboratories, and as evidenced by the resent discovery of the top quark, we continue to be world leaders in this area.

The United States has tremendous potential to lead the way in scientific research in the next decade, but only with sufficient funding. I applaud the President for his leadership in this important area.●

EXECUTIVE CALENDAR

Mr. HELMS. Mr. President, I am proceeding with the Executive Calendar. It goes without saying that what I am about to refer to has been cleared with the other side.

As in executive session, I ask unanimous consent that the Senate proceed to the immediate consideration of the following nominations on the Executive Calendar en bloc: Calendar Nos. 23, 24, 25, 26, 27, 28, 29 and 30. I believe they are all Department of State nominations.

Further, Mr. President, I ask that the nominations be confirmed en bloc; that the motions to reconsider be laid upon the table en bloc; that any statements relating to the nominations appear at the appropriate place in the RECORD; and that the President be immediately notified of the Senate's action.

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

The nominations considered and confirmed en bloc are as follows:

DEPARTMENT OF STATE

Johnnie Carson, Of Illinois, a Career Member of the Senior Foreign Service, Class of Minister-Counselor, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Republic of Zimbabwe.

Herman E. Gallegos, of California, to be an Alternate Representative of the United States of America to the Forty-ninth Session of the General Assembly of the United Nations.

Lee C. Howley, of Ohio, to be a Representative of the United States of America to the Forty-ninth Session of the General Assembly of the United Nations.

Jeanette W. Hyde, of North Carolina, to serve concurrently and without additional compensation as Ambassador Extraordinary and Plenipotentiary of the United States of America to Antigua and Barbuda, and as Ambassador Extraordinary and Plenipotentiary of the United States of America to St. Kitts and Nevis, and as Ambassador Extraordinary and Plenipotentiary of the United States of America to Grenada.

Martin S. Indyk, of the District of Columbia, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to Israel.

Isabelle Leeds, of New York, to be an Alternate Representative of the United States of America to the Forty-ninth Session of the General Assembly of the United Nations.

Bismarck Myrick of Virginia, a Career Member of the Senior Foreign Service, Class of Counselor, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Kingdom of Lesotho.

Frank G. Wisner, of the District of Columbia, a Career Member of the Senior Foreign Service, Class of Career Minister, for the personal rank of Career Ambassador in recognition of especially distinguished service over a sustained period:

ORDERS FOR MONDAY, MARCH 6, 1995

Mr. HELMS. Mr. President, I ask unanimous consent that when the Senate completes its business today that it stand in adjournment until the hour of 1 p.m. on Monday, March 6, 1995, and that following the prayer, the Journal of proceedings be deemed approved to date, no resolutions come over under the rule, the call of the calendar be dispensed with, morning hour be deemed to have expired, and the time for the two leaders be reserved for their use later in the day.

I further ask that there then be a period for the transaction of routine morning business not to extend beyond the hour of 2 p.m, with Senators permitted to speak therein for up to ten minutes each.

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

Mr. HELMS. I further ask, Mr. President, that at 2 p.m. the Senate proceed to the consideration of calendar item No. 21, S. 244, the Paperwork Reduction Act. At least one amendment, I might add, is expected to be offered. Therefore, votes could occur during Monday's session of the Senate.

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

ADJOURNMENT UNTIL MONDAY, MARCH 6, 1995, AT 1 P.M.

Mr. HELMS. Mr. President, if there be no further business to come before the Senate, I ask now that the Senate stand in adjournment under the previous order.

There being no objection, the Senate, at 3:25 p.m., adjourned until Monday, March 6, 1995, at 1 p.m.

NOMINATIONS

Executive nominations received by the Senate March 3, 1995:

UNITED STATES ENRICHMENT CORPORATION

CHARLES WILLIAM BURTON, OF TEXAS, TO BE A MEMBER OF THE BOARD OF DIRECTORS OF THE UNITED STATES ENRICHMENT CORPORATION FOR THE REMAINDER OF THE TERM EXPIRING FEBRUARY 24, 1996, VICE FRANK G. ZARB, RESIGNED.

CONFIRMATIONS

Executive nominations confirmed by the Senate March 3, 1995:

DEPARTMENT OF STATE

JOHNNIE CARSON, OF ILLINOIS, A CAREER MEMBER OF THE SENIOR FOREIGN SERVICE, CLASS OF MINISTER-COUNSELOR, TO BE AMBASSADOR EXTRAORDINARY AND PLENIPOTENTIARY OF THE UNITED STATES OF AMERICA TO THE REPUBLIC OF ZIMBABWE.

HERMAN E. GALLEGOS, OF CALIFORNIA, TO BE AN ALTERNATE REPRESENTATIVE OF THE UNITED STATES OF AMERICA TO THE FORTY-NINTH SESSION OF THE GENERAL ASSEMBLY OF THE UNITED NATIONS.

LEE C. HOWLEY, OF OHIO, TO BE A REPRESENTATIVE OF THE UNITED STATES OF AMERICA TO THE FORTY-NINTH SESSION OF THE GENERAL ASSEMBLY OF THE UNITED NATIONS.

JEANETTE W. HYDE, OF NORTH CAROLINA, TO SERVE CONCURRENTLY AND WITHOUT ADDITIONAL COMPENSATION AS AMBASSADOR EXTRAORDINARY AND PLENIPOTENTIARY OF THE UNITED STATES OF AMERICA TO ANTIGUA AND BARBUDA, AND AS AMBASSADOR EXTRAORDINARY AND PLENIPOTENTIARY OF THE UNITED STATES OF AMERICA TO ST. KITTS AND NEVIS, AND AS AMBASSADOR EXTRAORDINARY AND PLENIPOTENTIARY OF THE UNITED STATES OF AMERICA TO GRENADA.

MARTIN S. INDYK, OF THE DISTRICT OF COLUMBIA, TO BE AMBASSADOR EXTRAORDINARY AND PLENIPOTENTIARY OF THE UNITED STATES OF AMERICA TO ISRAEL.

ISABELLE LEEDS, OF NEW YORK, TO BE AN ALTERNATE REPRESENTATIVE OF THE UNITED STATES OF AMERICA TO THE FORTY-NINTH SESSION OF THE GENERAL ASSEMBLY OF THE UNITED NATIONS.

BISMARCK MYRICK, OF VIRGINIA, A CAREER MEMBER OF THE SENIOR FOREIGN SERVICE, CLASS OF COUNSELOR, TO BE AMBASSADOR EXTRAORDINARY AND PLENIPOTENTIARY OF THE UNITED STATES OF AMERICA TO THE KINGDOM OF LESOTHO.

FRANK G. WISNER, OF THE DISTRICT OF COLUMBIA, A CAREER MEMBER OF THE SENIOR FOREIGN SERVICE, CLASS OF CAREER MINISTER, FOR THE PERSONAL RANK OF CAREER AMBASSADOR IN RECOGNITION OF ESPECIALLY DISTINGUISHED SERVICE OVER A SUSTAINED PERIOD.

THE ABOVE NOMINATIONS WERE APPROVED SUBJECT TO THE NOMINEES' COMMITMENT TO RESPOND TO REQUESTS TO APPEAR AND TESTIFY BEFORE ANY DULY CONSTITUTED COMMITTEE OF THE SENATE.

EXTENSIONS OF REMARKS

TRIBUTE TO CAROLYN NOOR

HON. ANNA G. ESHOO

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Friday, March 3, 1995

Ms. ESHOO. Mr. Speaker, I rise today to honor Carolyn Noor and her upcoming induction into the San Mateo County Women's Hall of Fame as a Young Woman of Excellence.

As a senior at Aragon High School in San Mateo, CA, Carolyn Noor serves as a role model not only for her peers but also for our entire community. She tutors grade school students, volunteers as a counselor for an outdoor education program, coordinates the creation of a multicultural mural at her school, and works for the Youth for Understanding and YMCA world camp programs. In addition, she serves on the city of San Mateo Citizens Review Committee and has cochaired a local community center's Thanksgiving food drive. Ms. Noor has received numerous academic awards including recognition as an outstanding student in both English and social studies.

Mr. Speaker, Carolyn Noor is an outstanding citizen, and I commend her for her remarkable commitment and contributions to our community. I ask my colleagues to join me in saluting her as she is being inducted into the San Mateo County Women's Hall of Fame as a Young Woman of Excellence.

IN HONOR OF REV. VICTOR KENNEDY, CHAPLAIN OF THE 1995 ST. PATRICK'S DAY DINNER AND PARADE

HON. ROBERT MENENDEZ

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Friday, March 3, 1995

Mr. MENENDEZ. Mr. Speaker, I rise today to pay tribute to Rev. Victor Kennedy, chaplain of the 1995 St. Patrick's Day Dinner and Parade. Reverend Kennedy is among the many Irish-American men and women who have helped make this country great.

The Irish have been immigrating to the United States since the early part of the nineteenth century. In that time, they have made many contributions to this country. They have distinguished themselves at every level of American society. As Irish-Americans have built their businesses, so have they contributed to the economic prosperity of this Nation. As they have grown politically, they have contributed to government on the local, State, and national levels. Their devotion to family and friends demonstrates that much can be accomplished when people work together in harmony.

At home, Irish-Americans have worked hard to protect all of us from crime and fire. They have put their lives on the line to help ensure the safety of their fellow citizens. The long, proud tradition of Irish police officers and firemen scarcely needs to be mentioned. However, the Irish have not only been good neighbors at home, they have also put their lives on the line when they have fought to defend this Nation against our foes in every major conflict over the last 200 years.

Reverend Kennedy is part of this great Irish-American tradition. He has dedicated his life to helping others. He is the former youth director of the Archdiocesan CYP/Youth Ministries, and is currently the pastor of the Church of Good St. Anne. He is an exemplary community leader and an advocate for our youth. Through his involvement in the community, Reverend Kennedy has reached out to countless people and has made a difference in their lives.

His parishioners greatly admire Reverend Kennedy for his leadership. He has played a vital role in the physical rehabilitation of his church. In addition, his efforts have brought new life to the parish. I am truly proud to have him as a resident of Hudson County.

As we celebrate St. Patrick's Day, let us remember all of those Irish-American men and women who have made a difference in the United States. This is a day for us to acknowledge their achievements and feel proud to have them in the United States. This holiday is an excellent opportunity to pay tribute to Irish-Americans; past and present.

OCEAN SHIPPING INDUSTRY CHANGES NEEDED

HON. JAMES A. TRAFICANT, JR.

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Friday, March 3, 1995

Mr. TRAFICANT. Mr. Speaker, the Subcommittee on Coast Guard and Maritime Transportation, upon which I serve as the ranking Democrat, will soon begin consideration of changes to the Shipping Act of 1984 and the future role of the Federal Maritime Commission in the ocean shipping industry. As the subcommittee and, eventually, the full Committee on Transportation and Infrastructure, move forward on these issues, I would like you and our colleagues to know what I believe needs to come out of the legislative process.

First, I believe the functions of the Federal Maritime Commission need to be maintained, particularly with regard to protecting our ocean carrier industry and shippers against unfair and anticompetitive trade practices of foreign governments and carriers. In fact, this should become more of a focus and a higher priority for the commission. And given the public's general call for smaller and more efficient government, the commission should take steps to downsize and rightsize its operations, just as we expect all Government agencies and departments to do.

Second, I believe the hearings held in February by the subcommittee indicated that important modifications can be made to the Shipping Act of 1984 that would provide a much greater degree of flexibility in the business relationships between shippers and ocean carriers. Right now, conferences of ocean carriers with broad antitrust immunity restrict a number of types of transactions and relationships in the ocean shipping business. For instance, service contracts, which are long-term large volume arrangements between carriers and shippers, should not be restricted or prohibited by the carrier conferences or their members. Also, carriers that want to offer a rate to a shipper that is different than that of the carrier conference should be able to do so on a much quicker basis.

These kinds of reforms at the Federal Maritime Commission and in the Shipping Act will bring significant improvements to our trading relationships around the globe. The relationships between the shipping public and the ocean carrier industry would also be beneficially changed so that U.S. industry generally would be in a more competitive posture in the world marketplace.

I look forward to working with the leadership and members of the Transportation and Infrastructure Committee to develop legislation to accomplish these ends.

TEXAS COUPLE NAMED FOSTER PARENTS OF THE YEAR

HON. RALPH M. HALL

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Friday, March 3, 1995

Mr. HALL of Texas. Mr. Speaker, it is a privilege for me to pay tribute to two outstanding citizens who visited the Capitol this week from the Fourth District of Texas. They are Joe and Pattie Laroche of Denison, who were recently named by the Child Welfare League as Foster Parents of the Year for the Southern States.

The Laroches have been licensed foster parents for more than 5 years. During that time they have cared for more than 30 children, ranging from newborns to those up to 12 years of age. They have three children of their own—Sarah, Bethany, and Christina, two of which—Christina and Bethany—they adopted. Children who have been under the care of the Laroches have stayed with them anywhere from 1 night to 5 months. The longest stay for a child has been 2 years.

The Laroches were previously honored as Grayson County Foster Parents of the Year, by the Texas Department of Human Services and as the State Foster Parents of the Year

by the Texas Council of Child Welfare Boards. They were recommended for the awards by Gwen Henderson, Foster Home Developer for the Texas Department of Human Services for Grayson County.

The Laroches described the recognition as humbling and said that being foster parents is a learning experience that has great rewards. They recognize the need for more foster parents but realize that many people are fearful of trying.

Being a foster parent to a child is a special calling that deserves our respect and our gratitude. It requires a generous and selfless spirit, and often much patience and understanding. Good foster parents like the Laroches have a lasting impact on the lives of foster children, who like all children, need affection and attention and need to feel a sense of well-being.

Mr. Speaker, I am proud to pay tribute today to Joe and Patti Laroche and to all those who serve as foster parents across America. These foster parents devote their lives to help make life better for our children in need. I am particularly proud to have the Laroches as my constituents and wish them much success as they continue to serve foster children in Grayson County. I admire their dedication and commitment to this cause and salute their good work.

TRIBUTE TO ELLSWORTH AIR FORCE BASE ON SUCCESS OF DAKOTA CHALLENGE

HON. TIM JOHNSON

OF SOUTH DAKOTA

IN THE HOUSE OF REPRESENTATIVES

Friday, March 3, 1995

Mr. JOHNSON of South Dakota. Mr. Speaker. I rise today to give high praise to the men and women of Ellsworth Air Force Base who participated in the congressionally mandated B–1B bomber readiness test appropriately named "Dakota Challenge '94." The test was conducted from June 1-November 30 of last year, and during most of the test the 28th Bomb Wing at Ellsworth flew training missions at an accelerated peacetime rate. During the final month of the assessment, the 28th Bomb Wing deployed a squadron to Roswell Industrial Air Center, NM to simulate flying from an austere location at wartime sortie rates. Earlier this week, the Air Force Operational Test and Evaluation Center issued its final report on Dakota Challenge and the report reveals that the B–1B bombers exceeded all test expectations. As a long-time supporter of the B–1B, I am pleased with this outcome and incredibly proud that the men and women of Ellsworth can take some credit for the impressive results.

Throughout the 6 months of the test, the men and women of the 28th Bomb Wing faced the challenges and demands of the assessment with ardent determination. The commitment and top notch performance of the men and women at Ellsworth Air Force ensured that the B–1B bomber exceeded all of its performance goals during Dakota Challenge. I am hopeful that this impressive performance will resolve long-standing disagreements over the B–1B's capabilities and help secure the future of the B–1B bomber which Secretary of the Air Force Widnall has called the backbone of the bomber fleet.

The outcome of the test is a rock-solid testimonial to the B–1B's capabilities and I am proud of the men and women of the 28th Bomb Wing who ensured the unquestionable success of the test. I commend all of the men and women at Ellsworth who made Dakota Challenge a success through their commitment and discipline.

TRIBUTE TO JOSEPH E. BERGERON

HON. ANNA G. ESHOO

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Friday, March 3, 1995

Ms. ESHOO. Mr. Speaker, I rise today to pay tribute to Joseph E. Bergeron, an outstanding citizen and devoted public servant, on the occasion of his retirement from the San Mateo County Planning Commission.

Mr. Bergeron has given invaluable service to the people of San Mateo County for 13 years as a planning commissioner, including three terms as commission chair. His unparalleled leadership and consensus-building skills were critical to seeing the county through some of its most difficult land use decisions. While Mr. Bergeron has devoted untold hours to the work of the commission, he has also made time to serve our community as a member of the board of directors of the Center for Civic Education, the San Mateo County Suicide Prevention Association, and the San Mateo County Heart Association. He has actively participated in the Italian American Federation, serving as its President from 1980–1982 and being named its 1992 Man of the Year, the PTA, and the Girl Scouts and Boy Scouts, where he was a counselor and merit badge advisor.

Mr. Bergeron is also recognized throughout the State of California for his outstanding service to the State bar. He has been a champion of the legal profession since his graduation from the prestigious Boalt Hall School of Law at the University of California, Berkeley in 1968.

He was a member of the California State Bar board of governors from 1991–1994, serving as its vice president in 1994 and working to strengthen the legal profession as a member of the Commission on Judicial Nominees Evaluation, as well as the Committees on the Environment and Administration of Justice. He has given exemplary service to the legal community as a judge pro-tem and arbitrator for the Superior and Municipal Courts of San Mateo County, as an instructor of business law at San Mateo County Community College, and as a lecturer for the Continuing Education of the Bar and at numerous trial lawyer seminars. Mr. Bergeron has used his tireless energy to make great contributions to local legal organizations, including the Legal Aid Society, the County Bar Association, the Barristers Club, and the Trial Lawyers Association. In 1982, the California Trial Lawyers Association, on whose board he also served, recognized Joe Bergeron as its Outstanding Trial Lawyer Chapter President.

Mr. Speaker, Joe Bergeron has been a shining light in San Mateo County throughout his long history of service to the public and the legal community. I've been privileged to work closely with him and I'm proud to call him my friend. I ask my colleagues to join me in saluting Joe Bergeron as he retires from the San Mateo County Planning Commission.

IN HONOR OF MAEVE McDERMOTT, GRAND MARSHALL OF THE 1995 ST. PATRICK'S DAY PARADE

HON. ROBERT MENENDEZ

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Friday, March 3, 1995

Mr. MENENDEZ. Mr. Speaker, I rise today to pay tribute to Sister Maeve McDermott, grand marshall of this year's St. Patrick's Day Parade in Jersey City. Sister McDermott is among the many Irish-American men and women who have helped make this country great.

The Irish have been immigrating to the United States since the early part of the 19th century. In that time, they have made many contributions to this country. They have distinguished themselves at every level of American society. As Irish-Americans have built their businesses, so have they contributed to the economic prosperity of this Nation. As they have grown politically, they have contributed to government on the local, State, and national levels. Their devotion to family and friends demonstrates that much can be accomplished when people work together in harmony.

At home, Irish-Americans have worked hard to protect all of us from crime and fire. They have put their lives on the line to help ensure the safety of their fellow citizens. The long, proud tradition of Irish police officers and firemen scarcely needs to be mentioned. However, the Irish have not only been good neighbors at home, they have also put their lives on the line when they have fought to defend this Nation against our foes in every major conflict over the last 200 years.

Sister Maeve McDermott is part of this great Irish-American tradition. Upon graduating high school, she joined the convent and went on to teach in the St. Patrick and St. Michael Elementary Schools. Since 1978, she has been co-principal of St. Patrick School and Assumption/All Saints School. She was also very instrumental in helping a number of Irish immigrants relocate to this country.

Sister McDermott has dedicated her life to helping the young people of Jersey City. She realizes that our youth need love and guidance. She has given both freely over the years. She is an exemplary human being.

As we celebrate St. Patrick's Day, let us remember all of those Irish-American men and women who have made a difference in the United States. This is a day for us to acknowledge their achievements and feel proud to have them in the United States. This holiday is an excellent opportunity to pay tribute to Irish-Americans; past and present.

HONORING BUD O'BRIEN

HON. SAM FARR

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Friday, March 3, 1995

Mr. FARR. Mr. Speaker, Bud O'Brien was the kind of newspaperman—not journalist, mind you, newspaperman—who has become all but extinct. He got into the business not long after the end of World War II, when a way with words, combined with a feeling for people and real life, was considered as good as, if not better than, a college degree.

After attending Adams State University in Alamosa, CO, Bud learned the newspaper business, both the good and the bad, firsthand from such smalltown editors as Harley Holden of the Loveland, CO, Daily Herald, Chap Wentworth of the Dunsmuir News, and Paul Bodenhamer of the Redding-Record Searchlight.

By the time he arrived at the Register-Pajaronian in 1962, to be its wire editor and educational reporter, he was an accomplished and highly regarded professional. For three decades, as an editor and reporter, his substantial contributions helped the people of Watsonville enjoy the benefits of a first-class smalltown newspaper.

His best work, which may be less directly visible to the public, came in the last 10 years, when he served as city editor and managing editor. His eye for talent brought a succession of fine people to the Pajaronian newsroom; his knowledge of the business and generous counsel helped scores of young reporters blossom to their full potential; and his rigorously reasoned and elegantly written editorials made a bracing and formidable contribution to the public debate.

He was a man who loved his craft; who brought out the best in those he worked for; and who stood unflinchingly for what he believed to be right. His retirement is well-earned, but both the people of Watsonville and the newspaper business are worse off for it.

TORLONE'S COMMUNITY BAKERY: THE END OF AN ERA FOR HUNTINGTON

HON. NICK J. RAHALL II

OF WEST VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Friday, March 3, 1995

Mr. RAHALL. Mr. Speaker, this Saturday, March 4, 1995, marks a sad day for the community of Huntington, WV. On Saturday, the Torlone brothers, Louie, Dominic, and Alfred, will close the doors of the Torlone's Community Bakery for the last time, after almost 50 years of service to Huntington. The Torlone brothers are selling the bakery to retire, a retirement well deserved after their lifelong service to their country and community.

It is a great honor to commemorate the Torlone's families' commitment to Huntington. Beginning in 1946, the small bakery, opened by Peter and Maria Torlone, and continuing until Saturday by their three sons Louie, Dominic, and Alfred, has been a staple to the community. It will be sorely missed by all.

Louie Torlone commented last week that he hopes that the community will remember that the bakery treated everybody decently. Anyone who has visited the bakery in the last 50 years can attest to how well the Torlone's treated their neighbors. Each week, the Torlone family donates baked goods to local churches, to missions, and to veterans homes. And after the tragic Marshall University plane crash, the Torlones emptied every last shelf so that rescue workers could be fed. The Torlones are always ready to help others.

Dominic Torlone will miss the people the most. For years, the residents of Huntington have been the Torlone's customers, but they are also the family's friends, likely to just stop by to share the warmth and conversation in the bakery. Dominic, who works the day shift, is always ready to provide a warm cup of coffee, advice, or a hug to any of his neighbors or customers.

Alfred Torlone, the youngest brother, believes the family has flour in their blood; their father began baking bread in West Virginia shortly after he immigrated from Italy in 1912. Alfred and his brothers have maintained the store as—in his words—a "perfect example of a mom and pop store like we used to have in the old days."

Throughout all these years, the Torlones have been a tremendous asset to the Huntington community. Their commitment to charity and their store has made Huntington a better place since 1946. Their family, friends, and neighbors all wish Louie, Dominic, and Alfred the best of luck as they enter their much deserved retirement. I salute their service to Huntington.

TRIBUTE TO CAROL STROY BOES

HON. ANNA G. ESHOO

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Friday, March 3, 1995

Ms. ESHOO. Mr. Speaker, I rise today to honor Carol Stroy Boes and her upcoming induction into the San Mateo County Women's Hall of Fame.

Carol Stroy Boes is an exceptional public servant who has been an active member of her local community. While working as a flight attendant and mother, she pursued her higher education and obtained an advanced degree in law. In addition to running her own law practice, Ms. Boes has volunteered with a variety of local organizations, including those involved with city and county government, business, women's health, and community service. Her many leadership activities include: chairing of the San Mateo County Bar Association Real Estate Section; serving as a board member of the Human Investment Project, Leadership San Mateo, the San Mateo Rotary Club, the San Mateo Chamber of Commerce, and the Housing Advisory and Appeals Board; and working as a member of the Community Advisory Committee for Breast Cancer, and the County Charter Review Committee. In 1985, Ms. Boes received the Golden Gears Award from the Peninsula Industrial and Business Association.

Mr. Speaker, Carol Stroy Boes is an outstanding citizen, and I commend her for her remarkable commitment and contributions to our community. I ask my colleagues to join me in saluting her as she is being inducted into the San Mateo County Women's Hall of Fame.

IN HONOR OF MAUREEN MURPHY, IRISH POLICE OFFICER OF THE YEAR, 1995

HON. ROBERT MENENDEZ

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Friday, March 3, 1995

Mr. MENENDEZ. Mr. Speaker, I rise today to pay tribute to Maureen Murphy, Irish Police Officer of the Year, 1995, who will be honored at this year's St. Patrick's Day Parade in Jersey City. Ms. Murphy is among the many Irish-American men and women who have helped make this country great.

The Irish have been immigrating to the United States since the early part of the nineteenth century. In that time, they have made many contributions to this country. They have distinguished themselves at every level of American society. As Irish-Americans have built their businesses, so have they contributed to the economic prosperity of this Nation. As they have grown politically, they have contributed to government on the local, State and national levels. Their devotion to family and friends demonstrates that much can be accomplished when people work together in harmony.

At home, Irish-Americans have worked hard to protect all of us from crime and fire. They have put their lives on the line to help ensure the safety of their fellow citizens. The long, proud tradition of Irish police officers and firemen scarcely needs to be mentioned. However, the Irish have not only been good neighbors at home, they have also put their lives on the line when they have fought to defend this Nation against our foes in every major conflict over the last 200 years.

Maureen Murphy is part of this great Irish-American tradition. In 1984, Ms. Murphy graduated from the Jersey City Police Academy. Since then, she has helped to make Hudson County a safer place to live. She is currently a detective in Hudson County. She has dedicated her life to law enforcement and through the years, has bravely protected the people of Hudson County. She was named Woman of the Year in 1991 by the Emerald Society of which she is a member.

Ms. Murphy is truly deserving of the honor of being named Irish Police Officer of the Year. Her hard work and dedication are exemplary and should be recognized. She plays a vital role in the community and I am proud to have her working in Hudson County.

As we celebrate St. Patrick's Day, let us remember all of those Irish-American men and women who have made a difference in the United States. This is a day for us to acknowledge their achievements and feel proud to have them in the United States. This holiday is an excellent opportunity to pay tribute to Irish-Americans; past and present.

PROHIBIT ECONOMIC AND MILITARY ASSISTANCE TO THE GOVERNMENT OF TRINIDAD AND TOBAGO

HON. JAMES A. TRAFICANT, JR.

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Friday, March 3, 1995

Mr. TRAFICANT. Mr. Speaker, Trinidad and Tobago are the southern-most islands of the Lesser Antilles chain in the Caribbean. They were merged in 1888 to form a single colony, and in 1962 obtained full independence from the United Kingdom, and joined the Commonwealth of Nations.

The economic recession coupled with the geographic location of Trinidad and Tobago make it a prime target for sophisticated narcotics cartels wielding vast financial resources. Presently illicit drugs are smuggled from South America through Trinidad and Tobago and end up in other Caribbean islands as well as the United States, Canada, and Europe. The Coast Guard and the Police Service, the two most important agencies in the Government of Trinidad and Tobago's counter-narcotics efforts, have arrested several low-level drug offenders, but have been virtually ineffective against major traffickers.

Cooperation with the Government of Trinidad and Tobago's law enforcement and counter narcotics agencies have improved, but allegations of corruption persist. Lengthy delays and backlogs continue to hamper the judicial system, particularly in narcotics-related cases. In early 1993, a team of Scotland Yard detectives investigated allegations of a drug cartel operating within the Police Service. Although the team found no evidence of a single cartel, it did uncover evidence of widespread corruption among police officers, including the involvement of several officers with local and international drug rings. Although the team recommended the dismissal of over 100 officers, to date the Government of Trinidad and Tobago has taken no action.

Mr. Speaker, the problem of drugs in our society is getting out of control. Drug trafficking is causing crime to rise. It is causing violence to rise. It is causing health care costs to rise. It must stop. I want to make it clear to governments around the world that America is fed up with drug trafficking and we are not going to stand for it anymore.

Today I introduced a bill that will prohibit economic and military assistance to the Government of Trinidad and Tobago until appropriate action is taken to ensure that drug trading and trafficking will not be tolerated. The bill states, "The President may not provide economic assistance or military assistance or arms transfers to the Government of Trinidad and Tobago unless the President certifies to the Congress that such Government has taken appropriate action to eliminate illicit drug trafficking in Trinidad and Tobago."

In the last 10 years, Congress has taken money away from the American people in housing, education, revenue sharing, urban development action grants, Medicare, school lunches, Head Start, and research and development programs. Our roads and bridges are falling apart, water lines need repair, and our sewers are ruptured. While the American people are being neglected by our Government, I want to make sure that our Government will not send a dime to countries that are soft on the drug trade.

CHERRY BLOSSOM FESTIVAL

HON. MAC COLLINS

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

Friday, March 3, 1995

Mr. COLLINS of Georgia. Mr. Speaker, in 1912 Mrs. William Howard Taft accepted 3,000 cherry trees as a gift from Japan for the Nation's capital.

Since 1948 the National Conference of State Societies has sponsored the Annual Cherry Blossom Festival. Congress chartered the National Conference of State Societies in 1952 with Public Law 82–293. NCSS includes all of Washington's State and territorial societies. NCSS submits a financial report each year to the House Judiciary Committee. GAO has approved every audit for 42 years. President Abraham Lincoln was a member of the Illinois State Society, founded in 1854. Dozens of Members of Congress have served as presidents of State societies, including former Representative Bob Michel and Vice President AL GORE. Members and congressional wives currently chair the Michigan, Texas, Illinois, and Puerto Rico societies.

As a member of Georgia State Society, I am pleased to announce the NCSS will once again sponsor this year's festival events from April 2 through 9 in cooperation with National Park Service, the Downtown Jaycees, WRC–TV, and the Embassy of Japan. The festival celebrates our Nation's youth, represented by State and territorial cherry blossoms princesses, and celebrates our friendship with Japan.

On behalf of many colleagues, I would like to recognize the generous support NCSS receives from corporate sponsors such as American Family Life Assurance Company, headquartered in Columbus, GA. AFLAC and NCSS will be partners in a special cherry blossom donation for relief of earthquake victims in Kobe, Japan. Forty-three years after Congress chartered NCSS we can be proud this group still serves its original purpose with energy and distinction.

TRIBUTE TO PEGI MORTON YOUNG

HON. ANNA G. ESHOO

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Friday, March 3, 1995

Mrs. ESHOO. Mr. Speaker, I rise today to honor Pegi Morton Young and her upcoming induction into the San Mateo County Women's Hall of Fame.

After giving birth to a son with severe cerebral palsy in 1986, Pegi Morton Young cofounded the Bridge School, which is an innovative educational program for children with severe speech and physical impairments. She served as the unpaid director of the school for 6 years and remains active as president of the board of directors. Under Ms. Young's exceptional leadership, the Bridge School has been certified by the California State Department of Education as a non-public school and received community-wide praise for its outstanding program. Her commitment to the community is never-ending, and she is always the first to volunteer for a project.

Mr. Speaker, Pegi Morton Young is an outstanding citizen, and I commend her for her remarkable commitment and contributions to our community. I ask my colleagues to join me in saluting her as she is being inducted into the San Mateo County Women's Hall of Fame.

IN HONOR OF MICHAEL J. O'REILLY, IRISH FIREFIGHTER OF THE YEAR, 1995

HON. ROBERT MENENDEZ

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Friday, March 3, 1995

Mr. MENENDEZ. Mr. Speaker, I rise today to pay tribute to Michael O'Reilly, Irish Firefighter of the Year, 1995, who will be honored at this year's St. Patrick's Day parade in Jersey City. Mr. O'Reilly is among the many Irish-American men and women who have helped make this country great.

The Irish have been immigrating to the United States since the early part of the 19th century. In that time, they have made many contributions to this country. They have distinguished themselves at every level of American society. As Irish-Americans have built their businesses, so have they contributed to the economic prosperity of this Nation. As they have grown politically, they have contributed to government on the local, State and national levels. Their devotion to family and friends demonstrates that much can be accomplished when people work together in harmony.

At home, Irish-Americans have worked hard to protect all of us from crime and fire. They have put their lives on the line to help ensure the safety of their fellow citizens. The long, proud tradition of Irish police officers and firemen scarcely needs to be mentioned. However, the Irish have not only been good neighbors at home, they have also put their lives on the line when they have fought to defend this Nation against our foes in every major conflict over the last 200 years.

Michael O'Reilly is part of this great Irish-American tradition. He has served the citizens of Jersey City as a firefighter since 1981. Through the years, he has bravely put his life on the line to save the lives of others. In addition, he has dedicated his time as a baseball coach and organizes sporting and recreational events for members of his community.

Mr. O'Reilly is a lifelong resident of Jersey City. He attended school there and he and his wife have raised their children there. He is a fine constituent of whom I am very proud.

As we celebrate St. Patrick's Day, let us remember all of those Irish-American men and women who have made a difference in the United States. This is a day for us to acknowledge their achievements and feel proud to have them in the United States. This holiday

is an excellent opportunity to pay tribute to Irish-Americans; past and present.

NATIONAL ENGINEERS WEEK

HON. BOB FILNER

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Friday, March 3, 1995

Mr. FILNER. Mr.Speaker and colleagues, I rise today to commemorate the profession of engineering.

February 19–25 was National Engineers Week. As the Nation's second largest profession, engineering provides a challenging and rewarding career choice to roughly 1.8 million people in the United States.

Mr. Speaker, engineers often complain that many people do not know what it is that engineers do. Well, virtually everything that you and I do every day of the year has been invented, improved, or made safer because of engineers.

National Engineers Week is always celebrated at the time of George Washington's birthday. Washington had the educational background of an engineer and land surveyor and is considered the Nation's first engineer. As President, Washington led a growing society toward technical advancements, invention and education. He promoted the construction of roads, canals, the U.S. Capitol, docks and ports and development of manufacturing resources.

Engineers Week falls during Black History Month. African-Americans have engineered some of our most important and best-known inventions.

There are numerous examples of leaders in the engineering profession, Mr. Speaker, but one has especially touched my heart. It is the story of Archie Alexander, who although advised against a career in engineering because of racial prejudice, persisted and gained recognition. If it were not for Mr. Alexander's perseverance, the Tidal Basin Bridge and Seawall and the Whitehurst Freeway in Washington, DC would not have been built.

It is African-American role models like Alexander who have helped pave the way for others wishing to pursue careers in engineering, including women and members of other minority groups.

As we approach the 21st century, the profession of engineering will help us cope with our changing world, while creating numerous new jobs and career paths. Long live engineering.

TRIBUTE TO INVENTOR AUSTIN STANTON

HON. RALPH M. HALL

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Friday, March 3, 1995

Mr. HALL of Texas. Mr. Speaker, I rise today to pay tribute to an outstanding American, Austin N. Stanton, who died November 27, 1994, at the age of 91 following a brief illness. Austin Stanton was the inventor of microcircuitry—the precursor to the computer age. He was a long-time resident of Garland, TX, and lived in Bonham, TX, in my Fourth Congressional District, during the past 8 years.

Austin Stanton dared to dream, and through hard work and determination made those dreams come true. Born on May 31, 1903, in Cromwell, IA, to Harriet L. Stanton, teacher, and the Rev. Jay B. Stanton, pastor and teacher, he left home at the age of 12 and worked at various odd jobs until he decided as a teenager that he should develop his own potential. He hopped a freight train to State University of Iowa and paid his way through school by working as a night serviceman for a power company. He received a B.E. degree in Electrical Engineering from the university in 1925, followed by an M.S. degree in physics in 1927. His thesis, "Phenomena in Resonance Radiation of Cesium," was the foundation for later scientific and technological achievements.

He was married in 1926 to Margaret L. Saveraid, and following college, they drove to Texas, where Mr. Stanton began working with a seismograph crew in oil exploration. From 1927 to 1945 he gained experience in geophysics and electronics, serving as president of Geophysical Exploration Co. and Texas Geophysical Co., both of Dallas, and as associate professor and acting head of the electrical engineering department and head of the preradar school, U.S. Army, at Southern Methodist University in Dallas.

In 1945, he founded Varo Corp. in an old building on his farm in Garland, TX, with about $800 in capital. The building was converted into a laboratory, and his young, small staff began work on the design for a revolutionary power conversion unit for military aircraft. They also developed tiny power supplies, microcircuitry, and precision timing devices for space vehicles. Varo conceived and developed the first light-amplifying, night-vision telescope, first electronic inverters, and the first microcircuits. Microcircuitry led to the development of integrated circuits, which brought about the computer age. Varo was the only producer and supplier of microcircuitry for more than 5 years. Their microcircuit transmitter was donated to the Smithsonian Institution, where it was placed on display. When Mr. Stanton retired as chairman of the board of Varo in 1967, he had parlayed his $800 investment into a successful $60 million per year international business. He also provided advice and assistance to Texas Instruments Co. in the microelectronics field.

Since 1967 Mr. Stanton has been actively involved in developing advanced technology. He was chairman of the board of the Keller Corp. and Methacoal Corp., both research and development companies and leaders in various phases of the alternative fuels, power and energy, electric generation, and waste utilization fields. With Leonard J. Keller, an expert in engineering, he developed Ambient Energy Corp, and built the first Ambient Energy Home, a model of affordable, all-electric energy homes. In 1990 he coinvented the cleanest, most efficient, and least costly coal-based electric generating plant in the world. He earned approximately 40 patents during his lifetime and was actively involved in technology development until his recent illness.

Mr. Stanton was for many years a personal friend and associate of Wernher von Braun, the principal scientist of space-age technology. He provided valuable assistance to Von Braun and was the first to propose the commercialization of space. He made presentations on the subject at the first international conference on space utilization.

Austin Stanton also was a philanthropist. Before he moved to Bonham from Garland, he donated 25 acres of land near downtown Garland and pledged $350,000 in Varo stock—which later sold for $1 million—for construction of a hospital, which became the nucleus of Baylor Medical Center in Garland. He also contributed more than 100 acres of ranch land to the city's parks and recreation system.

Austin Stanton received many awards during his lifetime, including "Pioneer of the Space Age" award from the U.S. Army and the "Lloyd Berkner Space Utilization" award and the "Pioneer and Leader in Space and Microelectronics" award from the American Astronautical Society. He was a fellow of the American Astronautical Society and the British Interplanetary Society and a member of Tau Beta Pi and Sigma Xi.

He is survived by his wife of 67 years, Margaret L. Stanton, 2 daughters, a sister, 17 grandchildren, 22 great-grandchildren, and 3 great-great-grandchildren. He was a good friend of mine, and he will be missed and remembered by all those who knew him.

It is a rare privilege, Mr. Speaker, to have the opportunity to pay tribute to this singular individual, who shared his talents and the fruits of his labors with his country, his community, his peers, and his family. Austin Stanton's life touched our lives in many ways—through scientific and technological advances, in our defense and space programs, and in our environmental efforts. As we adjourn today, Mr. Speaker, I ask my Colleagues to join me in paying our last respects to a truly great American—Austin Stanton.

IN SUPPORT OF FEDERAL FUNDING FOR EDUCATION

HON. BRUCE F. VENTO

OF MINNESOTA

IN THE HOUSE OF REPRESENTATIVES

Friday, March 3, 1995

Mr. VENTO. Mr. Speaker, much of the current budget debate centers on America's children—we all want to ensure our young people can achieve the American dream. Experience has shown that investing in education is one of the surest ways to achieve this important national goal. Increased levels of education translate into higher wages for individuals and a more productive workforce. In 1993, the median weekly wages of a high school graduate exceeded those of someone without a diploma by almost 30 percent, and the payoff for a college degree was even higher. Despite these findings demonstrating the value of education, the House Subcommittee on Labor, Health and Human Services, and Education under the Republican leadership has recently approved a bill to rescind over $1.7 billion in education funding for fiscal year 1995. Many of these cuts will affect our Nation's most vulnerable youth: the poor, the homeless, and

those with disabilities. If we truly value our young people and our future, we must support Federal funding for education. I would like to bring to the attention of my colleagues the following letter of Jay Noren, chancellor of Minnesota State colleges and universities, to the Minneapolis Star Tribune which discusses the benefits to individuals and society of investing in education.

[From the Minneapolis Star Tribune, Feb. 28, 1995]

FUNDING EDUCATION REWARDS THE ENTIRE STATE IN THE LONG RUN

(By Jay Noren)

When Gov. Arne Carlson submits the supplemental budget to the Legislature today, he has an opportunity to look beyond the immediate political horizon and demonstrate not only state but national leadership by investing in education.

Preliminary reports anticipate additional state revenue available in the next biennium, more than expected when the governor made his preliminary budget recommendations on Jan. 24.

This will be the time for the governor and legislators to focus on how state dollars can best be invested for the long-range good of Minnesota and its people. Education is precisely that investment. The investment funds should come from two sources:

The additional revenue should be earmarked for education.

The governor and legislators should reconsider the proposed 25 percent increase in spending for prisons and the 16.9 percent increase in health and human services, and invest a portion of that increase in education.

Clearly prisons and human services are worthy recipients of public funding. But these sectors have received 138 percent and 175 percent increases respectively since 1987, while higher education has received only a 36 percent increase, not enough to cover inflation and enrollment growth.

People are Minnesota's best natural resource. People who are trained and educated are a value-added form of that natural resource.

The governor's preliminary budget continued a 10-year trend, putting an ever-larger proportion of the state budget into criminal justice and health and human services, while putting an ever-smaller proportion into education.

Higher education—the state's technical colleges, community colleges, state universities, the University of Minnesota and student financial aid—would get 11.8 percent of the state budget under the governor's plan. In the mid-'90s, higher education got 15.5 percent.

Minnesota State Colleges and Universities (MnSCU) is the "home-town" higher education system that provides technical and academic education in every corner of Minnesota. The preliminary budget fell $94 million short of maintaining current programs.

That shortfall will result in layoffs and huge tuition increases requiring students to pay more and get less—the equivalent of denying college to 14,000 students.

The University of Minnesota needs an increase in its base funding rather than the one-time money recommended in the earlier budget—funding that will disappear in two years, creating an even larger crisis in 1997.

K–12 education needs funding to face large current increases in pupils which will continue for the next 10 to 15 years (enrollment that is also now beginning to affect higher education).

The governor said it right in his Jan. 24 message when he said the state's budget for the next two years should: make government accountable and affordable; support children and families; prepare young people for work; create jobs and sustain economic vitality, and build stable communities.

An investment in education directly addresses all five points:

Colleges and universities will be accountable. The July 1, 1995, merger of Minnesota higher education institutions is the most far-reaching restructuring of higher education in Minnesota history—and it has the potential for immense rewards for students, for employers and for the state. We have defined measurable goals and we are committed to reviewing every program, every building and every expenditure in our new system.

In the next two years we will reduce 20 colleges to 10 consolidated colleges. Each of these consolidated colleges will operate more efficiently with fewer administrators and better services to students.

We will reduce the central administration staff by 20 percent from the size of the three merging system offices.

We will undertake intensive evaluation of all educational programs not only to identify duplicate and ineffective programs but also to highlight centers of excellence that serve students best. Centers of excellence will receive additional resources largely from the reinvestment of savings gained from reducing and eliminating ineffective programs.

An investment in education supports children and families. An investment in education helps 5-year-olds in kindergarten and it helps 45-year-olds who need training or retraining for jobs. Unassailable statistics show that education correlates directly with income. People with an associate degree earn more than those with a high school diploma. People with a bachelor's degree or a master's earn still more. The ability to earn a decent income is the best stabilizing force for any family.

Prepare young people for work. We couldn't agree more with the governor's priority. That's what education does—it prepares people for work and responsible citizenship.

Create jobs and sustain economic vitality. Minnesota's towns and cities are full of businesses and factories started by graduates of our colleges and universities. Those businesses and factories employ our graduates. Clearly the thriving communities in Minnesota are those which either have—or are within easy reach of—a college or university. The 62 college and university campuses produce most of Minnesota's educated and hard-working employees, as well as most of our entrepreneurs, who create the businesses employing our citizens. The University of Minnesota campuses similarly fuel the economy and make unique contributions through research and graduate education which translate into new products, new businesses and solutions to human problems throughout the world.

As we move into an era with more older people, more children and fewer workers, state revenues and public programs for our citizens (including human services and crime prevention) will continually erode unless our workers succeed in earning more money. Do we want those workers to be struggling in minimum-wage jobs? Or do we want them trained and educated for high-income jobs in industries that are able to compete globally? Investment in education will increase personal income and return state tax revenues needed to pay for Minnesota's other public programs essential to quality living.

Build stable communities. Efficient, energetic colleges and universities are a stabilizing force in their communities. Weakened colleges and universities, fighting to stay alive in the face of severe budget cuts, will cause serious community instability.

Minnesota became a great state by passionate preservation of its values and traditions. One of its most central traditions has been a strong public K–12 and higher-education system, open and accessible to all.

Gov. Carlson rightly asks education to accept change and to adapt itself to the immediate needs of the late '90s and the 21st century. We are eager to accept that challenge. But we cannot meet that challenge if primary and secondary schools, colleges and universities must use their energy for intensive care of critically ill schools and campuses rather than vital, healthy efforts to enhance students' fitness through accessible and innovative education.

Minnesota young people of today and tomorrow have fewer self-improvement opportunities through education than the opportunities provided to the current generation of business leaders, legislators, teachers and public servants. We must give them the educational choices we all enjoyed in our earlier years. It is a tradition that our parents and grandparents nourished, and we must continue the educational sustenance for Minnesota's future quality of life. The crisis in education funding has arrived. Only visionary leadership—from educators, the Legislature and the governor—can prevent crisis in society at large. In this legislative session we must fund adequate educational investment and demand accountability for the principal outcome—preservation of Minnesota's economic and social strength.

TRIBUTE TO CELESTE MAIA CRON

HON. ANNA G. ESHOO

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Friday, March 3, 1995

Ms. ESHOO. Mr. Speaker, I rise today to honor Celeste Maia Cron and her upcoming induction into the San Mateo County Women's Hall of Fame.

After 25 years as the head of local printing and graphics firm, Celeste Maia Cron became the first woman to head the printing office for the State of California. At the printing office, Ms. Cron has started an in-house women's support group to deal with job discrimination, spousal and partner abuse, and other family related problems. Previously, she founded the Friends of the Advisory Council on Women and served as the president of the Private Industry Council and Soroptomists International of Burlingame/San Mateo. Ms. Cron is a prominent leader in our community and has been honored with a number of awards including the 1991 Volunteer Recognition Award by the Volunteer Center, a Palo Alto Junior League award for her work in education, the Key Award from the March of Dimes, and the National Association of Printers and Lithographers Award for Exceptional Employee Relationships.

Mr. Speaker, Celeste Maia Cron is an outstanding citizen, and I commend her for remarkable commitment and contributions to our

community. I ask my colleagues to join me in saluting her as she is being inducted into the San Mateo County Women's Hall of Fame.

IN HONOR OF CLARE FLANNERY, IRISH WOMAN OF THE YEAR, 1995

HON. ROBERT MENENDEZ

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Friday, March 3, 1995

Mr. MENENDEZ. Mr. Speaker, I rise today to pay tribute to Clare Flannery, Irish Woman of the Year, 1995, who will be honored at this year's St. Patrick's Day parade in Jersey City. Ms. Flannery is among the many Irish-American men and women who have helped make this country great.

The Irish have been immigrating to the United States since the early part of the 19th century. In that time, they have made many contributions to this country. They have distinguished themselves at every level of American society. As Irish-Americans have built their businesses, so have they contributed to the economic prosperity of this Nation. As they have grown politically, they have contributed to government on the local, State and national levels. Their devotion to family and friends demonstrates that much can be accomplished when people work together in harmony.

At home, Irish-Americans have worked hard to protect all of us from crime and fire. They have put their lives on the line to help ensure the safety of their fellow citizens. The long, proud tradition of Irish police officers and firemen scarcely needs to be mentioned. However, the Irish have not only been good neighbors at home, they have also put their lives on the line when they have fought to defend this Nation against our foes in every major conflict over the last 200 years.

Clare Flannery is part of this great Irish-American tradition. She is an active member of Project Children, which is an Irish community-based organization that pays to fly almost 1,000 children from Northern Ireland to the United States each year. The goal of Project Children is to offer the youngsters a respite from the violence which has plagued their homeland for over 25 years. This organization would not run as successfully as it does, if it were not for the dedication of people like Clare Flannery.

Ms. Flannery has done this while raising a family of her own. She is the proud mother of four children and a grandmother of four. She has been successful in raising a family, while at the same time helping the community. In doing so, she has set a positive example for all of us.

As we celebrate St. Patrick's Day, let us remember all of those Irish-American men and women who have made a difference in the United States. This is a day for us to acknowledge their achievements and feel proud to have them in the United States. This holiday is an excellent opportunity to pay tribute to Irish-Americans; past and present.

SELMA

HON. CYNTHIA A. McKINNEY

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

Friday, March 3, 1995

Ms. McKINNEY. Mr. Speaker, as bigots and supremacists across the Nation bask in their new Republican majorities, this weekend's reenactment of the Selma to Montgomery march couldn't have come at a better time.

Thirty years ago, my friend and colleague JOHN LEWIS had his head bashed in on the Edmund Pettus Bridge because he dared to march for voting rights in the South. That historic march to Montgomery gave us the Voting Rights Act which is now under attack from every sector: Majority and minority districts are being challenged in the courts, Governors are trying to kill motor-voter, and now affirmative action has become the new Republican wedge issue to divide people.

Mr. Speaker, while the bigots and supremacists feel emboldened by a Republican Congress, I invite them to come to Selma this weekend and witness our resolve to fight.

DESIGNATE THE TRAIL FROM SELMA TO MONTGOMERY AS A NATIONAL HISTORIC TRAIL

HON. JOHN LEWIS

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

Friday, March 3, 1995

Mr. LEWIS of Georgia. Mr. Speaker, today I am introducing a bill to designate the road from Selma to Montgomery as a National Historic Trail. The road from Selma to Montgomery was the last symbolic leg in the journey to the Voting Rights Act of 1965.

Thirty years ago this month we tried to march from Selma to Montgomery to demonstrate for voting rights for all. As the nonviolent marchers crossed the Edmund Pettus Bridge in Selma, we were attacked by State troopers. I myself was beaten bloody. The country was outraged. Two days later, the marchers made a second attempt and turned back to avoid more bloodshed.

One week later, President Lyndon Johnson addressed the Nation and called for passage of the Voting Rights Act. He said:

> I speak tonight for the dignity of man and the destiny of democracy * * * at times, history and fate meet at a single time in a single place to shape a turning point in man's unending search for freedom. So it was at Lexington and Concord. So it was a century ago in Appomattox. And so it was last week in Selma, Alabama.

This weekend we go back to Selma for the 30th anniversary of the marches. We go back to remember what happened and to rededicate ourselves to the importance of voting rights.

We have come a long way. In 1965, there were 500 African-American elected officials in the country. There were fewer than 100 in the South. In 1995, more than 7,000 African-Americans hold elective office—nearly 5,000 of them in the South.

However, we still have a long way to travel on our journey. In the 1992 Presidential election, only 56 percent of the voting age population voted. In the 1994 midterm elections only 38 percent voted. This is a tragedy.

The designation of the route from Selma to Montgomery will educate and remind us of the right and responsibility to vote. It will also give important recognition to the men and women who dedicated their lives for voting rights for all Americans.

In 1990, Congress enacted the Selma to Montgomery National Trail Study Act and directed the National Park Service to study the trail. Their report is complete. It is time to make this important part of American history a national historic trail.

I urge all my colleagues to join me as cosponsors of this important bill. Thank you, Mr. Speaker.

NONPOINT SOURCE WATER POLLUTION PREVENTION ACT OF 1995

HON. JAMES L. OBERSTAR

OF MINNESOTA

IN THE HOUSE OF REPRESENTATIVES

Friday, March 3, 1995

Mr. OBERSTAR. Mr. Speaker, today I have introduced the Nonpoint Source Water Pollution Prevention Act of 1995, the sequel to what is now section 319 of the Clean Water Act, nonpoint source management programs.

The Federal Water Pollution Control Act Amendments of 1972 set the Nation on its current cleanup course. The first line of that landmark legislation, in section 101(a), declares it the objective of the act "to restore and maintain the chemical, physical, and biological integrity of the Nation's waters."

Until now, municipalities and industries have borne the brunt of this commitment. Since 1972 American citizens as Federal and State taxpayers have spent more than $75 billion to clean up municipal point sources. Industry, and citizens as consumers, have spent over $130 billion on cleaning up industrial point sources, including $67 billion in capital expenditures and $63 billion in operating costs.

Despite that costly sacrifice, fully one-third of the Nation's rivers, half of our estuaries, and more than half of our lakes are not meeting designated uses. Only about half of our river miles, two-thirds of lake acres, and three-quarters of our estuaries have even been assessed, meaning that a much more significant though unknown number of waterbodies are impaired, and more are threatened.

Dredging, to remove sediment from our harbors and navigation channels, costs American taxpayers hundreds of millions of dollars each year. Polluted water from upstream forces communities to add expensive treatment technologies to both their drinking water and wastewater facilities. The outbreak of cryptosporidium in Milwaukee, caused by animal pathogens washed into the drinking water from farms upriver, are an illustration of the costs of nonpoint sources in terms of human health.

The major cause of this failure to meet the standards is nonpoint sources of pollution [NPS]—or poison runoff—the unfinished agenda of the 1972 act.

The program in my bill builds on established Federal, State, and local programs: the Nonpoint Management Program in the Clean Water Act, the nonpoint source provisions of the Coastal Zone Act Reauthorization Amendments of 1990 [CZARA], and USDA's conservation and water quality incentive programs.

It focuses on sensitive watersheds, and encourages land users to prevent runoff, such as sediment, pesticides, herbicides, fertilizers, and toxics from city streets, from polluting our lakes, rivers, and streams.

It uses watershed implementation plans, designed by the State with input from local landowners and other groups. Landowners would develop site-level plans using site-specific management measures that they themselves have chosen. Assistance would be available from a wide variety of sources, including USDA, the States, and EPA.

As CZARA already does for coastal areas, the bill requires States or local governments to be able to take enforcement action against so-called bad actors, those who refuse to comply while their neighbors are being good actors.

The bill sets timetables for achieving clean water: 8 years from the beginning of the watershed implementation plans. At that point, the watershed would be assessed and, if clean water had not been achieved, additional measures would be implemented in two 2-year phases. At the end of 12 years, the waters would have to meet water quality standards.

The bill also creates a nonpoint program for Federal lands directly under the President. It expands water quality criteria and standards to cover nonpoint pollutants, contains provisions for new sources of nonpoint pollution, and creates a Citizen Monitoring Program to assist States in their monitoring under this and other programs.

This bill is fair to those who have already spent hundreds of millions of dollars on Clean Water Act mandates; fair to municipalities and drinking water suppliers who are faced with added costs; fair to landowners in coastal areas who already are complying with CZARA; and fair to future generations of Americans who will also need clean water.

TRIBUTE TO NAN HAWKINS BOSTICK

HON. ANNA G. ESHOO

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Friday, March 3, 1995

Ms. ESHOO. Mr. Speaker, I rise today to honor Nan Hawkins Bostick and her upcoming induction into the San Mateo County Women's Hall of Fame.

Nan Hawkins Bostick is a leading advocate for women and children in our community, as well as a prominent member of California's pro-choice movement. She has chaired Children by Choice, the Bay Area Pro-Choice Coalition, and the San Mateo County National Women's Political Caucus. In addition, she has served as public affairs director for Planned Parenthood of San Mateo and State coordinator of California Republicans for Choice. During the 1970's, Ms. Bostick was a member of a rock-and-roll band which performed at feminist rallies and children's programs. Her interest in education has extended to her own business, NGB & Associates, through which she has created instructive materials in various media for special education and inner-city students.

Mr. Speaker, Nan Hawkins Bostick is an outstanding citizen, and I commend her for her remarkable commitment and contributions to our community. I ask my colleagues to join me in saluting her as she is being inducted into the San Mateo County Women's Hall of Fame.

HONORING OWEN KIRBY AND GARY DELA RABA

HON. GARY L. ACKERMAN

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Friday, March 3, 1995

Mr. ACKERMAN. Mr. Speaker, I rise today to join with my constituents in the Fifth Congressional District and the members of the police officers of Nassau County, NY, as they gather to observe Nassau Police Conference Appreciation Night, and to honor Owen Kirby and Gary Dela Raba.

Owen Kirby, past Nassau Police Conference president, has truly brought honor to the citizens of Nassau County through his unfailing support of effective police work. Growing up in East Meadow, Long Island, Owen completed his schooling and went on to serve in the U.S. Army. Several years after his discharge, Owen took the police examination and was soon assigned to the Sands Point Police Department. His awareness of police concerns and a desire to provide more effective service to the public soon led to his involvement in the Police Benevolent Association and the Nassau Police Conference. He held several positions which include coeditor of the Blotter, the organization's publication, delegate, corresponding secretary, and second vice president. In 1987, in recognition of his outstanding service and enormous potential, his colleagues elected him president of the Nassau Police Conference.

Gary Dela Raba, president of the Nassau County Police Benevolent Association, is yet another unique individual who has devoted himself to the betterment of his fellow police officers and the more effective delivery of police services to Nassau County. Beginning as a police cadet in 1971, Gary was first assigned to the eighth precinct. It was here that he began to familiarize himself with the Police Benevolent Association's [PBA] collective bargaining system. In 1975, Gary was elected as a PBA trustee and began a process that would enable him to use his human relations expertise to enhance the professional standing of Nassau County's police.

As a trustee, Gary served on many committees and was eventually appointed to the PBA board of governors. In 1981, he was elected second vice president of the Nassau PBA. By 1988, this thorough understanding of the multiplicity of issues impacting on police officers led to his election as PBA president. As president, he has continuously worked at making the Nassau Police Department recognized throughout the country as one of professionalism and effectiveness.

Mr. Speaker, as we search for modern day heroes to lead our society, we could find no better role models than Owen Kirby and Gary Dela Raba.

I ask all my colleagues in the House to join with me in paying tribute to these two outstanding police officers.

THE OSCE AND MACEDONIA

HON. CHRISTOPHER H. SMITH

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Friday, March 3, 1995

Mr. SMITH of New Jersey. Mr. Speaker, last week the states belonging to the Organization for Security and Cooperation in Europe—the OSCE—adopted a statement in Vienna regarding the escalation of ethnic tensions in Macedonia and the events that are causing this escalation. Some members of the ethnic Albania community of that country have sought to open their own Albanian-language university, and the resulting confrontation with the authorities became violent on February 17, leading to the death of one Albanian and the injury of dozens of individuals, including several police officers. Of course, there are now mutual recriminations regarding how the violence started.

As Chairman of the Helsinki Commission, I want to note and lead my support to the path outlined in the OSCE statement, which calls on all parties to exercise restraint, to strengthen the dialogue and to maintain an open-minded attitude in order to overcome the problems between them. It also indicates the willingness of the OSCE High Commissioner for National Minorities and the OSCE Monitoring Mission in Macedonia to contribute as they can to the alleviation of tensions.

I support this, because the differences which exist in Macedonia today can, in fact, be worked out peacefully. To allow the tensions to worsen unnecessarily not only would be destabilizing to Macedonia, but potentially to an entire Balkan region where there is already too much tension and violence.

In regard to the effort to establish a university in the city of Tetovo, provisions of the OSCE—and specifically the Copenhagen document of 1990—state that national minorities do have the right to establish and maintain their own educational and cultural institutions, as well as unimpeded contacts among themselves and with citizens of other states with common ethnic origin. The Macedonian Government is not obliged to fund, accredit or even recognize this university, but to consider the institution illegal—and to physically destroy last December the building in which it was originally opened—violates the spirit, if not the letter, of these provisions.

Mr. Speaker, if some segments of the Albanian community in Macedonia genuinely have as their objective a solid educational institution for the benefit of the people of their community, they should make sure that education is not used instead to provoke tension or incite violence. While there are ample grounds for criticism of the Macedonian Government, as I

have just expressed, there is also reason to believe that minority-related issues, including education, can be satisfactorily addressed in a far less confrontational manner.

I would urge all sides to address education and other minority-related questions through dialogue, and the authorities to move more quickly on needed educational reforms. In the meantime, those ethnic Albanian leaders arrested for incitement during the February 17th incident are entitled to the protection of their rights, and any judicial proceedings should ensure due process in their regard.

Mr. Speaker, I would hope that assurances of full protection for human rights could be made and timely reforms could be forthcoming. While I recognize that Macedonia is not a member of the OSCE, Macedonia is not excused from complying with international human rights standards.

IN HONOR OF JOSEPH A. RICCARDI, HONORARY IRISHMAN OF THE YEAR, 1995

HON. ROBERT MENENDEZ

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Friday, March 3, 1995

Mr. MENENDEZ. Mr. Speaker, I rise today to pay tribute to Joseph A. Riccardi, Honorary Irishman of the Year, 1995, who will be honored at this year's St. Patrick Day Parade in Jersey City.

The Irish have been immigrating to the United States since the early part of the 19th century. In that time, they have made many contributions to this country. They have distinguished themselves at every level of American society. As Irish-Americans have built their businesses, so have they contributed to the economic prosperity of this Nation. As they have grown politically, they have contributed to government on the local, State and national levels. Their devotion to family and friends demonstrates that much can be accomplished when people work together in harmony.

At home, Irish-Americans have worked hard to protect all of us from crime and fire. They have put their lives on the line to help ensure the safety of their fellow citizens. The long, proud tradition of Irish police officers and firemen scarcely needs to be mentioned. However, the Irish have not only been good neighbors at home, they have also put their lives on the line when they have fought to defend this Nation against our foes in every major conflict over the last 200 years.

Joseph Riccardi is being honored this year for his many contributions to the community. Mr. Riccardi founded Knights Auto Body, Inc. in 1960. He served as commissioner on the Jersey City Parking Authority, Hudson County Recreation Authority and as a board member of the Jersey City Medical Center Foundation. Mr. Riccardi is a former chairman of the Jersey City chapter of the March of Dimes, and he has served on the Saint Patrick's Day Parade Committee since 1962. In addition, he is a sponsor of Project Children, and is the Honorary Irishman of the Jersey City Emerald Society.

Through the years, Mr. Riccardi has served the people of Jersey City Well. His involvement in the many above-mentioned organizations shows that he is committed to helping make life a little easier for his fellow Americans. He is truly an exemplary individual.

As we celebrate St. Patrick's Day, let us remember all of those Irish-Americans men and women who have made a difference in the United States. This is a day for us to acknowledge their achievements and feel proud to have them in the United States. This holiday is an excellent opportunity to pay tribute to Irish-Americans; past and present.

TRIBUTE TO HELEN M. HAUSMAN

HON. ANNA G. ESHOO

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Friday, March 3, 1995

Ms. ESHOO. Mr. Speaker, I rise today to honor Helen M. Hausman and her upcoming induction into the San Mateo County Women's Hall of Fame.

Helen M. Hausman is an exceptional public servant with a remarkable history of leadership in our community. She has served on the PTA for 25 years, been elected to the Sequoia Union High School District Board four times, and chaired a bay area symposium on the Geneva Conventions and Humanitarian Law. In addition, she is currently serving her second term on the San Mateo County Community College District Board and chairing the San Mateo County American Red Cross board of directors. As an advocate for youth and women, Ms. Hausman has volunteered for a number of youth organizations, and the Junior League has appointed her as community advisor to serve as a role model for young women volunteers Ms. Hausman has also spoken on gender equity issues for the American Association of University Women.

Mr. Speaker, Helen M. Hausman is an outstanding citizen, and I commend her for her remarkable commitment and contributions to our community. I ask my colleagues to join me in saluting her as she is being inducted into the San Mateo County Women's Hall of Fame.

CELEBRATING FLORIDA'S SESQUICENTENNIAL

HON. C.W. BILL YOUNG

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Friday, March 3, 1995

Mr. YOUNG of Florida. Mr. Speaker, I rise today in proud observance of the sesquicentennial anniversary of the State of Florida.

One hundred and fifty years ago today, President John Tyler signed into law the Florida Statehood bill, enacted 2 days earlier by the 28th Congress, admitting Florida as the 27th State. Today, the Sunshine State has risen in stature to become the fourth largest State of the Union, with an economy larger than all but 14 countries. In the last 15 years alone, its population has risen by more than a third, further enriching one of the most economically successful, culturally vibrant regions of America.

The Sunshine State plays a vital role in American prosperity. In 1513, Ponce de Leon's initial landfalls along Florida's pristine beaches marked the first steps by European settlers on the shores of North America. Today, the more than 20 million visitors to our State each year walk these same beaches seeking their own Fountain of Youth. Florida welcomes tourists from across the world who come to enjoy our cultural offerings and environmental beauty.

Our State's rich natural resources provide our Nation with a healthy diet of fruits, vegetables, and fish, and its manufacturing industries supply America with key electrical, transportation and high technology equipment.

Since the Spanish-American War, critical military facilities across Florida have defended our Nation's Southeast flank, and have given us the ability to protect our national interests throughout the hemisphere. On the threshold of the 21st century, the United States relies ever more on Florida's strengths in education and technology, assets that have already launched us into a new frontier.

As Commander Steve Oswald told our Florida congressional delegation this morning while orbiting the Earth in Space Shuttle *Endeavor,* "Every time Americans have left the planet to explore space, they have done so from Florida."

The greatest testament to Florida's excellence comes from the tens of thousands of people each year who choose to make our State their homes. Whether by birth or by choice, Floridians are a proud people who have contributed greatly to the history of our Nation. Twenty-two sons of Florida have won the Nation's highest award for bravery, the Congressional Medal of Honor, for protecting our country's freedoms. Here in the Nation's Capital, 96 Floridians have served our State and our Nation in the House of Representatives, and 30 have distinguished themselves through their service in the Senate. We salute our predecessors and the numerous other Floridians who have served in the executive, judicial, and legislative branches of the Federal Government.

From the white, sandy beaches and intercostal waterways of Pinellas County, the area which I have the privilege to represent, to the tropical Keys to the south, the rich pine forests to the north, and the excitement of the Kennedy Space Center on the east coast, after 150 years, the Sunshine State has become synonymous with great historic moments and diverse natural beauty. Florida's many diverse successes have transformed it into a gateway between North and South America, a bridge from the Earth to space, and a link connecting us to our future. With great pride, I salute the State of Florida on this historic day. May the sun always shine on its future.

SALUTE TO THE RHO CHAPTER OF ALPHA PHI ALPHA FRATERNITY

HON. THOMAS M. FOGLIETTA

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Friday, March 3, 1995

Mr. FOGLIETTA. Mr. Speaker, I rise today to pay tribute to the Rho chapter of Alpha Phi

Alpha Fraternity at Temple University in Philadelphia. The men of Rho chapter are celebrating their 80th year of fraternal service on March 31, 1995.

Alpha Phi Alpha, founded in 1906, is the Nation's first and oldest African-American Greek-letter organization. Alpha Phi Alpha was established for young men of African descent who were not allowed to join other Greek-letter organizations. Since its establishment, seven other African-American Greek organizations have been created, using Alpha Phi Alpha as a model.

Alpha Phi Alpha has over 100,000 initiated members in over 600 undergraduate and alumni chapters throughout the country 89 years later. Alpha Phi Alpha is the sponsor of many national programs which provide support to the United Negro College Fund, Big Brothers/Big Sisters of America, and March of Dimes and many scholarship endeavors. Through their programs, the members of Alpha Phi Alpha have helped many less fortunate people in cities across the Nation. Some of the distinguished men who were part of this brotherhood include: the Honorable Thurgood Marshall, Dr. Martin Luther King, Jr., the Honorable David Dinkins, and Mr. Jesse Owens.

Rho chapter of Alpha Phi Alpha was founded on November 3, 1914, at Temple University. Rho chapter follows the format of the national chapter in format and purpose and has contributed a great deal to communities throughout the city of Philadelphia.

On this 80th anniversary of its establishment, I would like to recognize the Rho chapter of Alpha Phi Alpha for its accomplishments and contributions both to its members and to communities in Philadelphia and across the Nation. I hope my colleagues will join me in congratulating President James G. Slaughter and the upstanding men of the Rho chapter of Alpha Phi Alpha on this great anniversary.

LEGISLATION REGARDING RETIREMENT PACKAGE FOR REVENUE OFFICERS

HON. RONALD D. COLEMAN

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Friday, March 3, 1995

Mr. COLEMAN. Mr. Speaker, I rise today to introduce a bill which grants an early retirement package for revenue officers of the Internal Revenue Service, Customs Inspectors of the U.S. Customs Service, and immigration inspectors of the Immigration and Naturalization Service.

The legislation will amend the current law that grants retirement after 20 years to Federal law enforcement officers and firefighters, but does not include the groups mentioned above. Similar to currently covered law enforcement officers and firefighters, the employees to be covered under this bill have very hazardous, physically taxing occupations, and it is in the public's interest to ensure a vigorous work force in these positions.

Because my district is located on the United States-Mexico border, I know first hand the hardship and hazards that these employees endure on a daily basis. Most recently, drug smugglers have attempted to actually run over inspectors by speeding through our border crossings. Some Customs employees have lost their lives in the line of duty. These employees are confronted everyday with the criminal element. We must ensure that they receive adequate and competitive benefits so that we can continue to recruit the highest caliber people for these positions.

The need for a 20-year retirement benefit for inspectors of the Customs Service is easily apparent. These employees are the country's first line of defense against terrorism and the smuggling of illegal drugs at our borders. They have the authority to apprehend those engaged in such activities. They are responsible for the majority of arrests performed by Customs Service employees. These employees face multiple challenges. They confront leading criminals in the drug war, organized crime figures, and increasingly sophisticated white-collar criminals.

The physical demands of the Revenue officer job are evidenced by heavy workloads, and a high rate of job stress, resulting in a variety of physical and mental symptoms. The employees frequently use pseudonyms to hide their identity because of the large threat to their personal safety.

This legislation is cost effective. Any cost is more than offset by savings in training costs and increased revenue collection. A 20-year retirement bill for these employees will reduce turnover, increase yield, decrease employee recruitment and development costs, and enhance the retention of a well-trained and experienced work force.

It is imperative that we establish an effective Inspector and Revenue officer work force to ensure the integrity of our borders and proper collection of the taxes and duties due the Federal Government.

This bill, once enacted, will correct an oversight for these Federal employees. I ask the committee of jurisdiction to take up the legislation as rapidly as possible, and urge my colleagues to support it.

H.R. —

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. CIVIL SERVICE RETIREMENT SYSTEM.

(a) TREATMENT AS LAW ENFORCEMENT OFFICERS.—Section 8331(20) of title 5, United States Code, is amended by striking "administrative position." and inserting "administrative position, and any revenue officer, customs inspector, customs canine enforcement officer, and Immigration and Naturalization inspector.".

(b) DEFINITIONS.—Section 8331 of title 5, United States Code, is amended—

(1) by striking "and" at the end of paragraph (25);

(2) by striking the period at the end of paragraph (26) and inserting a semicolon; and

(3) by adding at the end the following:

"(27) 'revenue officer' means an employee of the Internal Revenue Service, the duties of whose position are primarily the collection of delinquent taxes and the securing of delinquent returns, including an employee engaged in this activity who is transferred to a supervisory or administrative position;

"(28) 'customs inspector' means an employee of the United States Customs Service, the duties of whose position are primarily to—

"(A) enforce laws and regulations governing the importing and exporting of merchandise;

"(B) process and control passengers and baggage;

"(C) interdict smuggled merchandise and contraband; and

"(D) apprehend (if warranted) persons involved in violations of customs laws,

including an employee engaged in this activity who is transferred to a supervisory or administrative position;

"(29) 'customs canine enforcement officer' means an employee of the United States Customs Service, the duties of whose position are primarily to work directly with a dog in an effort to—

"(A) enforce laws and regulations governing the importing and exporting of merchandise;

"(B) process and control passengers and baggage;

"(C) interdict smuggled merchandise and contraband; and

"(D) apprehend (if warranted) persons involved in violations of customs laws,

including an employee engaged in this activity who is transferred to a supervisory or administrative position; and

"(30) 'Immigration and Naturalization inspector' means an employee of the Immigration and Naturalization Service, the duties of whose position are primarily the controlling and guarding of the boundaries and borders of the United States against the illegal entry of aliens, including an employee engaged in this activity who is transferred to a supervisory or administrative position.".

SEC. 2. FEDERAL EMPLOYEES' RETIREMENT SYSTEM.

(a) TREATMENT AS LAW ENFORCEMENT OFFICERS.—Section 8401(17) of title 5, United States Code, is amended by adding at the end the following: "such term includes any revenue officer, customs inspector, customs canine enforcement officer, and Immigration and Naturalization inspector;".

(b) DEFINITIONS.—Section 8401 of title 5, United States Code, is amended—

(1) by striking "and" at the end of paragraph (31);

(2) by striking the period at the end of paragraph (32) and inserting a semicolon; and

(3) by adding at the end the following:

"(33) 'revenue officer' means an employee of the Internal Revenue Service, the duties of whose position are primarily the collection of delinquent taxes and the securing of delinquent returns, including an employee engaged in this activity who is transferred to a supervisory or administrative position;

"(34) 'customs inspector' means an employee of the United States Customs Service, the duties of whose position are primarily to—

"(A) enforce laws and regulations governing the importing and exporting of merchandise;

"(B) process and control passengers and baggage;

"(C) interdict smuggled merchandise and contraband; and

"(D) apprehend (if warranted) persons involved in violations of customs laws,

including an employee engaged in this activity who is transferred to a supervisory or administrative position;

"(35) 'customs canine enforcement officer' means an employee of the United States Customs Service, the duties of whose position are primarily to work directly with a dog in an effort to—

"(A) enforce laws and regulations governing the importing and exporting of merchandise;

"(B) process and control passengers and baggage;

"(C) interdict smuggled merchandise and contraband; and

"(D) apprehend (if warranted) persons involved in violations of customs laws,

incuding an employee engaged in this activity who is transferred to a supervisory or administrative position; and

"(36) 'Immigration and Naturalization inspector' means an employee of the Immigration and Naturalization Service, the duties of whose position are primarily the controlling and guarding of the boundaries and borders of the United States against the illegal entry of aliens, including an employee engaged in this activity who is transferred to a supervisory or administrative position.".

SEC. 3. EFFECTIVE DATE; PRIOR SERVICE.

(a) EFFECTIVE DATE.—Except as otherwise provided in this section, this Act and the amendments made by this Act—

(1) shall take effect on the 90th day after the date of the enactment of this Act; and

(2) shall apply with respect to an individual only if such individual serves as a revenue officer, customs inspector, customs canine enforcement officer, or Immigration and Naturalization inspector on or after the effective date of this Act.

(b) PRIOR SERVICE.—

(1) EMPLOYEE CONTRIBUTIONS.—In administering chapter 83 or 84 of title 5, United States Code, with respect to an individual who satisfies subsection (a)(2), the amendments made by this Act shall be disregarded for purposes of any service performed before the effective date of this Act as a revenue officer, customs inspector, customs canine enforcement officer, or Immigration and Naturalization inspector, unless such individual deposits into the Fund, within such time and in such manner as the Office of Personnel Management by regulation requires, an amount equal to the amount by which—

(A) the deductions from pay which would have been required for such service had such amendments then been in effect; exceeds

(B) the amounts actually deducted from such pay (less any amounts refunded and not repaid),

with interest.

(2) AGENCY CONTRIBUTIONS.—Not later than 90 days after the full amount required under paragraph (1) has been paid by an individual, the agency that employed such individual during the period of service to which such amount relates shall pay into the Fund, with interest, an amount equal to the amount by which—

(A) the Government contributions which would have been required for such service, had such amendments then been in effect; exceeds

(B) the Government contributions actually made for such service.

(c) REGULATONS.—The Office of Personnel Management shall prescribe such regulations as may be necessary to carry out this Act, including regulations for determining the amount of any interest to be paid under this section.

(d) DEFINITIONS.—For the purpose of this section—

(1) each of the terms "revenue officer", "customs inspector", "customs canine enforcement officer", and "Immigration and Naturalization inspector" has the meaning given it by section 8331 or 8401 (as the case may be) of title 5, United States Code, as amended by this Act; and

(2) the term "Fund" means the Civil Service Retirement and Disability Fund under section 8348 of title 5, United States Code.

STOP THE ASSAULT ON PUBLIC BROADCASTING

HON. MAJOR R. OWENS

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Friday, March 3, 1995

Mr. OWENS. Mr. Speaker, the Republican assault on public broadcasting represents outrageous overkill by the elite oppressive group that presently holds power in Congress. The benefits of public broadcasting far outweigh the costs. Probably nowhere else in the budget do we achieve a better cost-benefits ratio. American taxpayers definitely get their money's worth from its investment in quality programs on a vast array of topics, subjects, and issues. Like any complex institution public broadcasting can certainly be improved. It must end the trend toward more advertising. There is a need to stop catering to established commentators who have already become well known through commercial media. Instead of repeating the same voices and faces, public broadcasting should give us new ones. Certain producers should be told "5 years and you're off" in order to make way for younger talent. The exception to this rule, however, must prevail in the area of children's programming. Some excellent programs for this group will never be picked up by commercial media. We must protect the rights of future children to enjoy Big Bird and Barney. Let us save money somewhere else in the budget, starting with bank bailouts, Mexican bailouts, and welfare for rich farmers. Taxpaying parents are ready to revolt if the Washington budget axe fails on Big Bird and Barney.

PROTECT BIG BIRD AND BARNEY

Big Bird and Barney
Must Go
To help hungry bankers
In Mexico
Leadership plays its role
Guiding big bankers
To the dole
Twenty billion plus
Won't make jobs for us
Please children don't cry
Democracy didn't yet die
Brave knights are riding
Budget axe monsters
Can't keep hiding
Big Bird and Barney
Must go
To help hungry bankers
In Mexico
But babies don't cry
Our voting parents
Will counterattack
To win
Big Bird and Barney back.

TRIBUTE TO ORTENSIA LOPEZ

HON. ANNA G. ESHOO

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Friday, March 3, 1995

Ms. ESHOO. Mr. Speaker, I rise today to honor Ortensia Lopez and her upcoming induction into the San Mateo County Women's Hall of Fame.

Ortensia Lopez is an exceptional public servant who has demonstrated remarkable leadership in our community. She is the second of 11 children born to parents from Mexico and the first in her family to graduate from college. Since 1977, she has worked as the executive officer of the North Peninsula Neighborhood Services Center, and she is currently serving as executive director of the Bay Area Latino Non-Profit Association. In addition, Ms. Lopez is the cofounder of the Hispanic Concilio of San Mateo County, the Latino Issues Forum, and Sur San Francisco. She has also served on countless boards and commissions such as the State and local Hispanic Chamber of Commerce, the Chicana/Latina Foundation, the AIDS Advisory Task Force, and Seton Hospital. Her dedicated service has been recognized with the Bank of America Hispanic Heroes and Heroines Award, the United Way of the Bay Area Volunteer of the Year Award, and the Hispanic Yellow Pages Community Recognition Award, among many others.

Mr. Speaker, Ortensia Lopez is an outstanding citizen, and I commend her for her remarkable commitment and contributions to our community. I ask my colleagues to join me in saluting her as she is being inducted into the San Mateo County Women's Hall of Fame.

SUPPORT FOR FEDERAL NUTRITION PROGRAMS

HON. TIM JOHNSON

OF SOUTH DAKOTA

IN THE HOUSE OF REPRESENTATIVES

Friday, March 3, 1995

Mr. JOHNSON of South Dakota. Mr. Speaker, today I wish to express my strong support for our Federal nutrition programs—especially the school breakfast and lunch programs and the WIC program. I am very concerned about the Republican proposals to dismantle these programs, decrease their funding, and change their very nature.

It is inexcusable that so many children in this Nation live in poverty and that we have one of the highest infant mortality rates of any industrialized country in the world. We must make an aggressive effort to direct our limited resources towards our most precious resource—our children.

The WIC program is one of the very few Government programs that has been recognized as a success by people from all parts of the political spectrum. Studies have shown that WIC reduces low birthweight babies, premature births, and infant mortality. Every dollar spent on WIC produces a savings of between $1.77 and $3.13 in Medicaid expenses. Similarly, the school breakfast and lunch programs have been proven to be very effective. It has long been recognized that hungry children are unprepared to learn, and for this reason school nutrition programs have enjoyed bipartisan support for years.

Mr. Speaker, while I am well aware of the fact that we need to examine all Government programs to ensure that Federal funds are being spent effectively and to work towards our goal of a balanced budget, I am quite concerned about the Republican proposals affecting nutrition programs.

I am very concerned about the effect of replacing Federal programs such as these that

are recognized as effective with 50 different State programs. If our goal is to reduce bureaucracy, how does creating 50 new programs help meet that goal?

In addition, if we are seeking to reduce costs, why does the Republican proposal repeal the competitive-bidding requirement for the selling of infant formula to WIC? This provision has contained costs in the program by cutting the cost of providing formula by nearly $1 billion in 1993—nearly a two-thirds reduction in the program's expenses. Repealing this provision will take a billion dollars of the taxpayers' money and turn it over to four pharmaceutical companies. Is this really the best use of our limited resources?

I am also concerned about the elimination of Federal nutrition standards. These standards have improved the nutrition and health of low-income families and help ensure that our children have access to healthy meals at school. We have no assurance that these standards will continue to be met at the State level—what will keep us from returning to the days of "ketchup as a vegetable?"

Finally, I am concerned that the block grant approach to school breakfast and lunch programs will shut needy children out of the program and reduce the ability of the program to respond to increases in the school-age population, inflation of food prices, and/or changes in the economy. USDA estimates that my State of South Dakota stands to lose over $28 million from child nutrition programs from fiscal year 1996–2000.

I ask my colleagues to think long and hard about making such drastic changes to programs that work—is it really good policy to experiment with the health and well-being of our children to pay for tax cuts for the wealthy?

IN HONOR OF CHARLES KERR, IRISHMAN OF THE YEAR, 1995

HON. ROBERT MENENDEZ

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Friday, March 3, 1995

Mr. MENENDEZ. Mr. Speaker, I rise today to pay tribute to Charles Kerr, Irishman of the Year, 1995, who will be honored at this year's St. Patrick's Day parade in Jersey City. Mr. Kerr is among the many Irish-American men and women who have helped make this country great.

The Irish have been immigrating to the United States since the early part of the 19th century. In that time, they have made many contributions to this country. They have distinguished themselves at every level of American society. As Irish-Americans have built their businesses, so have they contributed to the economic prosperity of this Nation. As they have grown politically, they have contributed to government on the local, State, and national levels. Their devotion to family and friends demonstrates that much can be accomplished when people work together in harmony.

At home, Irish-Americans have worked hard to protect all of us from crime and fire. They have put their lives on the line to help ensure the safety of their fellow citizens. The long, proud tradition of Irish police officers and firemen scarcely needs to be mentioned. However, the Irish have not only been good neighbors at home, they have also put their lives on the line when they have fought to defend this Nation against our foes in every major conflict over the last 200 years.

Charles Kerr is part of this great Irish-American tradition. He was born and raised in Jersey City. His parents lived there for 90 years. Throughout his life, he has made many contributions to the community and has been actively involved in the religious community.

Mr. Kerr fought bravely in the Korean war. In 1969, he started his own business. He was president of Kerr Electric for 25 years, yet, he still found the time to participate in the community. Mr. Kerr was the first president and organizer of the New Tammannee Club in downtown Jersey City. He was also the last president of the Original Monkey Club, the oldest social club in Jersey City.

As we celebrate St. Patrick's Day, let us remember all of those Irish-American men and women who have made a difference in the United States. This is a day for us to acknowledge their achievements and feel proud to have them in the United States. This holiday is an excellent opportunity to pay tribute to Irish-Americans; past and present.

TRIBUTE TO PRIYA KARIM HAJI

HON. ANNA G. ESHOO

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Friday, March 3, 1995

Ms. ESHOO. Mr. Speaker, I rise today to honor Priya Karim Haji and her upcoming induction into the San Mateo County Women's Hall of Fame.

Priya Karim Haji is only 24 years old and has already made remarkable contributions to our community. Currently she is the executive director and cofounder of Free at Last Community and Rehabilitation Services, which is an organization providing drug and alcohol recovery programs. While in college, Ms. Haji developed a comprehensive after-school activities program for high school youth, helped to found a free medical clinic, and organized a Midnight Basketball League. In addition, she served as a facilitator for a weekly substance abuse group at San Quentin Prison, volunteered with the County AIDS Program, and worked as a substance abuse counselor for Links to Positive People.

Mr. Speaker, Priya Karim Haji is an outstanding citizen, and I commend her for her remarkable commitment and contributions to our community. I ask my colleagues to join me in saluting her as she is being inducted into the San Mateo County Women's Hall of Fame.

IN MEMORY OF SISTER ANN GILLEN

HON. CHRISTOPHER H. SMITH

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Friday, March 3, 1995

Mr. SMITH of New Jersey. Mr. Speaker, as chairman of the Commission on Security and Cooperation in Europe, I would like to call the attention of my colleagues to the recent passing of Sister Ann Gillen, one of the leading human rights activists on behalf of persecuted Jewish dissidents and refuseniks in the former Soviet Union. A member of the Society of the Holy Child Jesus, Sister Ann served for 15 years as executive director of the Interreligious Task Force for Soviet Jewry. On numerous occasions, she traveled to the former Soviet Union to visit and support Jewish refuseniks and the families of political prisoners. In addition, Sister Ann was a frequent attendee at international human rights fora. An unwavering supporter of the Conference on Security and Cooperation in Europe, Sister Ann served as a leader for several human rights delegations to the Belgrade, Madrid and Vienna CSCE Review Conferences where she urged political figures and diplomats to press the Soviets to live up to their own obligations under the Helsinski Accords and other international agreements.

Sister Ann was a woman of action when responding to the plight of Soviet Jews. In 1979, Sister Ann offered her own freedom to the Soviet Government in exchange for the release of long-time refusenik Ida Nudel. Needless to say, the Soviets refused, but her gesture helped dramatize Ida Nudel's plight to the world and bring additional pressure on Kremlin leaders to allow Nudel to emigrate. In 1982, Sister Ann was one of three human rights leaders to serve an historic Writ of Habeas Corpus on the Soviet Consul in Washington, DC for Andrei Sakharov. In 1989, while attending the Sakharov International Human Rights Conference in Moscow, Sister Ann publicly urged Soviet leaders to end state regulation of religion.

Long before others were encouraged to speak out on behalf of religious liberty and long before religious organizations collaborated on issues such as these, Sister Ann crossed ecumenical lines and reached out to persecuted, imprisoned human beings of all faiths—and in particular the Soviet Jews—to bring them hope and to fight tirelessly for their rights. Even in the last days of her life, Sister Ann did not think of her own pain, but of the suffering of religious believers around the world as she continued to plan conferences and projects that would go on after her own work had ended.

Sister Ann's fellow campaigner in the struggle for Soviet Jewry, Union of Councils President Pamela Braun Cohen, was certainly correct when she said, "No doubt thousands of Soviet Jews owe their freedom to Sister Ann's tireless efforts."

Dr. Kent Hill, President of Eastern Nazarene College and an expert on religion in the former Soviet Union, described Sister Ann as "a tireless, selfless, and effective advocate of those who suffered because of their religious convictions."

In an award presented to her by a coalition of human rights organizations just prior to her death, Sister Ann was honored with these words: "All of us who are novices in this work are very grateful for the paths that you have paved for us. This small token of our admiration pales in contrast to the contributions that you have given to make the world more humane. Perhaps, someday, we, following your

example, may demonstrate the same depth of devotion and be a role model to other human rights activists."

Mr. Speaker, Sister Ann exemplified the finest qualities of her faith and her religious order as she reached across ethnic and religious boundaries to rescue strangers in distress. Her many friends and associates, and those who benefitted from her tireless efforts, will cherish her memory.

TRIBUTE TO LISA MARJORIE COAR

HON. ANNA G. ESHOO

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Friday, March 3, 1995

Ms. ESHOO. Mr. Speaker, I rise today to honor Lisa Marjorie Coar and her upcoming induction into the San Mateo County Women's Hall of Fame as a Young Woman of Excellence.

Lisa Marjorie Coar is a remarkable person who serves as a role model for everyone in our community. She is a 4.0 student at Burlingame High School, a member of its tennis team, the student body liaison to the Burlingame Human Relations Commission, and the student representative to the San Mateo Union High School Board of Trustees. Ms. Coar also plays an active role in the Black Student Union, volunteers with an afterschool day-care program, and serves food to the homeless. In addition, her achievements include being selected as a Girl's State Delegate, a National Achievement semifinalist, and the recipient of both the Edward Teller Award for Academic Excellence and the Xerox Humanities and Social Science Award.

Mr. Speaker, Lisa Marjorie Coar is an outstanding citizen, and I commend her for her remarkable commitment and contributions to our community. I ask my colleagues to join me in saluting her as she is being inducted into the San Mateo County Women's Hall of Fame as a Young Woman of Excellence.

PAYING TRIBUTE TO THE WINNERS OF THE 1995 GOVERNOR'S AWARD FOR BUSINESS AND EDUCATION PARTNERSHIPS

HON. THOMAS M. DAVIS

OF VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Friday, March 3, 1995

Mr. DAVIS. Mr. Speaker, it gives me great pleasure to rise today to pay tribute to some outstanding citizens from the 11th District of Virginia. These are the people who have achieved the Governor's Award for Business and Education partnerships with Northern Virginia Community College [NVCC].

Richard A. Patterson, president of the Rosenthal automotive organization is a 22 year veteran of the automobile business. He has been with the Rosenthal organization for 14 years, where as CEO, he has strongly influenced development of the company's training and education.

The Rosenthal automotive organization, the Capital area's largest group of automobile dealerships, has made a significant contribution to the Arlington/Alexandria Cultural Center at Northern Virginia Community College [NVCC].

Dr. Semmler has been a professor of mathematics. He has authored or coauthored seven books in mathematics and has received numerous awards, including the Governor's Award from NVCC in 1991; the Once in a Century Award from Plattsburgh State University in 1990; and the Diploma of Honor Award from Pacific Western University in 1992.

Dr. Semmler has been a major contributor to Northern Virginia Community College for more than a decade. His gifts established the "Semmler and Friends" and the "Semmler and Alumni" seminar rooms in the Richard J. Ernst Community Cultural Center.

James B. White is vice president and general manager of the Virginia Division of Washington Gas. He joined the Company in 1977 and also serves as a member of the board of directors of Shenandoah Gas in Winchester, VA. He has been active with NVCC.

Washington Gas and its distribution subsidiaries provide natural gas service to 726,000 customer meters in the Washington metropolitan area and surrounding region. The company's service area covers 6,648 square miles in Virginia, Maryland, the District of Columbia, and West Virginia.

Gerald T. Halpin is founder and president of West Group and has taken an active role in the community for many years. West Group is a primary corporate contributor to the NVCC Educational Foundation's Annual Fund and is also a donor to the NVCC Alumni Federation. Headquartered in McLean, VA, West Group is one of the area's leading real estate developers and build-to-suit specialists. The firm provides expertise in land acquisition, development, design, construction, leasing and property management services, and is renowned for its award-winning office parks including West Park and West Gate in Tysons Corner. More than 10 million square feet of commercial office, residential, resort, industrial, and retail space has been developed by West Group's principals since 1958.

Michael D. Lynch is president of The Mark Winkler Company and has been with the firm since 1988. He has served on the board of the Northern Virginia Community College Educational Foundation since 1993.

The Mark Winkler Company has strongly supported NVCC's new Arlington/Alexandria Cultural Center on its Alexandria campus as well as other college programs.

Ellen Z. McCloy is president of Mobil Foundation, Inc. and a member of the board of directors of the Wolf Trap Foundation, Marymount University, and WETA.

Mobil Foundation, Inc., the philanthrophic arm of Mobil Corp., has supported Northern Virginia Community College since 1982. The foundation is a major donor to the Arlington/Alexandria Cultural Center and the Richard J. Ernst Community Cultural Center. It is also a sponsor of the college-wide Honors Program, which provides student scholarships and program enrichment funds.

Mario Morino is founder and chairman of both the Morino Institute and Foundation. He was the founder and past Chairman of Legent Corp., one of the world's largest software companies based in Herndon, VA. He currently serves as a director on its board.

The Morino Foundation, on behalf of the Morino Institute, supports a scholarship program at Northern Virginia Community College. The Morino Institute is a nonprofit educational organization dedicated to helping people take greater control of their future and the future of their communities in the Information Age.

Elijah "Zeke" Jackson is chief executive officer of NavCom Systems, and currently serves on the board of the NVCC Educational Foundation.

NavCom Systems, Inc. is a minority-owned and operated communications and navigation systems engineering and manufacturing firm and has made several generous contributions to NVCC over the past 2 years, including a gift to cover the construction costs of the Mary Louise Jackson Amphitheater on the Mannassas Campus, scholarship funds for minority students, and a donation to the purchase of computer equipment.

John Van Horn, II, is president of Central Fidelity National Bank's northern Virginia region and is director of the NVCC Educational Foundation.

Central Fidelity National Bank has made a significant contribution toward the construction of the Arlington/Alexandria Cultural Center. The center's forum for exhibits and receptions will be named for Central Fidelity. Central Fidelity National Bank also has a program in place that provides scholarships and mentors for NVCC students.

Edward H. Bersoff is a member of the NVCC Educational Foundation board of directors and currently serves as the board's president.

BTG supports NVCC with funding for scholarships and educational programs. Service to NVCC is part of BTG's commitment of time and resources to community service, focusing on education in the public schools and institutions of higher learning. Headquartered in Vienna, VA, BTG is an information technology company offering total solutions to its clients through systems engineering and integration, value-added reselling of hardware and software, and the manufacturing of its own line of high-performance computers.

Harry N. Doyle, Jr., a 23-year resident of Fairfax County and a 38-year Bell Atlantic veteran, is the company's area manager. He serves as a vice president of the NVCC Educational Foundation board of directors.

Bell Atlantic of Virginia is a major contributor to the NVCC Educational Foundation's annual fund as well as to the Richard J. Ernst Community Cultural Center, which houses the Bell Atlantic Art Gallery. Bell Atlantic of Virginia's 7,600 employees provide local exchange and exchange access services plus state-of-the art voice and data communications services via 2.9 million customer access lines in the Commonwealth of Virginia.

Wayne G. Larochelle, senior vice president for Crestar Bank in the Trust and Investment Management Group is one Crestar's Washington office, currently serves on the Board of the NVCC Educational Foundation.

Crestar Bank is a significant contributor to both the Richard J. Ernst Community Cultural Center on NVCC's Annandale campus and the Arlington/Alexandria Cultural Center which will

be constructed on the Alexandria campus. With over $14 billion in assets, Crestar is one of the most respected and profitable banks in the region.

Edward and Carol Hickey endowed a scholarship in 1988 through the NVCC Educational Foundation as a memorial to their daughter, Paula Anne Hickey, who graduated from NVCC's nursing program in 1987. Paula felt that her education and training at NVCC prepared her thoroughly for a career in nursing, which she began as a medical-surgical care nurse at the National Hospital for Orthopedics and Rehabilitation in Arlington. Paula was working as a staff nurse in the Progressive Care Unit and studying for a B.S. at George Mason University at the time of her death. The Hickey's have four other children, one of whom also attended Northern Virginia Community College.

Senator Edward M. Holland and his family are significant contributors to the Arlington/Alexandria Cultural Center Campaign at Northern Virginia Community College. Senator Holland is co-chairing the Capital Campaign for the Cultural Center. He and his family have been active in Arlington County civic and business activities for several decades. Senator Holland has served with distinction since 1972. He is an attorney at law in Arlington and serves as a member of the board of directors of First Virginia Banks, Inc. and of First Virginia Bank, Falls Church.

Margaret W. Fisher's love of the arts and of higher education inspired her recent contribution to support the Arlington/Alexandria Cultural Center. She will name an art exhibit area where local artists will have the opportunity to display their works. Mrs. Fisher is a professional artist and has held exhibits of her work this past year at George Mason University, Virginia Commonwealth University, the Arlington Chamber of Commerce, the Arlington Central Library, and the Unitarian Universalist Church of Arlington, as well as a benefit show at Hospice of Northern Virginia. She has taught painting at NVCC's Annandale and Loudoun campuses and at the University of Virginia. In addition, Mrs. Fisher is a poet and published author.

Irving L. Denton, NVCC professor emeritus, recently endowed the "Helen and Irv Denton Accounting Scholarship." Denton served on NVCC's part-time and full-time faculty for 14 years after his retirement from the U.S. Air Force in 1973. Professor Denton initiated the accounting program at NVCC's Manassas campus in 1974 and moved to the Annandale campus in 1976, where he developed and presented one of the college's first televised courses before his retirement in 1986.

In retirement, he participates in various civic activities and is a long-time director of the Annandale Chamber of Commerce. His late wife, Helen N. Denton, a renowned northern Virginia CPA, taught Governmental Accounting at NVCC's Manassas and Annandale campuses, and his daughter, D'Ann Denton Henderson, is an NVCC alumna.

Michael G. Anzilotti is executive vice president and chief administrative officer of First Virginia Bank. Effective April 1, 1995, he will become president and CEO. A past chairman of the Fairfax County Chamber of Commerce, he currently serves on the boards of the Fairfax Unit of the American Cancer Society, the Arts Council of Fairfax County, the Superintendent's Business/Industry Advisory Council, and the NVCC Educational Foundation.

First Virginia Bank is the largest of the 23 member banks owned by First Virginia Banks, Inc. and is headquartered in Falls Church, VA.

J. David Robinson is Freddie Mac's vice president for Community Relations. He has been with the firm since 1985.

The Freddie Mac Foundation is dedicated to brightening the future of children, youth, and families at risk. It fulfills this mission by providing funds to organizations working to strengthen health, education, and welfare of children and youth and to provide family support services.

Angela M. Brown a business unit executive in higher education for IBM, serves on the board of the NVCC Educational Foundation.

IBM Corp. is a major contributor to the Northern Virginia Community College's annual fund. The corporation has also provided technical equipment and software as well as a significant donation for the Mary Louise Jackson Amphitheater on the Manassas campus.

Bonnie Lewis Pfoutz has made a generous gift in support of the Arlington/Alexandria Cultural Center and will name the courtyard at the center in memory of her mother, Katherine Robinson Lewis. Gardening was a favorite pasttime of Mrs. Lewis. The Katherine Robinson Lewis Memorial Courtyard will serve as a loving tribute.

The Washington Forrest Foundation has established an endowed scholarship fund in the Northern Virginia Community College Educational Foundation for south Arlington students who are pursuing vocational careers. The Washington Forrest Foundation also gave a major grant for development of the Arlington/Alexandria Cultural Center.

Established in 1968, the Washington Forrest Foundation provides financial support to nonprofit organizations for the purpose of improving and enhancing the quality of life in Arlington, and especially south Arlington.

Mr. Speaker, I know my colleagues join me in paying tribute to these fine upstanding award winners for 1995. Their contributions to the Northern Virginia Community College have helped thousands of northern Virginians to get ahead in life by providing educational opportunities and training. Their steadfast commitment is another example of their strong volunteer spirit which so enriches our country.

TRIBUTE TO DR. ELIZABETH JACKSON MACAULAY

HON. ANNA G. ESHOO

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Friday, March 3, 1995

Ms. ESHOO. Mr. Speaker, I rise today to honor Dr. Elizabeth Jackson Macaulay and her upcoming induction into the San Mateo County Women's Hall of Fame.

Dr. Elizabeth Jackson Macaulay has cared for the families of our community as a practicing pediatrician for 50 years. She studied medicine at a time when few women sought a career in the field and graduated with awards as one of only three women in her class from Long Island College of Medicine in 1936. Dr. Macaulay has always provided humanitarian, sensitive health care to a vast number of children. With her generous policies, Dr. Macaulay has made house calls and given special consideration to families who could not afford her services. In addition to her professional career, Dr. Macaulay has successfully raised seven children who fondly remember their mother's dedication to their upbringing.

Mr. Speaker, Dr. Elizabeth Jackson Macaulay is an outstanding citizen, and I commend her for her remarkable commitment and contributions to our community. I ask my colleagues to join me in saluting her as she is being inducted into the San Mateo County Women's Hall of Fame.